****ATTENTION****

The City Council meeting will be held in a hybrid format that includes both in-person AND Zoom. Councilmembers may choose to attend the meeting virtually or in person at the **Billings Public Library Community Room**. In order to honor the Right of Participation and the Right to Know in Article II, sections 8 and 9, of the Montana Constitution, the City of Billings and City Council are making every effort to meet the requirements of the open meeting laws.

Citizens are invited to:

- Review the Agenda Packet on the City's website at: www.billingsmt.gov and click on "Your Government," "City Council," and "Agendas & Minutes".
- View the meeting:
  - On Community 7 TV - Channel 7 or Channel 507 – Spectrum Cable. *(On evenings when there is a conflict with School District No. 2 Board meetings, the City Council meeting will be broadcast on Channel 8 - Spectrum Cable.)*
  - Online at www.comm7tv.com and click on the "Watch Live" icon. Community 7 also has links to their Facebook page and YouTube channel.
  - On the City's website at www.billingsmt.gov and click on "Watch Meetings Online" on the homepage.
  - In-Person – capacity is limited to approximately 15 spectators with overflow available in the lobby. Mask and social distancing requirements will be enforced.

Citizens may submit public comment via the following methods:

- Mail: City Clerk, P.O. Box 1178, Billings, MT 59103
- Email: Council@billingsmt.gov.
  - Emails received after 3:00 PM on the day of the meeting, may be posted on the Council's webpage the following day for public viewing.
- Attend the meeting in person - capacity is limited to approximately 15 spectators with overflow available in lobby. Mask and social distancing requirements will be enforced. Speakers may be asked to exit after speaking to comply with social distancing protocols.
- Attend the meeting virtually by registering at Zoom.us and "join a meeting", enter the Webinar ID and Passcode indicated below. Click on *Zoom Meeting Instructions* and *Zoom Hybrid Meeting Details* below for more information. Attendees are asked to register by Noon the day of the meeting. After registering, a link into the meeting will be sent to the attendee. The link will allow you to attend, view and participate in the meeting on your computer, laptop or smart phone. (You must have the Zoom App on your device Click Here to Download Zoom App) To provide public comment at the appropriate time, click on the "raise hand" icon located at the bottom of the screen and the moderator will unmute your device.
  - **Don't have a smart phone, computer or laptop?** That's okay -- you can attend a Zoom meeting using your **landline phone.** Call the Zoom phone number, **1.253.215.8782** to join the meeting and follow the operator's instructions. Want to give public comment? Simply *"raise your hand"* by pressing *9 and the moderator will give you permission to speak when it is your turn. **Note this is a long distance toll number and charges may apply depending on your plan.*
- Click Here for City Council Zoom Hybrid Meeting Details and Schedule
- Click Here for Zoom Meeting Instructions for Attendees (as guests)

Webinar ID: 830 8466 5815
Passcode: 345420
Or join by phone: US: +1-253-215-8782

The practice of receiving phone calls to a specific Public Comment telephone line has been discontinued. Please contact Denise Bohlman, City Clerk, at bohlmand@billingsmt.gov, or at 406.657.8205, with any questions.

CITY OF Billings

VISION STATEMENT:
"The Magic City: A diverse, welcoming community where people prosper and business succeeds."

***CLOSED EXECUTIVE SESSION begins at 4:30 P.M.**
***Note: The Executive Session is closed for the sole purpose of discussing litigation strategy.**
The other parties to the case(s) discussed are not public bodies or associations as described in Section 2-3-203(1) and (2), MCA.
The meeting is closed as allowed by Section 2-3-203(4)(a), MCA, "to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position" of the City of Billings.

CITY COUNCIL
REGULAR BUSINESS MEETING begins at 5:30 P.M.

AGENDA

Billings Public Library and remotely via Zoom. Please see coversheet for details and instructions for viewing and participation.

April 26, 2021

5:30 P.M.

CALL TO ORDER: Mayor Cole

PLEDGE OF ALLEGIANCE: Mayor Cole

INVOCATION: Councilmember Purinton

ROLL CALL: Councilmembers present on roll call were: ☐ Shaw, ☐ Yakawich, ☐ Neese, ☐ Ewalt, ☐ Joy, ☐ Choriki, ☐ Purinton, ☐ Ronning, ☐ Boyett, ☐ Brown

MINUTES: April 12, 2021

COURTESIES:

PROCLAMATIONS:

COUNCIL REPORTS:

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 3, 4, 5 and 6 ONLY. Speaker identification required. (Comments are limited to three (3) minutes or as set by the Mayor. 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. Public comments during the meeting may be made in-person or remotely by registering as an attendee through Zoom as outlined in the Agenda coversheet.)

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

A. **Bid Awards:**

1. **W.O. 20-12: South 32nd Street West Reconstruction and Widening.** (Opened 4/13/2021) Recommend Knife River; $4,062,265.

2. **W.O. 20-30: Hallowell Lane Improvements.** (Opened 3/23/2021). Recommend KLE Construction, LLC, $3,865,050.

3. **W.O. 21-15 Lead Service Replacements.** (Opened 4/13/2021) Recommend COP Construction, LLC; $603,519.

4. **W.O. 21-24: Zone 3, 12-inch Waterline Replacement.** (Opened 4/13/2021) Recommend Askin Construction, LLC; $256,113.

B. **Amendment No. 1, W.O. 19-42: West End Water Treatment Plant Project,** Professional Engineering Services Contract, Burns and McDonnell Engineering Company, Inc. (BMcD); $3,778,342.

C. **Right-of-Way Agreements and Acquisition of Property** for W.O. 19-15: 24th St. W. and Central Signal Improvements from 2425 Central Ave, LLC; $44,000; and Automatic Real Estate, LLP; $28,300.

D. **Grant Application Request** to U.S. Green Building Council for LEED Grant and acceptance of award; $10,500.

E. **Grant Application Request** to submit application for AmeriCorps VISTA and authorize City staff to negotiate and finalize the project, if awarded.

F. **Housing Rehabilitation Loan Program** - applicant denial and grievance.

G. **Preliminary Minor Plat** of Hunters Point Subdivision, located at 3038 Central Avenue; Bach Homes, owner; Sanderson-Stewart, agent. ** Quasi-Judicial*

** Quasi-Judicial* – Caution must be exercised concerning any potential ex parte communications with interested parties. This policy-making body may exercise approval or other adjudication authority which is "judicial" because it directly affects the legal rights of a person.

H. **Resolution** authorizing the Issuance and Calling for a Negotiated Sale for Sidewalk Bonds.

I. **Resolution** for General Obligation (GO) refunding bonds 2021.

J. **Second/Final Reading Ordinance** granting a non-exclusive franchise to TDS Metrocom, LLC, for cable service.

K. **Second/Final Reading Ordinance** regulating massage and spa facilities through business licensing criteria.

O. **Bills for the Weeks of:**

1. March 22, 2021

2. March 29, 2021

REGULAR AGENDA:

2. **PUBLIC HEARING** and approval of FY2021-2022 Annual Action Plan and Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Budget Allocations. Community Development Board recommends approval. (Action: approval or disapproval of Community Development (CD) Board recommendation.)

   - *Presented by: Brenda Beckett, Community Development Manager*

   Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the FY2021-2022 Annual Action Plan and accompanying CDBG and HOME budget allocations, as recommended by the Community Development (CD) Board.

3. **DEVELOPMENT AGREEMENT** with Lupine Holdings, LLC, for Certificate of Survey 1889, Amended Tracts 1A and 1B. Staff recommends approval. (Action: approval or disapproval.)

   - *Presented by: Debi Meling, Public Works Director*

   Recommended Motion: I move to approve the development agreement with Lupine Holdings, LLC, as recommended by staff.

4. **TAX INCREMENT FINANCING ASSISTANCE** from East Billings Urban Renew District (EBURD) to J&S Properties for reimbursement of renovation expenses to property located at 1518 First Avenue North - Yellowstone Ice and Water; maximum of $63,085. Billings Industrial Revitalization District (BIRD) Board recommends approval. (Action: approval or disapproval of BIRD Board recommendation.)

   - *Presented by: Wyeth Friday, Planning Director and Zach Terakedis, BIRD Director*

   Recommended Motion: I move to approve the Tas Increment Financing Assistance from EBURD to J&S Properties for reimbursement of renovations expenses to property at 1518 First Avenue North, as recommended by the BIRD Board.

5. **TAX INCREMENT FINANCING ASSISTANCE** from Downtown Urban Renewal District to Downtown Properties, LLC (Randy Swensen) for reimbursement of remodeling expenses to property located at 2624 Montana Avenue (Stone Building); up to a maximum of $665,765. Downtown Billings Partnership (DBP) Board recommends approval. (Action: approval or disapproval of DBP Board recommendation.)

   - *Presented by: Wyeth Friday, Planning Director and Mehmet Casey, DBA Development Director*

   Recommended Motion: I move to approve the Tax Increment Financing Assistance from Downtown Urban Renewal District to Downtown Properties, LLC (Randy Swensen) for reimbursement of remodeling expenses to property located at 2624 Montana Avenue (Stone Building); up to a maximum of $665,765, as recommended by the Downtown Billings Partnership (DBP) Board.

6. **RESOLUTION** adopting application and renewal fees for Massage and Spa Facility License.

   - *Presented by: Andy Zoeller, Finance Director*

   Recommended Motion: I move to approve the Resolution adopting application and renewal fees for Massage and Spa Facility Licenses.

PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Identification required. (*Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Public comments during the meeting may be made in-person or remotely by registering as an attendee through Zoom as outlined in the Agenda coversheet.)*

COUNCIL INITIATIVES:

ADJOURN:

Billings Public Library is 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, 72 hours prior to the meeting date.

SPECIAL WORK SESSION begins immediately after the Regular Business meeting.

1. Budget Overview
2. Administration
3. Mayor / City Council
4. Building / Facilities
    - Public Comment
5. Council Discussion
6. Public Comment on Items Not on the Agenda

City Council Regular

Date:	04/26/2021
Title:	Bid Award: W.O. 20-12 S 32nd St W
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends the City Council award a contract for WO 20-12 S 32nd St W to Knife River in the amount of $4,062,265.00.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

WO 20-12 South 32nd Street West consists of reconstructing South 32nd Street West between King Ave West and Gabel Road. It will be widened to a 3-lane street including two travel lanes and a two-way-left-turn-lane. Other improvements include a trail connection from King Ave West to Transtech Way on the west side and sidewalk on a portion of the east side. Street lights will be added between King Ave W and Transtech Way. The project will also include pavement marking improvements on South 32nd Street West from King Avenue north to Monad Road and sidewalk widening on the west side, also from King Avenue to Monad Road. Some short water and sewer main extensions are included while the street is being reconstructed, that will be reimbursed from adjacent property development in the future. The project was advertised on March 19, 26, and April 2, 9, 2021 in the *Yellowstone County News* and on the City's website. Bids were opened on April 13, 2021. Two bids were received. Knife River submitted the lowest responsible bid.

ALTERNATIVES

City Council may:

- Award WO 20-12 S 32nd St W to Knife River, in the amount of $4,062,265.00; or,
- Do not award a contract and reject all bids. If the contract is not awarded, the road will continue to degrade and operate at a low level of service.

FISCAL EFFECTS

The following bids were received:

Contractor	Base Bid
Knife River - Billings	$4,062,265.00
Riverside Contracting, Inc.	$4,546,166.90

The project was budgeted in the amount of $4,269,229 in FY21 using arterial funds and assessments. The remaining contract amount will come from water and sewer funds that will be reimbursed when adjacent properties develop.

City Council Regular

Date:	04/26/2021
Title:	Bid Award: W.O. 20-30: Hallowell Lane Improvements
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends the City Council award a contract for WO; 20-30 Hallowell Lane Improvements to KLE Construction, LLC. in the amount of $3,865,050.00.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

W.O. 20-30: Hallowell Lane Improvements is a South Billings Urban Renewal Association project that will improve Hallowell Lane from State Avenue to King Avenue East. Improvements consist of street widening, extensions of sewer and storm drain mains and installation of streetlights, sidewalks, drive approaches, alley approaches, accessibility ramps and miscellaneous related improvements. In addition, this project includes a water main replacement throughout the length of the project corridor. The project was advertised on March 5, 12, and 19, 2021 in the *Yellowstone County News* and on the City's website. Bids were opened on March 23, 2021. Three bids were received and KLE Construction, LLC submitted the lowest responsible bid.

STAKEHOLDERS

The South Billings Urban Renewal Association is a partner in this project. The SBURA consulting coordinator and Board have been updated monthly on this project.

ALTERNATIVES

City Council may:

- Award W.O. 20-30: Hallowell Lane Improvements, to KLE Construction, LLC, in the amount of $3,865,050.00; or,
- Do not award a contract and reject all bids. If the contract is not awarded, improvements to Hallowell Lane would have to be contemplated in a subsequent year.

FISCAL EFFECTS

The following bids were received:

Contractor	Base Bid
KLE Construction, LLC	$3,865,050.00
Knife River - Billings	$3,881,976.00
Western Municipal Construction, Inc.	$3,914,055.00

The project was budgeted in FY21 using South Tax Increment Financing District (TIFD) and water funds. KLE Construction, LLC's bid was separated into the two funding sources with an estimated split of $1,316,958.21 for Water funds and $2,548,091.79 for TIFD funds.

The water funds are adequate for this project and were budgeted in FY21 as part of the larger water replacement program. After the initial TIFD budget was created, additional street improvements were requested by SBURA to be added to the project. Furthermore, after initial data was collected, it was evident that the project required work beyond the scope that was anticipated when the budget amount was estimated. Previous conversations with SBURA have indicated the proposed project budget would exceed the current funds. After discussions with SBURA, budget authority is adequate to award this project and the South TIFD Fund has sufficient cash for the project.

Budgeted FY 21 TIFD Funds	$1,480,000.00
This Contract WO 20-30 - TIFD Funds	$2,548,091.79
Additional TIFD Funding	$1,068,091.79

City Council Regular

Date:	04/26/2021
Title:	Bid Award: W.O. 21-15 Lead Service Replacements
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends that the City Council approve a contract with COP Construction, LLC. for W.O. 21-15: Lead Service Replacements, in the amount of $603,519.00.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

W.O. 21-15: Lead Service Replacements is part of the annual Lead Service Replacement program to eliminate lead services in the city. This project will replace approximately 145 lead services in the following locations:

- Lewis Avenue - between Division Street and 8th Street West
- Clark Avenue - between Division Street and 7th Street West
- Avenue B - between 1st Street West and 3rd Street West
- Yale, Princeton, and Harvard Avenue - between Wisconsin Street and 13th Street West
- North 15th and North 16th Street - between 6th Avenue North and 9th Avenue North

Prior to beginning the Lead Service Replacement program, the City of Billings had approximately 1,100 lead services. There are approximately 635 lead services currently in operation. Approximately 378 lead services will remain upon completion of this year's lead service replacement project (145 services), water line replacement project (92 services), and miscellaneous Distribution and Collection replacements (20 services). The expectation is to remove the lead services (from water main to curb valve) within the City of Billings by the fall of 2024. The lead service replacement program continues to target lead services on newer water mains in neighborhoods with high lead service densities, which allows for a higher rate of replacement. It is expected that the 2022 lead service program will begin including lead service replacements on older mains in less dense areas which may affect the replacement rate.

The project was advertised on March 26, April 2, and April 09, 2021 in the Yellowstone County News and on the City's website. Bids were opened on April 13, 2021 and 2 bids were received. COP Construction LLC submitted the lowest responsible total bid.

ALTERNATIVES

City Council may:

- Award the construction contract for W.O. 21-15: Lead Service Replacements to COP Construction LLC in the amount of $603,519.00; or,
- Not Award a contract and reject all bids. If the project is not constructed, the City's water system will not have a reduction in lead services.

FISCAL EFFECTS

The following bids were received and evaluated:

Contractor	Schedule 1-Base Bid	Schedule 2-Additive	Total Bid
COP Construction LLC	$569,569.00	$33,950.00	$603,519.00
Western Municipal Construction, Inc.	$585,550.00	$33,090.00	$618,640.00

The project was budgeted in the amount of $750,000 in FY 21 using water funds.

City Council Regular

Date:	04/26/2021
Title:	Bid Award: W.O. 21-24: Zone 3 12-inch Waterline Replacement
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends the City Council award a contract for W.O. 21-24: Zone 3, 12-inch Waterline Replacement to Askin Construction, LLC in the amount of $256,113.00.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

W.O. 21-24: Zone 3, 12-inch Waterline Replacement is a project to remove and replace waterline and valves in the vicinity of Rimrock Road and Normal Avenue near MSU Billings. The waterlines in the area are old cast iron pipe and have had several breaks. The valves in the area are inoperable and City personnel are unable to isolate the waterlines when necessary. This new replacement will provide means to isolate the area and still maintain water service on different legs of the waterlines depending on location of a break or required shutdown. The project was advertised on March 26, April 2, and April 9, 2021 in the *Yellowstone County News* and on the City's website. Bids were opened on April 13, 2021. Three bids were received. Askin Construction, LLC submitted the lowest responsible bid.

ALTERNATIVES

City Council may:

- Award W.O. 21-24: Zone 3, 12-inch Waterline Replacement to Askin Construction, LLC, in the amount of $256,113.00; or,
- Do not award a contract and reject all bids. If the contract is not awarded, there is the risk of future breaks on existing pipe and the City will be unable to isolate waterlines around MSU.

FISCAL EFFECTS

The following bids were received:

Contractor	Base Bid
Askin Construction, LLC	$256,113.00
Western Municipal Construction, Inc.	$296,855.00
Earth Mover's Excavation, Inc.	$349,355.00

The project was budgeted in FY21 and is part of the annual water replacement program.

City Council Regular

Date:	04/26/2021
Title:	W.O. 19-42: West End Water Treatment Plant Project, Amendment No. 1
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends that the City Council approve Amendment No. 1 to the City's professional engineering services contract with Burns and McDonnell Engineering Company, Inc. (BMcD) for W.O. 19-42: West End Water Treatment Plant Project in the amount of $3,778,342.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Identifying and securing an alternate source of treated water for the City of Billings is a priority to the Public Works Department. In the current fiscal year through FY23, the City has $126 million in funding budgeted to design and build the projects needed for the new water system on Billings' west end. Over the next two years, design and start of construction is planned for a new reservoir, water treatment plant, river water intake and associated pump station, and approximately 6 miles of transmission pipeline.

In August 2019, City Council approved a contract with Burns and McDonnell (BMcD) to complete preliminary and detailed design, bidding, construction inspection and administration, start-up, programming, warranty and support services for a West End Water Treatment Plant (WEWTP). The initial contract was for the preliminary design phase only. BMcD has completed preliminary design, and staff is ready to move forward with detailed project design.

Staff worked with BMcD to make conceptual and technical decisions for the WEWTP in the following areas:

- Yellowstone River water quality testing was performed to inform treatment process decisions.
- Several raw water treatment process options were evaluated in detail using a number of selection criteria.
- Treatment process trains, residuals handling and preliminary facility layouts were developed.
- Design coordination is ongoing with the West End Reservoir project and extensions to connect to the City's water distribution system.

Under consideration is the detailed design of a WEWTP capable of treating Yellowstone River water either directly or via the West End Reservoirs to meet all primary drinking water standards. The WEWTP will deliver up to 18 MGD and be expandable to 36 MGD. Process design includes rapid mix chemical pre-treatment, flocculation, sedimentation and granular media filtration. Filtered water would be pumped to a 36 MGD above-grade clearwell, and a high service pump station would deliver the treated water to new Zone 2 and 3 extensions to the City's existing water distribution system. Detailed design of approximately 2 miles of new Zone 2 and 3 transmission pipeline extensions is included in the project. WEWTP building design, yard piping connections and residual solids handling facilities are also included in the detailed design package. Through anticipated implementation of the Construction Manager/General Contractor (CM/GC) alternative project delivery approach approved by Council Resolution 21-10925 in February, City staff and BMcD will procure a general contractor for inclusion on the design team. The team will collaborate to develop at least two (2) separate work packages, so that project construction can be sequenced to begin as early

and efficiently as possible. This amendment brings engineering of the West End Water Treatment Plant (WEWTP) project through final design and also includes final design of new Zone 2 and 3 pipeline extensions to the City's distribution system.

The selection for the professional services did include this portion of the work. This contract amendment was anticipated at the beginning of the project. We could have contracted for the entire project under the initial contract, but the scope was unknown until the design report was completed. By using a contract amendment, it allowed us to create a scope of work and fee that is more defined than we could have done before the design report completion.

ALTERNATIVES

City Council may:

- Approve Contract Amendment No. 1 with Burns and McDonnell Engineering; or,
- Not Approve Contract Amendment No. 1. If this project is not completed, the City will be unable to proceed with the plans needed to provide for the present and future drinking water redundancy and capacity needs of City of Billings residents.

FISCAL EFFECTS

The W.O. 19-42: West End Water Treatment Plant (WEWTP) Project original professional engineering services agreement contract with Burns and McDonnell Engineering for Preliminary Design was in the amount of $883,732. Proposed Amendment No. 1 for detailed design is in the amount of $3,778,342 which includes final design of the WEWTP and final design of the Zone 2 and 3 water transmission main extensions to the existing distribution system. The City has $5 million budgeted in the water fund for this design work.

Attachments

WO1942 Amend#1

AMENDMENT NO. 1

TO

CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES

W.O. 19-42

WEST END WATER TREATMENT PLANT PROJECT

THIS AGREEMENT, made and entered into on _____, 2021, by and between the following:

CITY OF BILLINGS, a Municipal Corporation,
Billings, Montana 59103,
Hereinafter designated the City

and

Burns & McDonnell Engineering Company, Inc.
9785 Maroon Circle, Suite 400
Centennial, CO 80112
Hereinafter designated the Contractor

WITNESSETH:

WHEREAS, the City and Contractor have entered into a contract dated August 26, 2019, for Contractor to provide engineering services to the City for Work Order 19-42 West End Water Treatment Plant Project, and;

WHEREAS, the City has need for additional engineering services, and;

WHEREAS, the City has authority to contract for consulting engineering services, and;

WHEREAS, the Contractor represents that he is qualified to perform such services, is in compliance with Montana Statutes relating to the registration of professional engineers and is willing to furnish such services to the City;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated herein, the Parties hereto agree as follows:

Part I, Section 3, Paragraph C. Delete paragraph and replace with the following:

C. The Contract shall terminate at midnight on December 31, 2022.

Appendix A, Section 3. Add the attached Final Design Scope of Work

Appendix B, Section 1, Paragraph A. replace with the following:

ORIGINAL CONTRACT	
1. Task Series 100-800 – Preliminary Design	$883,732
AMENDMENT NO. 1	
2. Task Series 1000 – Meetings and Project Management	$444,614
3. Task Series 1100 – 30% Design	$572,386
4. Task Series 1200 – CM/GC Selection	$35,850
5. Task Series 1300 – Work Package 1	$915,901
6. Task Series 1400 – Work Package 2	$1,244,726
7. Task Series 1500 – Permitting	$64,344
8. Task Series 1600 – Issued for Construction	$153,058
WATER TREATMENT PLANT PROJECT TOTAL	$3,430,879
9. Task Series 1700 – Pipelines Design	$347,463
TOTAL, Amendment No. 1	**$3,778,342**

Appendix E. Replace the first paragraph with the following:

Based on a notice to proceed by Billings dated no later than April 26, 2021, the completion date for the Engineer's work shall be on or before December 31, 2022 based on the following estimated schedule for major deliverables:

A. 30% Design Deliverable – August 2021
B. CM/GC Notice to Proceed – August 2021
C. Work Package 1 – 60% Design Deliverable – November 2021
D. Work Package 2 – 60% Design Deliverable – December 2021
E. Work Package 1 – 90% Design Deliverable – March 2022
F. Work Package 2 – 90% Design Deliverable – April 2022
G. Work Package 1 – Issued for Construction Documents – May 2022
H. Work Package 2 – Issued for Construction Documents – July 2022

All other terms and conditions of the contract to which this amendment applies shall remain in full effect.

CONSULTANT

NAME: Daniel D. Korinek

BY: Daniel D. Korinek

TITLE: Vice President

DATE: 4/6/2021

CITY OF BILLINGS, MONTANA

BY: _____
Mayor

DATE: _____

Basic Services of Engineer, Amendment No 1.
City of Billings W.O. 19-42, West End Water Treatment Plant Project

Scope of Services

The Scope of Services proposed includes design services for an 18 MGD greenfield water treatment plant, as specified in the Preliminary Design Report. The water treatment plant project includes the 18 MGD water treatment plant, a 36 MGD clearwell, 18 MGD high service pump station, solids handling lagoons, and all associated yard piping from the reservoir tie assumed to be close to the WTP in to the high service pump station discharge. This project also includes the system connection piping from the high service pump station to the Zone 2 connection point at Hesper Road and Gabel Road and to the Zone 3 connection point at 44th and King Avenue West. The Scope of Services assumes that the West End Water Treatment Plant Project will start at the fence line shown on the PDR site plan. All raw water piping from the reservoir project shall terminate at that point.

TASK SERIES 1000 – Meetings and Project Management

Task 1001 –Design Kickoff Meeting:
Engineer shall coordinate and lead a Project Kickoff meeting at the facility. During the Project Kickoff meeting the collective project team shall regroup the team on the project goals, coordinate activities, discuss project requirements, establish a project schedule, identify key project issues/concerns, identify key personnel who are to provide input on the project, and get initial input on design items.

Task 1002 – Bi-weekly Progress Meetings:
The Burns & McDonnell project team will prepare for, attend, and conduct bi-weekly progress meetings. These meeting will be held at the City's offices. The Burns & McDonnell project team will provide meeting minutes with a decision log and a list of action items. Meeting minutes will be distributed via e-mail. When workshops and kickoff meeting coincide with monthly progress meetings the meetings will be combined. Assumes 12 months of meetings. It is currently anticipated that half of the meetings will be in person and half will be virtual. Regular workshop attendees will include the PM and a process engineer. Other resources will participate as part of a virtual meeting. This task also includes internal bi-weekly progress meetings.

Task 1003 –Bi-Monthly Management Meetings:
The Burns & McDonnell project team will prepare for, attend, and conduct bi-monthly management meetings. These meeting will be held at the City's offices. The Burns & McDonnell project team will provide meeting minutes with a decision log and a list of action items. Meeting minutes will be distributed via e-mail. Assumes 12 months of meetings (6 total meetings). When possible, these meetings will be conducted on the same day as progress meetings and/or workshops in order to minimize travel expenses.

Task 1004 – Monthly Status Report Submittals:

The Burns & McDonnell project team will utilize the monthly invoicing format provided by the City of Billings and supplement its monthly status report as necessary to include the following items:

- Budget Tracking
- Scope of work completed the prior month
- Activities projected for next month
- Potential concerns
- Schedule update

Task 1005 – Project Management:
Project management for the Design phase includes all project coordination between the City and the team members. The project manager will monitor project status, monitor project schedule, monitor project deliverables and coordinate resources including sub-consultants. The task also includes an internal bi-weekly progress meeting.

TASK SERIES 1100 – 30% Design

Task 1101 – Spring Jar Testing and Technical Memorandum:
To supplement the winter jar testing, the Burns & McDonnell project team will perform bench scale testing and data collection with assistance from City staff for the collection of water supply samples and basic laboratory testing on the raw water that can be conducted onsite during testing (turbidity, temperature, color, UVT, pH, hardness, and alkalinity). The Burns & McDonnell project team has assumed that the cost for all lab equipment, consumables and outside water quality laboratory work would be paid by the City.

The Burns & McDonnell project team will modify the Bench Scale Testing Technical Memorandum to include the spring bench scale testing results. City comments from the Draft TM will be incorporated into the final TM.

Task 1102 – Finalize Process Flow Diagram:
Burns & McDonnell shall finalize the process flow diagram for the water treatment plant. The process flow diagram shall indicate the overall process flow, but shall not include most valves or the number of equipment items.

Task 1103 – Finalize Raw Water Hydraulics:
Burns & McDonnell will finalize the raw water hydraulics for the facility. Burns & McDonnell will coordinate with the Reservoir Project to finalize the hydraulics and coordinate tie-ins.

Task 1104 – Identify Long-Lead Items for Early Procurement:
Burns & McDonnell will work with manufacturers to determine which equipment items have a long lead time and that would benefit the overall construction schedule if they were procured early.

Task 1105 – Unit Process Sizing:
Burns & McDonnell will finalize the unit process sizing and include the information in a process design sheet in the drawings.

Task 1106 – Develop 30% Design Drawings:

The Burns & McDonnell project team will develop a set of schematic (30%) plans for the water treatment facility, clearwell, high service pump station, and pipeline connections to the distribution system. The 30% plans will consist of civil, architectural, structural, process, mechanical, electrical, and pipeline drawings necessary to convey the intended scope of improvements to potential Construction Manager/General Contractor (CM/GC) firms. Burns & McDonnell will provide a PDF of the 30% plans (11"x17"). The plans will be prepared in accordance with BMcD's and/or subconsultant's drafting standards.

This task also includes a geotechnical amendment due to the delay in drilling for 20-months, (this task does not include any dewatering of the pond for drilling at the WTP lagoon site), These findings will be combined in the overall report.

Task 1107 – Develop 30% Design Specifications:
The Burns & McDonnell project team will develop a set of 30% specifications for the water treatment facility, clearwell, high service pump station, and pipeline connections to the distribution system. The 30% specifications will consist of a list, or table of contents, of the anticipated specifications required for the plant.

Task 1108 – Prepare Initial Engineer's Opinion of Probable Cost:
Based on the 30% design documents, Engineer shall prepare an AACE Class 3 engineer's opinion of probable cost for the project. This cost opinion will be submitted along with the design documents for review and comment by the Owner. The cost opinion will be based on recent bid tabulation information, historical cost data, and discussions with local suppliers and contractors. Assumptions will be included for reference.

Task 1109 – 30% Design Workshop with City Staff:
After the City has had an opportunity to review the 30% design documents, Burns & McDonnell will conduct a 30% design review meeting. The purpose of this meeting is to provide the City and Burns & McDonnell an opportunity to clarify City comments on the documents. Burns & McDonnell will provide meeting minutes with a decision log and list of action items. Meeting minutes will be distributed via email.

TASK SERIES 1200 – CM/GC Coordination

Task 1201 – CM/GC Pre-bid and Questions
Burns & McDonnell will attend the pre-bid conference to assist the City's staff in answering questions concerning the design of the project. Burns & McDonnell will also be available to answer questions and issue bid addendums throughout the bidding process.

Task 1202 – CM/GC Coordination
Burns & McDonnell will coordinate with the selected CM/GC on value engineering, cost projections, design concept modifications, answer their questions, and attend meetings related to the CM/GC scope of work.

TASK SERIES 1300 – Work Package 1

Burns & McDonnell will work with the selected CM/GC contractor to identify portions of the work that are candidates for work package 1 (WP1) and prioritize the design of these items accordingly. WP1 components are assumed to be:

- Foundation Work
- Site Work for Foundation Excavation
- Long-Lead Equipment Procurement

Remaining work will be included in Work Package 2 (WP2).

Task 1301 – 60% WP1 Design Drawings:
Burns & McDonnell shall provide WP1 plans at the 60% design level. The 60% drawings shall include applicable WP1 drawings indicated in the 30% review, brought to 60%, and additional detail drawings that are needed for final design. Burns & McDonnell will provide a PDF of the 60% plans (11"x17"). The plans will be prepared in accordance with BMcD's and/or subconsultant's drafting standards. The City shall be given at least two weeks to review the plans prior to holding the 60% Design Review Meeting.

Task 1302 – 60% Design WP1 Specifications:
The Burns & McDonnell project team will develop a set of 60% WP1 specifications. The 60% specifications will consist of a specifications from required disciplines. Burns & McDonnell will provide a PDF of the 60% specifications. The City shall be given at least two weeks to review the specifications prior to holding the 60% Design Review Meeting.

Task 1303 – 60% Design WP1 Review Workshop:
After the City has had an opportunity to review the 60% WP1 design documents, Burns & McDonnell will conduct a 60% design review meeting. The purpose of this meeting is to provide the City and Burns & McDonnell an opportunity to clarify City comments on the documents. Burns & McDonnell will provide meeting minutes with a decision log and list of action items. Meeting minutes will be distributed via email.

Task 1304 – WP1 (60%) and WP2 (30%) CMGC Initial GMP Review:
Burns & McDonnell shall review the Guaranteed Maximum Price development and breakdown for completeness, contract compliance and conformity with the scope of work and the City's goals and expectations.

Task 1305 – 90% Design WP1 Drawings:
Burns & McDonnell shall provide WP1 plans at the 90% design level. The 90% drawings shall include applicable WP1 drawings indicated in the 60% review, brought to 90%, and additional detail drawings that are needed for final design. Burns & McDonnell will provide a PDF of the 90% plans (11"x17"). The plans will be prepared in accordance with BMcD's and/or subconsultant's drafting standards. The City shall be given at least two weeks to review the plans prior to holding the 90% Design Review Meeting.

Task 1306 – 90% Design WP1 Specifications:
The Burns & McDonnell project team will develop a set of 90% WP1 specifications. The 90% specifications will consist of a specifications from required disciplines. Burns & McDonnell will provide a PDF of the 90% specifications. The City shall be given at least two weeks to review the specifications prior to holding the 90% Design Review Meeting.

Task 1307 – 90% Design WP1 Review Workshop:
After the City has had an opportunity to review the 90% WP1 design documents, Burns & McDonnell will conduct a 90% design review meeting. The purpose of this meeting is to provide the City and Burns & McDonnell an opportunity to clarify City comments on the documents. Burns & McDonnell will provide meeting minutes with a decision log and list of action items. Meeting minutes will be distributed via email.

Task 1308 – WP1 Permit Documents:
The Burns & McDonnell project team will prepare a full set of WP1 documents for permitting.

The Issued for Permit Review set will be distributed to the appropriate permitting agencies. Hard copies will only be printed as required by the permit reviewers.

Task 1309 – WP1 (90%) and WP2 (60%) CMGC Final GMP Review:
Burns & McDonnell shall review the Guaranteed Maximum Price development and breakdown for completeness, contract compliance and conformity with the scope of work and the City's goals and expectations.

TASK SERIES 1400 – Work Package 2

Task 1401 – 60% WP2 Design Drawings:
Burns & McDonnell shall provide WP2 plans at the 60% design level. The 60% drawings shall include applicable WP2 drawings indicated in the 30% review, brought to 60%, and additional detail drawings that are needed for final design. Burns & McDonnell will provide a PDF of the 60% plans (11"x17"). The plans will be prepared in accordance with BMcD's and/or subconsultant's drafting standards. The City shall be given at least two weeks to review the plans prior to holding the 60% Design Review Meeting.

Task 1402 – 60% Design WP2 Specifications:
The Burns & McDonnell project team will develop a set of 60% WP2 specifications. The 60% specifications will consist of a specifications from required disciplines. Burns & McDonnell will provide a PDF of the 60% specifications. The City shall be given at least two weeks to review the specifications prior to holding the 60% Design Review Meeting.

Task 1403 – 60% Design WP2 Review Workshop:
After the City has had an opportunity to review the 60% WP2 design documents, Burns & McDonnell will conduct a 60% design review meeting. The purpose of this meeting is to provide the City and Burns & McDonnell an opportunity to clarify City comments on the documents. Burns & McDonnell will provide meeting minutes with a decision log and list of action items. Meeting minutes will be distributed via email.

Task 1404 – 90% Design WP2 Drawings:
Burns & McDonnell shall provide WP2 plans at the 90% design level. The 90% drawings shall include applicable WP2 drawings indicated in the 60% review, brought to 90%, and additional detail drawings that are needed for final design. Burns & McDonnell will provide a PDF of the 90% plans (11"x17"). The plans will be prepared in accordance with BMcD's and/or subconsultant's drafting standards. The City shall be given at least two weeks to review the plans prior to holding the 90% Design Review Meeting.

Task 1405 – 90% Design WP2 Specifications:
The Burns & McDonnell project team will develop a set of 90% WP2 specifications. The 90% specifications will consist of a specifications from required disciplines. Burns & McDonnell will provide a PDF of the 90% specifications. The City shall be given at least two weeks to review the specifications prior to holding the 90% Design Review Meeting.

Task 1406 – 90% Design WP2 Review Workshop:
After the City has had an opportunity to review the 90% WP2 design documents, Burns & McDonnell will conduct a 90% design review meeting. The purpose of this meeting is to provide the City and Burns & McDonnell an opportunity to clarify City comments on the documents. Burns & McDonnell will provide meeting minutes with a decision log and list of action items. Meeting minutes will be distributed via email.

Task 1407 – WP2 Permit Documents:
The Burns & McDonnell project team will prepare a full set of WP2 documents for permitting. The Issued for Permit Review set will be distributed to the appropriate permitting agencies. Hard copies will only be printed as required by the permit reviewers.

Task 1408 – WP1 (100%) and WP2 (90%) CMGC Final GMP Review:
Burns & McDonnell shall review the Guaranteed Maximum Price development and breakdown for completeness, contract compliance and conformity with the scope of work and the City's goals and expectations.

TASK 1500- Permitting

Burns & McDonnell shall assist with necessary permitting as identified in the PDR and listed in the table below. Such permitting consists of working with local, state, and federal agencies. Necessary permits for this work may include permits through Montana Department of Environmental Quality, the City of Billings, and others. Other permits may be required by the Contractor. For the purposes of our fee, we have assumed that the City will pay all permit application and review fees. This task assumes that MDEQ will approve all requested variances (i.e., pilot testing will not be required).

Approval, Permit, Authorization, or License	Agency	Contact Information	Estimated Time Frame (Months)	Description	Permit Coordinator and Submitter	Timing and Notes
Clean Water Act, Section 404 Permit Nationwide Permit (NWP), or Individual Permit	United States Army Corps of Engineers (USACE)	Billings regulatory office (406) 657-5910	2-12	Permanent wetland impacts greater than 0.50 acre require an Individual Permit, often including mitigation and public involvement. Impacts less than 0.5 acre often fall under a NWP	Engineer	After the PDR. Assumes the wetland areas will be less than 0.5 acres.
National Historic Preservation Act (NHPA) Section 106 Cultural Compliance	Montana State Historic Preservation Office (SHPO)	Montana SHPO (406) 444-7715	2	Section 106 of NHPA requires review of historic properties; also required if a Section 404 permit is needed from USACE	N/A	Confirmed with SHPO this permit will not be required for the project. The email and records are documented in project files.
Montana Stream Protection Act (SPA 124 Permit) and/or Montana Natural Streambed and Land Preservation Act (310) Permit	Montana Department of Natural Resources and Conservation (MDNR)	Billings Regional Office (406) 247-4415	2-3	Any project including the construction of new facilities that may affect the natural existing shape and form of any stream or its banks or tributaries.	Engineer	Submitted with NWP Permit

Endangered Species Act (ESA) Compliance	United States Fish and Wildlife (USFWS)	USFWS Montana Ecological Services Field Office (406) 449-5225	Compliance required through construction	Project must prove compliance with ESA in order to get USACE Section 404 permit	N/A	Confirmed there are no threatened, endangered, proposed, and candidate species within the project boundaries wit h the USFWS. The letter is documented in project files.
Migratory Bird Treaty Act (MBTA) Compliance	USFWS	USFWS - Migratory Bird Permit Office (303) 236-8171	Compliance required through construction	Project should avoid impacting migratory bird nests. Pre-construction avian and nest surveys should be completed to verify compliance.	Contractor	Prior to Construction
DEQ Public Water Permit	DEQ	Matt Waite (406) 247-4455	2	Review and approve facility design and construction documents	Engineer	After 100% Design

Building Permit	City of Billings	Ben Lich (406) 237-6110	1	Reviews building plans and authorizes building construction	Engineer	After 100% Design
County Right-of-Way Permit	Yellowstone County Public Works Department	Darin Swenson (406) 256-6907	Issued immediately	Authorizes construction work in County right-of-way	Contractor, unless needed for entrance	Prior to construction
County Approach Permit	Yellowstone County Public Works Department	Darin Swenson (406) 256-6907	1	Authorizes construction of a new approach on a County right-of-way	Contractor, unless needed for entrance	Prior to construction
Stormwater Discharge Permit	DEQ	(406) 444-3080	Permit is effective immediately upon receipt of complete NOI package	Authorizes discharge of stormwaters into State surface waters	Contractor	Prior to construction
Construction Dewatering Permit	DEQ	(406) 444-3080	1	Authorizes construction dewatering activities	Contractor	Prior to construction
MDT Utility Permit	MDT	Andrew Harmon (406) 657-0239	1	Authorizes construction through MDT right of way	Engineer	Prior to construction
BBWA Canal Crossing Agreement	BBWA	Allan Workman (406) 850-1606	1	Authorizes crossing of the BBWA Canal	Engineer	Prior to construction

TASK SERIES 1600 – Issued for Construction

Task 1601 – Issued for Construction Documents (WP1)
Burns & McDonnell's Project Team will incorporate any comments from the 90% design WP1 documents into the Issued for Construction documents. The issued for construction documents shall be signed and sealed by a professional engineer in the state of Montana.

Task 1602 – Issued for Construction Documents (WP2)
Burns & McDonnell's Project Team will incorporate any comments from the 90% design WP2 documents into the Issued for Construction documents. The issued for construction documents shall be signed and sealed by a professional engineer in the state of Montana.

TASK SERIES 1700 – Pipeline Design

This project also includes the system connection piping from the high service pump station to the Zone 2 connection point at Hesper Road and Gabel Road and to the Zone 3 connection point at 44th and King Avenue West. The pipeline design will follow the WP2 scope and schedule. Required permitting for the pipeline will be included in this task, as shown in the permitting table above. This task includes additional field survey to verify routes and finalize design surveys and 15 bore logs to a depth of 15-feet for the pipeline. The bore logs will be included in the overall water treatment plant geotechnical report.

Future Tasks
Scope items to be added by future amendment include but are not limited to:

- Construction services
- Startup and training services
- SCADA programming services
- Warranty services
- Operations Support

City Council Regular

Date:	04/26/2021
Title:	Right of Way Acquisitions: WO 19-15 24th St W & Central Signal Improvements
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends that City Council approve the right-of-way agreements and acquisition of property from 2425 Central Ave, LLC ,for $44,000 and from Automatic Real Estate, LLP, for $28,300.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

W.O. 19-15: 24th Street West and Central Signal Improvements is a project to widen 24th Street West on the north side of Central Avenue to construct a right-turn-only lane on to Central Avenue. Additionally, the project will replace three traffic signal poles and improve the turning radius of the southeast corner of the intersection. The improvements provide safety upgrades to the intersection, replaces damaged signal poles, and increases the level of service at the intersection for south bound traffic on 24th Street West. The project requires property to be acquired on both the southeast corner to increase the turning radius and the northwest corner for the right-turn lane. Staff followed the City's property acquisition policy and obtained appraisals from The Appraisal Group, LTD for Automatic Real Estate (SE Corner) and Thomas Appraisal Services for 2425 Central Ave, LLC (NW Corner). Both property owners accepted initial offers from staff at values determined from appraisals.

ALTERNATIVES

City Council may:

- Approve the right-of-way agreements and acquisition of property from 2425 Central Ave, LLC, for $44,000 and from Automatic Real Estate, LLP, for $28,300 or,
- Not Approve right-of-way agreements and acquisition of property from 2425 Central Ave, LLC, and Automatic Real Estate, LLP. If City Council does not approve the acquisition, the intersection will continue to operate at a lower level of service, delay will not be improved, and safety improvements cannot be completed.

FISCAL EFFECTS

The acquisition has been budgeted in FY 21 in the arterial construction fund.

Property to be acquired:

Property	Square Footage	Amount
2425 Central Ave, LLC	1,476	$44,000

Automatic Real Estate, LLP	136	$28,300

Attachments

ROW Agreement Automatic Real Estate
Warranty Deed Automatic Real Estate
ROW Agreement 2425 Central Ave
Warranty Deed 2425 Central Ave

CITY OF BILLINGS
PUBLIC WORKS DEPARTMENT

Project No. W.O. 19-15 County of Yellowstone
Designation 24th S W & Central Signal Improvements

RIGHT OF WAY AGREEMENT

Parcel from Station-To-Station Subdivision Section Township Range

A part of Lot 1, Block 18 of Central Heights Subdivision, Third Filing situated in the NW1/4, NW1/4, NW1/4, of Section 7, T1S, R26E, P.M.M, City of Billings, Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Yellowstone County, Montana; (document number: 548747).

Said part being more particularly described as follows:

Commencing at the northwest corner of said Section 7, Government Lot 1; thence S 53° 15' 28" E 50.10 feet to the True Point of Beginning, thence along the southerly right-of-way of Central Avenue N 89° 57' 21" E, 25.10 feet to the beginning of a non-tangent curve concave to the southeast, having a radius of 25.00 feet, and being subtended by a chord that bears S 44° 50' 23" W, length 35.43 feet; thence along said curve southwesterly 39.37 feet through a central angle of 90° 13' 57" to a point on the easterly right-of-way of South 24th Street West; thence along said right-of-way N 0° 16' 35" W, 25.10 feet to the point of beginning. Said part contains 136 square feet, more or less, as according to the attached Exhibit A.

List Names & Addresses of the Grantor, Con. Purchaser & Lessee

Automatic Real Estate, LLP
1924 1st Ave North
Billings, MT 59101-2443

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1. **IN CONSIDERATION OF THE PAYMENTS HEREIN SET FORTH AND THE SPECIFIC AGREEMENTS TO BE PERFORMED BY BOTH PARTIES HERETO AND WRITTEN IN THIS AGREEMENT, THE PARTIES HERETO BIND THEMSELVES TO THE TERMS AND CONDITIONS SET FORTH HEREIN. NO VERBAL AGREEMENTS SHALL BE BINDING UPON EITHER PARTY AND THIS AGREEMENT SHALL BECOME EFFECTIVE UPON EXECUTION BY A DESIGNATED REPRESENTATIVE OF THE CITY OF BILLINGS.**

2. **COMPENSATION FOR LAND AND IMPROVEMENTS** (List acres and/or sq. ft. and improvements in the taking.)

   Land Acquisition: 136 square feet
   Severance damage for ½ of parking stall: 76.5 square feet
   Temporary Construction Permit for Sign Relocation: 38.6 square feet
   Sign relocation and related construction work

   Total compensation for land, damages, and improvements Total $28,300.00

3. **TOTAL COMPENSATION FOR PARCEL** $28,300.00

4. **IT IS UNDERSTOOD AND AGREED** the Grantor will relocate their business sign at the southeast corner of Central Avenue and S 24th St W prior to project construction.

5. **IT IS UNDERSTOOD AND AGREED** the City will construct curb, gutter, sidewalk and street improvements along the radius of acquired property at no cost to the Grantor. These improvements shall be maintained according to the City policy in effect at such time maintenance is necessary. The City further agrees to remove landscaping and sprinklers as required to accommodate the improvements at no cost to the Grantor. The City also further agrees to modify the existing property, as necessary, to reasonably match the new improvements and restore disturbed lawn and sprinkler system that is agreeable to the property owner at no cost to the Grantor. Any additional work requested by the Grantor, but not necessary to construct the improvements at the south east corner of Central Ave and S 24th St W intersection, shall be the Grantor's sole responsibility.

6. **IT MAY BE NECESSARY** for the City of Billings, in some instances, to acquire some properties by its Right of Eminent Domain. I/We understand this and hereby acknowledge the necessity of the project and our agreement thereof. I/We further agree that the property given to the City of Billings by me/us has been sold for an agreed upon price and that sale shall not be affected by the City of Billings exercise of Eminent Domain of other properties in order to successfully complete the project.

7. **IT IS UNDERSTOOD AND AGREED** the Grantor will execute the Right-of-Way Agreement and Warranty Deed and other documents as necessary to accommodate the conveyance of Right of Way located **Commencing at the northwest corner of said Section 7, Government Lot 1; thence S 53° 15' 28" E 50.10 feet to the True Point of Beginning, thence along the southerly right-of-way of Central Avenue N 89° 57' 21" E, 25.10 feet to the beginning of a non-tangent curve concave to the southeast, having a radius of 25.00 feet, and being subtended by a chord that bears S 44° 50' 23" W, length 35.43 feet; thence along said curve southwesterly 39.37 feet through a central angle of 90° 13' 57" to a point on the easterly right-of-way of South 24th Street West; thence along said right-of-way N 0° 16' 35" W, 25.10 feet to**

the point of beginning. Said part contains 136 square feet, more or less, as according to the attached Exhibit A.

WITNESS WHEREOF, the parties hereto have executed this agreement the day and year as written below.

RECOMMENDED FOR APPROVAL

3/17/2021
For Engineering Division (Date)

3-22-2021
Gary Carlson (Date)

3-22-2021
Gene Carlson (Date)

Personal representatives of
Automatic Real Estate, LLP

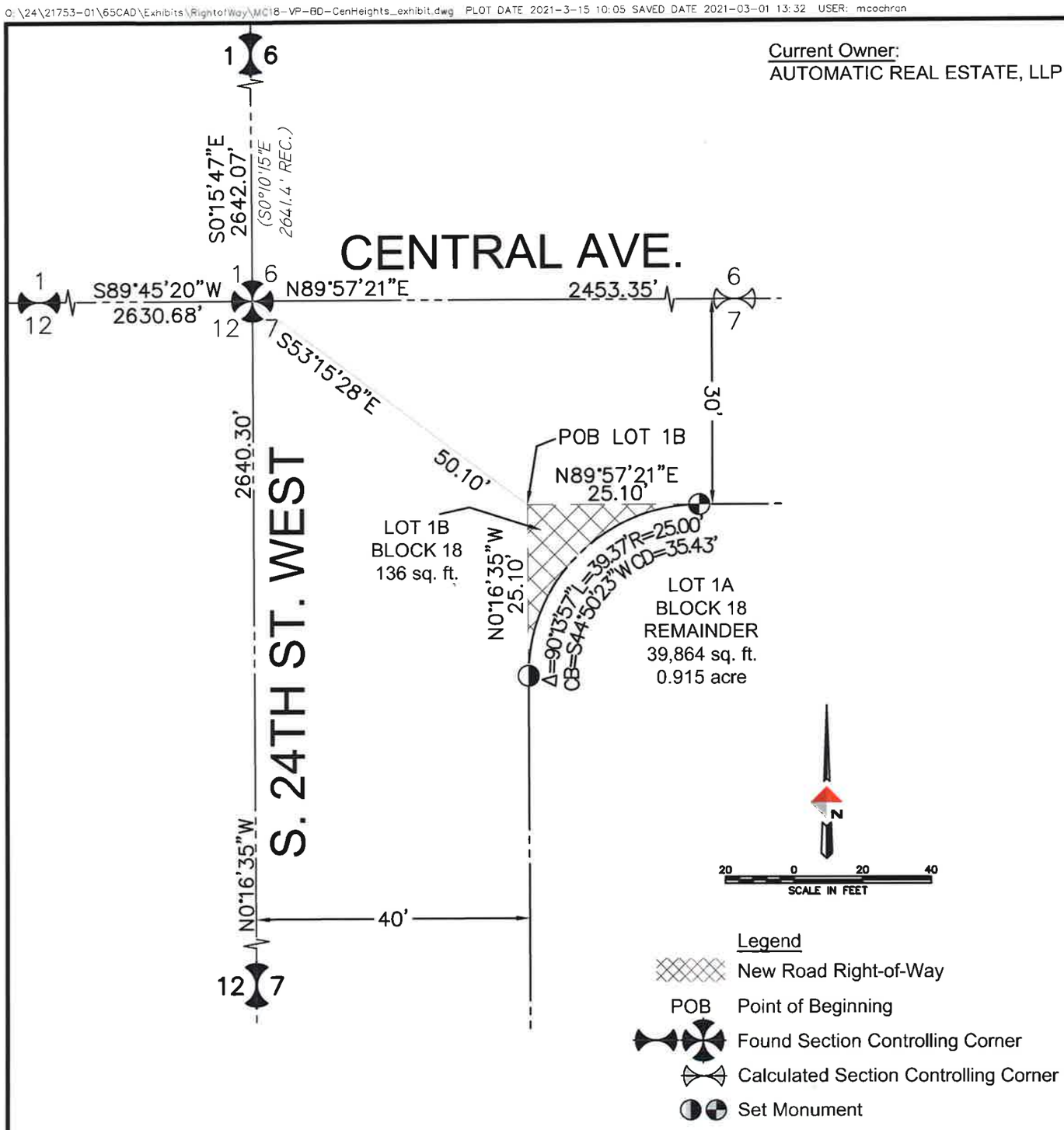
APPROVED FOR AND ON BEHALF OF THE CITY OF BILLINGS

BY:_____
William A. Cole, Mayor (Date)

ATTEST

BY:_____
Denise R. Bohlman, City Clerk (Date)

O:\24\21753-01\65CAD\Exhibits\RightofWay\MCI8-VP-BD-CenHeights_exhibit.dwg PLOT DATE 2021-3-15 10:05 SAVED DATE 2021-03-01 13:32 USER: mcochran



Legal Description of Property to be Acquired for Improvements:

A part of Lot 1, Block 18 of Central Heights Subdivision, Third Filing situated in the NW 1/4 NW 1/4 NW 1/4 of Section 7, T1S, R26E, P.M.M, City of Billings, Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Yellowstone County, Montana; (document number: 548747).

Said part being more particularly described as follows:

Commencing at the northwest corner of said Section 7, Government Lot 1; thence S 53° 15' 28" E 50.10 feet to the True Point of Beginning, thence along the southerly right-of-way of Central Avenue N 89° 57' 21" E, 25.10 feet to the beginning of a non-tangent curve concave to the southeast, having a radius of 25.00 feet, and being subtended by a chord that bears S 44° 50' 23" W, length 35.43 feet; thence along said curve southwesterly 39.37 feet through a central angle of 90° 13' 57" to a point on the easterly right-of-way of South 24th Street West; thence along said right-of-way N 0° 16' 35" W, 25.10 feet to the point of beginning. Said part contains 136 square feet, more or less.

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Right of Way to be Acquired for
Central Avenue & South 24th Street West Intersection Improvements
City of Billings, Montana
A Part of Lot 1, Block 18,
Central Heights Sub., Third Fil.

PROJECT	4024.21753.01
DATE	2/23/2021
DRAWN BY	MWC

EXHIBIT A

Return to: City Clerk
City of Billings
PO Box 1178
Billings, MT 59103

Project No. W.O. 19-15 County of Yellowstone

Designation 24th St W & Central Avenue Signal Improvements

WARRANTY DEED

THIS INDENTURE, made this _____ day of _____, 2021.

FOR VALUABLE CONSIDERATION, lawful money of the United States to them in hand paid by the **CITY OF BILLINGS,** THE receipt whereof is acknowledged, **WITNESSTH THAT:**

Automatic Real Estate, LLP
1924 1st Ave North
Billings, MT 59101-2443

does hereby **GRANT, BARGAIN, SELL CONVEY, WARRANT AND CONFIRM** unto the **CITY OF BILLINGS** for the benefit and use of **the Public** the following described real property, to wit:

Lot 1B, Block 18 of Amended Plat of Central Heights Subdivision, Third Filing situated in the NW1/4, NW1/4, NW1/4, of Section 7, T1S, R26E, P.M.M, City of Billings, Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Yellowstone County, Montana; (document number: _____).

Said lot contains 136 square feet, more or less.

AS SHOWN by Exhibit "A", consisting of one sheet attached hereto and made a part hereof.

PURPOSE OF ACQUISITION is to create a right-of way parcel for construction and use of public road, utility and related appurtenant structures, pursuant to 76-3-201(1)(h) M.C.A. and A.R.M. 24.183.1104 as a division of land that creates rights-of-way or utility sites.

EXCEPTING AND RESERVING, however, all gas and oil, beneath the surface of the above described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right the surface thereof shall not be disturbed, interfered with, or in anyway damaged.

FURTHER EXCEPTING AND RESERVING, unto the grantors, their successors and assigns all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and al other indicia, of water, water right and ditch ownership, or any interest therein, appurtenant to the land described herein.

TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS,** and to its successors and assigns forever. **IN WITNESSTH WHEREOF**, the undersigned have executed these premises the day and year first above written.

Gary Carlson

Gene Carlson

Personal representatives of Automatic Real Estate, LLP

STATE OF MONTANA)
:ss
County of Yellowstone)

On this 22 day of March, 2021, before me the undersigned Notary Public for the State of Montana, personally appeared **Gary Carlson and Gene Carlson**, as Personal representatives of Automatic Real Estate, LLP, known to me to be the persons who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

(Notary Signature)

[Affix seal/stamp to left or below]

SUSAN WELLBROOK NOTARIAL SEAL STATE OF MONTANA

SUSAN WELLBROOK
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
September 29, 2024

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

_____

William A. Cole, Mayor Date

ATTEST:_____

Denise R. Bohlman, City Clerk

STATE OF MONTANA)

:ss

County of Yellowstone)

On this _____ day of _____, 2021, before me, a Notary Public in and for the State of Montana, personally appeared **William A. Cole** as Mayor and **Denise R. Bohlman** as City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and my seal the day and year herein above written.

_____

(Notary Signature)

[Affix seal/stamp to left or below]

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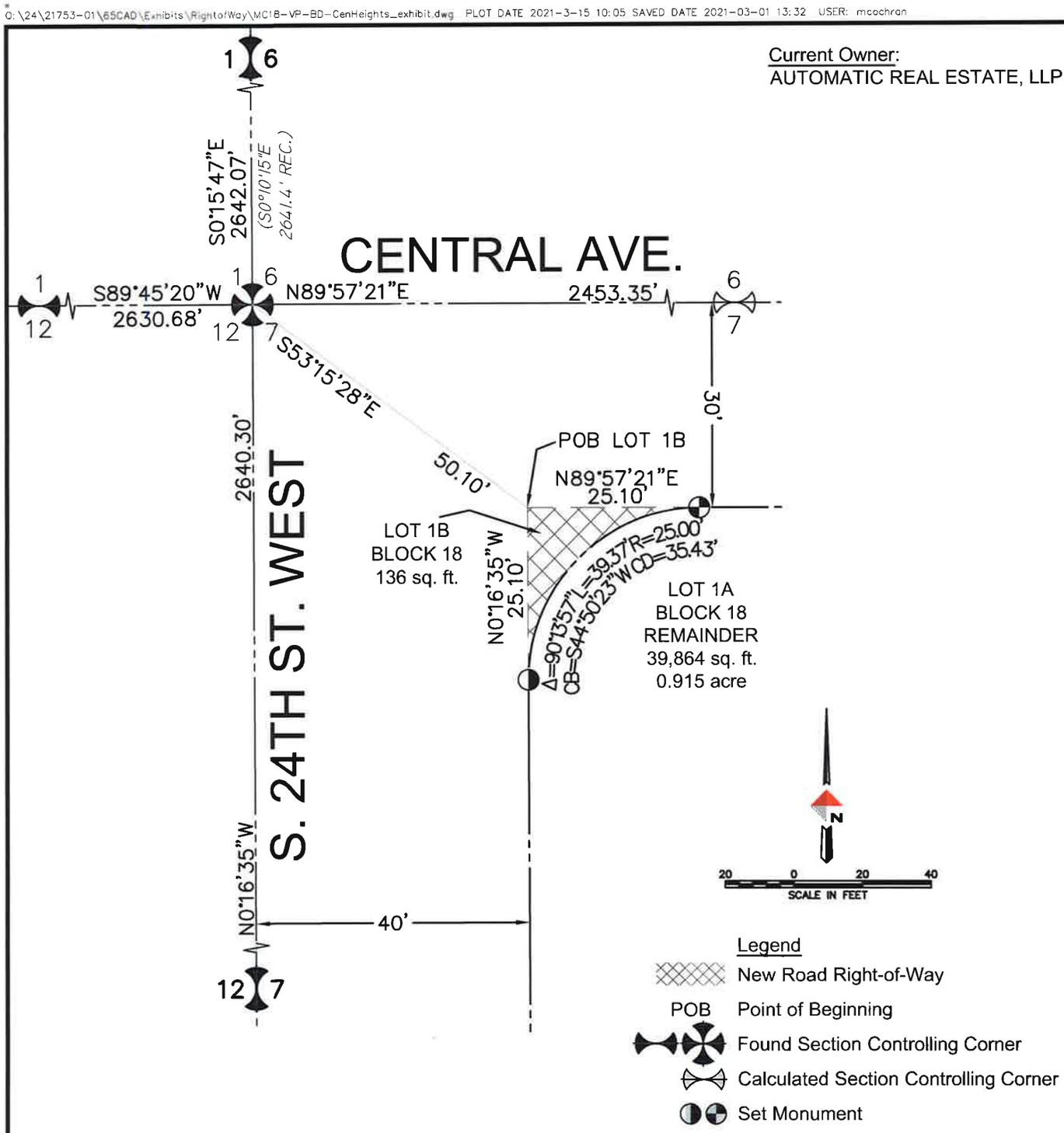

Legal Description of Property to be Acquired for Improvements:

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Said part being more particularly described as follows:

Commencing at the northwest corner of said Section 7, Government Lot 1; thence S 53° 15' 28" E 50.10 feet to the True Point of Beginning, thence along the southerly right-of-way of Central Avenue N 89° 57' 21" E, 25.10 feet to the beginning of a non-tangent curve concave to the southeast, having a radius of 25.00 feet, and being subtended by a chord that bears S 44° 50' 23" W, length 35.43 feet; thence along said curve southwesterly 39.37 feet through a central angle of 90° 13' 57" to a point on the easterly right-of-way of South 24th Street West; thence along said right-of-way N 0° 16' 35" W, 25.10 feet to the point of beginning. Said part contains 136 square feet, more or less.

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Right of Way to be Acquired for
Central Avenue & South 24th Street West Intersection Improvements
City of Billings, Montana
A Part of Lot 1, Block 18,
Central Heights Sub., Third Fil.

PROJECT	4024.21753.01
DATE	2/23/2021
DRAWN BY	MWC

EXHIBIT A

CITY OF BILLINGS
PUBLIC WORKS DEPARTMENT

Project No. W.O. 19-15 County of Yellowstone
Designation 24th S W & Central Signal Improvements

RIGHT OF WAY AGREEMENT

Parcel from Station-To-Station Subdivision Section Township Range

A part of Lot 1, Block 29, Descro Subdivision 7th Filing situated in the SE1/4, of Section 1, T1S, R25E, P.M.M, City of Billings, Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Yellowstone County, Montana; (document number: 821408).

Said part being more particularly described as follows:

Commencing at the southeast corner of said Section 1, thence N 52° 41' 10" W 82.03 feet to the true Point of Beginning, thence N 38° 06' 53" E 31.44 feet; thence N 0° 15' 47" W 206.35 feet; thence N 8° 25' 24" E 36.42 feet to a point on the westerly right-of-way of 24th Street West; thence along the westerly right-of-way of 24th Street West S 0° 15' 47" E 242.00 feet to the beginning of a curve having a radius of 25.00 feet, and being subtended by a chord that bears S 44° 44' 47" W, length 35.36 feet; thence along said curve southwesterly 39.28 feet through a central angle of 90° 01' 07" to the point of beginning. Said part contains 1,476 square feet, 0.034 acre, more or less.

List Names & Addresses of the Grantor, Con. Purchaser & Lessee

Marvin P Kosow, Manager
for 2425 Central Ave, LLC
181 Wells Ave Ste 303
Newton Center, MA 02459-3344

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1. **IN CONSIDERATION OF THE PAYMENTS HEREIN SET FORTH AND THE SPECIFIC AGREEMENTS TO BE PERFORMED BY BOTH PARTIES HERETO AND WRITTEN IN THIS AGREEMENT, THE PARTIES HERETO BIND THEMSELVES TO THE TERMS AND CONDITIONS SET FORTH HEREIN. NO VERBAL AGREEMENTS SHALL BE BINDING UPON EITHER PARTY**

AND THIS AGREEMENT SHALL BECOME EFFECTIVE UPON EXECUTION BY A DESIGNATED REPRESENTATIVE OF THE CITY OF BILLINGS.

2. **COMPENSATION FOR LAND AND IMPROVEMENTS** (List acres and/or sq. ft. and improvements in the taking.)

1,476 SF @ $29.81/SF	Subtotal:	$44,000.00
Total compensation for land and improvements	Total	$44,000.00

3. **TOTAL COMPENSATION FOR PARCEL** $44,000.00

4. **IT IS UNDERSTOOD AND AGREED** the City will construct curb, gutter, sidewalk, and street improvements to widen 24th St W to add a dedicated southbound right turn lane on and along the acquired property at no cost to the Grantor. These improvements shall be maintained according to the City policy in effect at such time maintenance is necessary. The City further agrees to relocate the Hobby Lobby business sign on 24th St W to the location as indicated on Exhibit B and remove and replace landscaping and sprinklers as required to accommodate the improvements at no cost to the Grantor. Work is to be fully turnkey inclusive of relocation, landscaping, sprinklers, permit, electrical, footings, and incidentals at no cost to the Grantor. The City also further agrees to modify the existing property, as necessary, to reasonably match the new improvements and restore disturbed landscaping and sprinkler system that is agreeable to the property owner at no cost to the Grantor. The City also further agrees to not relocate the Hobby Lobby sign between October and January for the holiday season. Any additional work requested by the Grantor, but not necessary to construct the turn lane, shall be the Grantor's sole responsibility.

   Commencing on the date of the execution of this Right of Way Agreement, and at all times thereafter, Grantee shall be liable and hold Grantor harmless and release Grantor from any liability for any injury to person or property in connection with its ownership of the land at issue, and, prior to the date of the delivery of the deed, in connection with Grantee's entry upon the premises or entry upon the premises by other third parties acting on behalf of Grantee or at Grantee's direction or with Grantee permission.

5. **IT MAY BE NECESSARY** for the City of Billings, in some instances, to acquire some properties by its Right of Eminent Domain. I/We understand this and hereby acknowledge the necessity of the project and our agreement thereof. I/We further agree that the property given to the City of Billings by me/us has been sold for an agreed upon price and that sale shall not be affected by the City of Billings exercise of Eminent Domain of other properties in order to successfully complete the project.

6. **IT IS UNDERSTOOD AND AGREED** the Grantor will execute the Right-of-Way Agreement and Warranty Deed and other documents as necessary to accommodate the

conveyance of Right of Way located **Commencing at the southeast corner of said Section 1, thence N 52° 41' 10" W 82.03 feet to the true Point of Beginning, thence N 38° 06' 53" E 31.44 feet; thence N 0° 15' 47" W 206.35 feet; thence N 8° 25' 24" E 36.42 feet to a point on the westerly right-of-way of 24th Street West; thence along the westerly right-of-way of 24th Street West S 0° 15' 47" E 242.00 feet to the beginning of a curve having a radius of 25.00 feet, and being subtended by a chord that bears S 44° 44' 47" W, length 35.36 feet; thence along said curve southwesterly 39.28 feet through a central angle of 90° 01' 07" to the point of beginning. Said part contains 1,476 square feet, 0.034 acre, more or less, as according to the attached Exhibit A.**

WITNESS WHEREOF, the parties hereto have executed this agreement the day and year as written below.

RECOMMENDED FOR APPROVAL

3/17/2021

For Engineering Division (Date)

3/29/2021

Marvin P Kosow, Manager (Date)
for 2425 Central Ave, LLC

APPROVED FOR AND ON BEHALF OF THE CITY OF BILLINGS

BY:_____
William A. Cole, Mayor (Date)

ATTEST

BY:_____
Denise R. Bohlman, City Clerk (Date)

EXHIBIT B

0 15 30 60 Feet

1:360

CENTRAL AVE

PROPOSED RIGHT-OF-WAY BOUNDARY (4-5 FT BEHIND SIDEWALK)

U.S. BANK

PROPOSED RIGHT-OF-WAY BOUNDARY (1 FT BEHIND SIDEWALK)

65-FT SETBACK FROM CENTERLINE

20-FT SETBACK FROM SIDEWALK

RELOCATED HOBBY LOBBY SIGN LOCATION, LEADING EDGE IS 1 FT BEHIND PROPERTY LINE

EXISTING APPROACH TO REMAIN AS IS

NEW 5-FT WIDE SIDEWALK WITH 2-FT WIDE CURB & GUTTER

50 FT

EXISTING RIGHT-OF-WAY BOUNDARY

NEW 11' WIDE RIGHT TURN LANE

216' LANE LENGTH

75' TAPER LENGTH

24TH ST W

PHILLIPS 66

Return to: City Clerk
City of Billings
PO Box 1178
Billings, MT 59103

Project No. W.O. 19-15 County of Yellowstone

Designation 24th St W & Central Avenue Signal Improvements

WARRANTY DEED

THIS INDENTURE, made this _____ day of _____, 2021.

FOR VALUABLE CONSIDERATION, lawful money of the United States to them in hand paid by the **CITY OF BILLINGS,** THE receipt whereof is acknowledged, **WITNESSTH THAT:**

2425 Central Ave, LLC
181 Wells Ave Ste 303
Newton Center, MA 02459-3344

does hereby **GRANT, BARGAIN, SELL CONVEY, WARRANT AND CONFIRM** unto the **CITY OF BILLINGS** for the benefit and use of **the Public** the following described real property, to wit:

A portion of Lot 1, Block 29, Descro Subdivision 7th Filing situated in the SE1/4, of Section 1, T1S, R25E, P.M.M, City of Billings, Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Yellowstone County, Montana; (document number: 821408).

Said part being more particularly described as follows:

Lot 1F, Block 29 of Second Amended Plat of Lot 1, Block 29, Descro Subdivision, 7th Filing City of Billings, Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Yellowstone County, Montana; (document number: _____).

Said lot contains 1,476 square feet, more or less

AS SHOWN by Exhibit "A", consisting of one sheet attached hereto and made a part hereof.

PURPOSE OF ACQUISITION is to create a right-of way parcel for construction and use of public road, utility and related appurtenant structures, pursuant to 76-3-201(1)(h) M.C.A. and A.R.M. 24.183.1104 as a division of land that creates rights-of-way or utility sites.

EXCEPTING AND RESERVING, however, all gas and oil, beneath the surface of the above described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right the surface thereof shall not be disturbed, interfered with, or in anyway damaged.

FURTHER EXCEPTING AND RESERVING, unto the grantors, their successors and assigns all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and al other indicia, of water, water right and ditch ownership, or any interest therein, appurtenant to the land described herein.

TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS,** and to its successors and assigns forever. **IN WITNESSTH WHEREOF**, the undersigned have executed these premises the day and year first above written.

Marvin P Kosow, Manager for 2425 Central Ave, LLC

STATE OF MASSACHUSETTS)
:ss
County of Norfolk)

On this 29TH day of March, 2021, before me the undersigned Notary Public for the State of Massachusetts, personally appeared **Marvin P Kosow**, Manager for 2425 Central Ave, LLC, known to me to be the person who signed the foregoing instrument and who acknowledged to me that he executed the same. Witness my hand and seal the day and year herein above written.

(Notary Signature)

[Affix seal/stamp to left or below]

LEO A. DAMREN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
February 26, 2027

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

_____

William A. Cole, Mayor Date

ATTEST:_____

Denise R. Bohlman, City Clerk

STATE OF MONTANA)

:ss

County of Yellowstone)

On this _____ day of _____, 2021, before me, a Notary Public in and for the State of Montana, personally appeared **William A. Cole** as Mayor and **Denise R. Bohlman** as City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and my seal the day and year herein above written.

_____

(Notary Signature)

[Affix seal/stamp to left or below]

Q:\24\21753-01\65CAD\Exhibits\RightofWay\MC18-VP-BD-DESCRO_exhibit.dwg PLOT DATE 2021-3-15 10:02 SAVED DATE 2021-03-01 12:04 USER: mcochran

Current Owner:
2425 CENTRAL AVE, LLC

Legal Description of Property to be Acquired for Improvements:

A part of Lot 1, Block 29, Descro Subdivision 7th Filing situated in the SE 1/4 of Section 1, T1S R25E, P.M.M, City of Billings, Yellowstone County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Yellowstone County, Montana; (document number: 821408).

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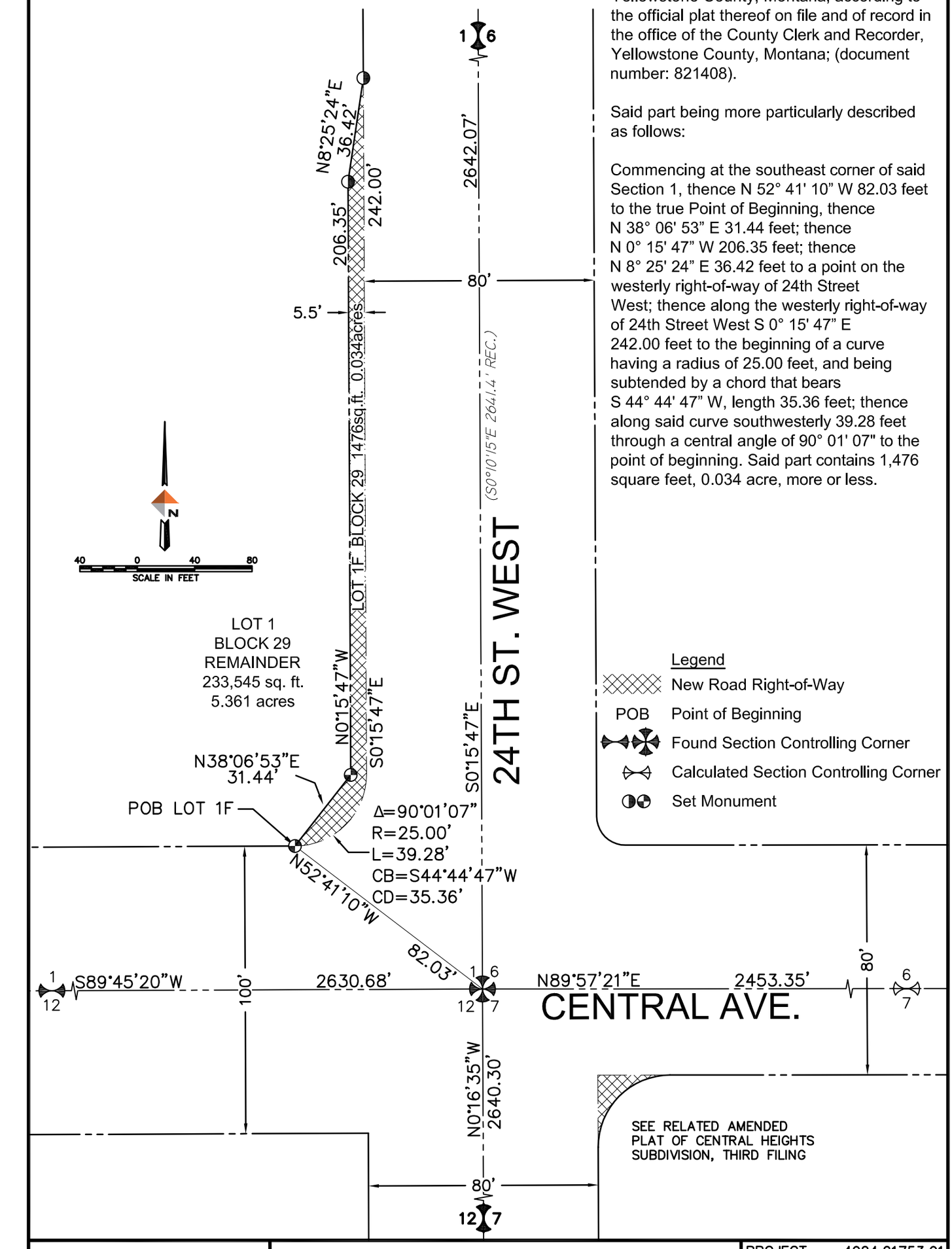


DOWL
222 N. 32nd Street, #700 Billings, MT 59101
406-656-6399 www.dowl.com

Right of Way to be Acquired for
Central Avenue & South 24th Street West
Intersection Improvements
City of Billings, Montana

A Part of Lot 1, Block 29, Descro Sub. 7th Fil.

PROJECT	4024.21753.01
DATE	2/23/2021
DRAWN BY	MWC

EXHIBIT A

City Council Regular

Date:	04/26/2021
Title:	LEED for Cities Grant Acceptance
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

The Energy and Conservation Commission (ECC) recommends acceptance of a grant from the U.S. Green Building Council to participate in the LEED for Cities (formerly S.T.A.R. Cities) Local Government Leadership Program.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The Energy and Conservation Commission (ECC) was formed in 2019. The ECC is made up of seven (7) commission members (Billings residents) and two (2) staff liaisons.

The purpose of the ECC is to consider ways to conserve energy and water, and reduce waste and pollution. This includes making recommendations where the City can reduce the amount of money it spends on resources and ways to limit the City's impact on the environment. Upon completing the resource inventory, the ECC found that the City of Billings is a state and regional leader in resource conservation while reducing costs to citizens with innovative projects such as the landfill methane capture and the West End Reservoir and Treatment Plant. However, the ECC found that the innovative resource and cost saving projects that have and continue to be implemented are not widely known or recognized.

At the April 19, 2021 City Council Meeting, the ECC presented and recommended acceptance of a grant from the U.S. Green Building Council to participate in the LEED for Cities (formerly S.T.A.R. Cities) Local Government Leadership Program. The program will be utilized by the ECC as a framework to recommend ways to conserve energy, water, and reduce waste. Additionally, the program will benchmark and recognize the extensive energy and conservation efforts that the City of Billings has already achieved.

ALTERNATIVES

City Council may:

- Accept the grant from the U.S. Green Building Council and participate in the LEED for Cities Local Government Leadership Program; or,
- Not accept the grant and provide additional direction to the ECC.

FISCAL EFFECTS

There is no cost to the City of Billings. Grant acceptance waives the LEED for Cities program fees (approximately $10,500.00).

City Council Regular

Date:	04/26/2021
Title:	Grant Application Submittal for AmeriCorps VISTA Project
Presented by:	Brenda Beckett
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

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

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The Community Development Division has been approached by the Corporation for National and Community Service regarding submitting an application for AmeriCorps Volunteer in Service to America (VISTA) resources for FY2021-2022. The Division has been managing the Billings Metro VISTA Project since 2009.

The Billings Metro VISTA Project supports placements of AmeriCorps VISTA members at nonprofit organizations to reduce of risk of homelessness and create the tools people in poverty need to build sustainable futures. Priority focus areas include education, housing, employment, food security, access to healthcare and services benefiting veterans and military families. Members may also be trained in City-sponsored initiatives to share information and resources with other communities across Montana to further project reach, scope, and overall poverty impact. Examples include the development and implementation of a plan to affect homelessness; assistance in developing poverty-based impediments to housing access and equal opportunity; the expansion of services to assist veterans and their families; and the development and implementation a homeless services survey.

The Community Development Board recommends approval for the application submittal to City Council. Approval of the application submittal by Council would allow the Community Development Division to assist in application preparation and administration of activities on behalf of many community agencies including Family Tree Center, Alzheimer's Association, Big Brothers Big Sisters, CASA, and Family Promise. Staff is planning to prepare an application for members who may be placed at varying times throughout the year based on availability, including July, August, January, and February (one-year placements), etc.

STAKEHOLDERS

Stakeholders include nonprofit organizations that are requesting Host Site status to implement a year-long poverty impact project and low-income citizens that would be assisted with programming through award of another AmeriCorps VISTA Project in Billings.

ALTERNATIVES

City Council may:

1) Approve the submittal of an AmeriCorps VISTA grant application; or
2) Not approve the submittal of an AmeriCorps VISTA grant application. The City has been approving of application submittals for the VISTA program for 11 years and has been very successful in being awarded the program each year. Not moving forward with this application would have a negative impact on fighting poverty

and supporting low-income programs that support residents of Billings.

FISCAL EFFECTS

For the current fiscal year, the Corporation for National and Community Service allocated a total grant award of over $466,000 to carry out the project. The Community Development Board recommended $25,000 in Community Development Block Grant funding to support cost share members. These members are a priority and further the Division's initiatives to impact poverty and homelessness, as per the Community Development Board's request. Host Sites also contribute approximately $15,000 per year to support the project.

SUMMARY

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

City Council Regular

Date:	04/26/2021
Title:	Housing Rehabilitation Loan Program - Applicant Denial and Grievance
Presented by:	Brenda Beckett
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

City staff and the Community Development Board recommend the City Council uphold current underwriting standards for the Housing Rehabilitation Loan program and support staff's decision to deny an applicant.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The Community Development Division manages the Housing Rehabilitation Loan program to provide affordable financing for low-income homeowners to make needed repairs to their homes. The program offers zero-interest and no payments on a loan up to $25,000. The loan is repaid to the City, in full, when the property is sold by the homeowner. The City must also comply with federal requirements to carry out underwriting activities for the use of federal funds.

The program's underwriting standards are more lenient than those of traditional lenders; credit scores, debt to income ratios, and bankruptcies are not considered for loan approval. However, the program's underwriting standards are designed to reduce lending risk: applicants cannot have any late payments for 12 months immediately preceding the application date; and more than one mortgage on the property, outside a First Time Home Buyer loan, is also reason for denial. For more information on this program, please visit BillingsMT.gov/HomeRepair.

The Division received an application for the Housing Rehabilitation Loan program in November 2020. The applicant was denied for the program as their credit report illustrated late house payments over the past 12 months. As per the Division's Grievance Procedure, the applicant wrote a letter to the Community Development Board. On February 2, 2021, the Board reviewed the grievance and supported staff's decision to deny the applicant based on late mortgage payments. The applicant appealed to the U.S. Department of Housing and Urban Development (HUD) soon after; HUD also supported staff's decision to deny the application. The applicant requested staff re-check their credit report at the beginning of March and to escalate the grievance for review at the City Council level for a final determination. Late mortgage payments are still evident on the updated credit report. A Board member also researched public property records and discovered that there are four mortgages on the home. Staff ordered a title commitment that verified the public property records; this discovery is an additional reason the applicant would be disqualified from the program.

STAKEHOLDERS

Stakeholders include the current applicant, future applicants, and others that might be assisted with CDBG funding in the future. Taxpayers are also considered stakeholders as the City acts as a public steward for federal funding allocated to local jurisdictions. Given that this situation has confidential aspects to it, aside from the applicant, staff has received no other comment on this issue.

ALTERNATIVES

City Council may:

- Approve staff's and the CD Board's decision to deny the applicant based on current underwriting standards; or
- Not approve staff's and the CD Board's decision to deny the applicant. Not approving the decision would raise questions for staff and the CD Board as to direction from Council on future loan applicant criteria.

FISCAL EFFECTS

Over the City's last five-year Consolidated Plan reporting period, the City assisted 26 households in the Housing Rehabilitation Loan program; a $650,000 investment. Supporting the current underwriting process allows the City to continue assisting low-income homeowners to make needed repairs to their homes while protecting the City's financial interests.

The decision to remove basic underwriting standards would put the City's significant financial interests in jeopardy and increases the City's risk of noncompliance with federal regulations. Without basic underwriting standards, the City would be assisting households at-risk of losing their homes to foreclosure and / or overburdening their properties with liens exceeding the home's value. If the City loses funding invested in properties due to foreclosure or loan overburdening, the City would not be able to recoup funding to assist other households.

SUMMARY

City staff and the Community Development Board requests the City Council uphold the decision to deny a Housing Rehabilitation Loan program applicant based on the underwriting standards in place. This action would maintain the fiscal integrity of the Housing Rehabilitation Loan program and protect the City's financial interests.

Attachments

A - Application & Eligibility Review Materials

B - Email Communications

C - Response Letter to Applicant

D - Applicant's Grievance

E - Community Development Board Review & Recommendation

Housing Rehabilitation Loan Program - Eligibility Checklist:

3/2/2021 update
—REDACTED—

Database ID # ____
FY 46-____

CITY OF BILLINGS - COMMUNITY DEVELOPMENT DIVISION

HOUSING REHAB LOAN PROGRAM

2020 Income Limits	
Family Size	*80% AMI*
1	$42,950
2	$49,050
3	$55,200
4	$61,300
5	$66,250
6	$71,150
7	$76,050
8+	$80,950

Date of Application: **December 1, 2020**

Name:

Address: **, Billings 59101**

Years at Address (must be at least one year): Email:

HOME Phone: **(406)** Work Phone: **(406)** Cell Phone: **(406)**

Income on Application: **$2,100/month = $25,200/year**

Income Reported on Latest Tax Return: **$31,619** Tax Year: **2019**

Liquid Assets Less Than $15,000? ☒ Yes ☐ No

Repair Items Listed: **Leaking roof, window safety issues, porch access - kitchen - no heat, etc.**

Eligibility Investigation:

Owned by Applicant? ☒ Yes ☐ No Tax ID: Taxes delinquent: ☐ Yes ☒ No

Within City Limits? ☒ Yes ☐ No Zone: **R-6000** Residentially Zoned? ☒ Yes ☐ No

Year Built: **1930** 25+ Years? ☒ Yes ☐ No Date of Last Remodel: **Unknown**

Square Feet: **1,875** One - Two Units? ☒ Yes ☐ No

Previous Assistance: **None found**

Is the market value less than $228,000? *(Effective 4/1/2020)*

Use 95% of the median purchase price for the area based on Federal FHA mortgage program data ☒ Yes ☐ No
https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/

Date Credit Report Requested: **December 11, 2020** Date AVM Requested: **December 8, 2020**

Mortgage Balance: **$52,846 + $2,061** Late House Payments Last 12 Months? ☒ Yes ☐ No

2nd Mortgage? ☒ Yes ☐ No Only owns one home? ☒ Yes ☐ No **Checked:** ☒ Tax Data and ☒ Credit Report

Date Title Commitment Requested: **Date** Title Clear? ☐ Yes ☐ No FTHB? **None found**

Valuation Determination

Mortgage Balance	**$52,846**
MT Board of Housing / 2nd Mortgage Amount	**$2,061**
Other lien(s) on Title (if any):	
Secretary of HUD Document # $3,499	**$18,487**
Secretary of HUD Document # $14,988.11	
Projected Housing Rehab Loan	**$25,000**
Projected Burdened Amount = Total	**$98,394**
AVM Market Value:	**$186,145**

https://credit.credittechnologies.com/custom/login.aspx

Feasible Based on Market Value and Burdened Amount? ☒ Yes ☐ No Feasibility Concerns? ☐ Yes ☐ No

Comments: **Denial / Late mortgage payment within last 12 months:**
3/2/2021 UPDATE: Title Commitment shows two additional current mortgages on the property (total of 4 mortgages)

Late mortgage payments noted on December 11, 2020 Credit Report:

					30	60	90+	Pastdue	Payment	Balance
					23	**4**	**23**			
	Opened **04/04**	Reported **11/20**	High balance **84,879**	Reviewed **87 mos**	10/20 09/20 06/20 04/20 02/20 01/20 12/19 12/18 10/18 08/18 07/18 06/18	07/20 11/18 09/18	10/19 09/19 08/19 07/19 06/19 05/19 04/19 03/19 02/19 01/19 11/17 10/17 09/17 08/17 07/17 06/17 05/17 04/17 03/17 02/17 01/17 12/16	-0-	**360X $598**	**52,846**
MONTANA BOARD OF HOUSI	Last active **11/20**	*BX1 *BU1 *BQ1 [Ind]	High limit ---	Mortgage (I1) Mortgage						
	FHA Real Estate Mortgage; FHA									

					30	60	90+	Pastdue	Payment	Balance
					19	**8**	**2**			
	Opened **04/04**	Reported **11/20**	High balance **3,332**	Reviewed **87 mos**	09/20 06/20 03/20 06/19 03/19 12/18 11/18 09/18 07/18 06/18 12/17 02/17	10/20 07/20 04/20 07/19 04/19 01/19 03/17 12/16	08/19 01/17	-0-	**360X $17**	**2,061**
MONTANA BOARD OF HOUSI	Last active **11/20**	*BX1 *BU1 *BQ1 [Ind]	High limit ---	Mortgage (I1) Second mortgage						
	Second									

As per applicant's request, another credit report was obtained on March 1, 2021 and late mortgage payments are still evident:

					30	60	90+	Pastdue	Payment	Balance
					23	**4**	**23**			
	Opened **04/04**	Reported **01/21**	High balance **84,879**	Reviewed **89 mos**	10/20 09/20 06/20 04/20 02/20 01/20 12/19 12/18 10/18 08/18 07/18 06/18	07/20 11/18 09/18	10/19 09/19 08/19 07/19 06/19 05/19 04/19 03/19 02/19 01/19 11/17 10/17 09/17 08/17 07/17 06/17 05/17 04/17 03/17 02/17	-0-	**360X $598**	**52,688**
MONTANA BOARD OF HOUSI	Last active **01/21**	*BX1 *BU1 *BQ1 [Ind]	High limit ---	Mortgage (I1) Mortgage						
	FHA Real Estate Mortgage; FHA									

					30	60	90+	Pastdue	Payment	Balance
					19	**7**	**2**			
	Opened **04/04**	Reported **01/21**	High balance **3,332**	Reviewed **89 mos**	09/20 06/20 03/20 06/19 03/19 12/18 11/18 09/18 07/18 06/18 12/17 02/17	10/20 07/20 04/20 07/19 04/19 01/19 03/17	08/19	-0-	**360X $17**	**2,042**
MONTANA BOARD OF HOUSI	Last active **01/21**	*BX1 *BU1 *BQ1 [Ind]	High limit ---	Mortgage (I1) Second mortgage						
	Second									

Four total mortgages exist on the property, according to the Title Insurance, making the project ineligible for the Housing Rehabilitation Loan program:

Deed of Trust, to secure an original indebtedness of $84,879.00, dated April 30, 2004 and any other amounts and/or obligations secured thereby.
Recorded: under Document #
Grantor:
Trustee: Chicago Title Insurance Company
Beneficiary: Intermountain Mortgage Co., Inc..

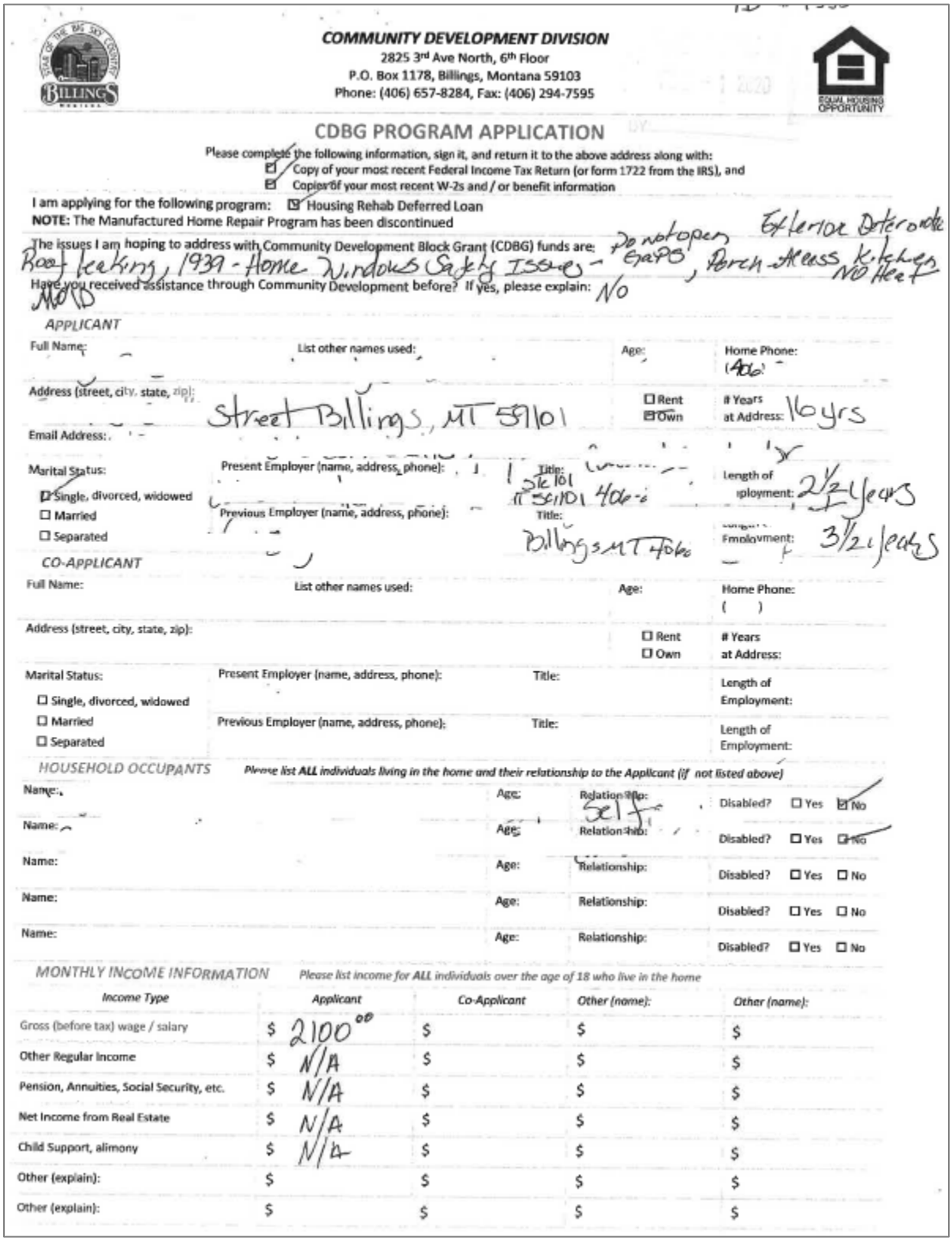
Assigned to Montana Board of Housing, by instrument recorded May 3, 2004, under Document #

Neighborhood Housing Services' Montana Homeownership Network Affordable Housing Program Montana Subordinate Trust Indenture, to secure an original indebtedness of $3,332.00, dated April 29, 2004 and any other amounts and/or obligations secured thereby
Recorded: under Document #
Grantor:
Trustee: Chicago Title Insurance Company
Beneficiary: Montana Board of Housing

Mortgage, to secure an original indebtedness of $3,499.40, dated January 22, 2015 and any other amounts and/or obligations secured thereby.
Recorded: , under Document #
Mortgagor:
Mortgagee: Secretary of Housing and Urban Development

Subordinate Deed of Trust, to secure an original indebtedness of $14,988.11, dated
and any other amounts and/or obligations secured thereby
Recorded: , under Document #
Grantor:
Trustee: Mark Noennig, Attorney
Beneficiary: Secretary of Housing and Urban Development

Application for the Housing Rehabilitation Loan Program:



COMMUNITY DEVELOPMENT DIVISION
2825 3rd Ave North, 6th Floor
P.O. Box 1178, Billings, Montana 59103
Phone: (406) 657-8284, Fax: (406) 294-7595

EQUAL HOUSING OPPORTUNITY

CDBG PROGRAM APPLICATION

Please complete the following information, sign it, and return it to the above address along with:
- ☑ Copy of your most recent Federal Income Tax Return (or form 1722 from the IRS), and
- ☑ Copies of your most recent W-2s and / or benefit information

I am applying for the following program: ☑ Housing Rehab Deferred Loan
NOTE: The Manufactured Home Repair Program has been discontinued

The issues I am hoping to address with Community Development Block Grant (CDBG) funds are: Roof leaking, 1939 - Home, Windows Safety Issues - Do not open, Exterior Deterioate, Porch Access, Kitchen, No Heat

Have you received assistance through Community Development before? If yes, please explain: No

APPLICANT

Full Name:	List other names used:	Age:	Home Phone: (406)
Address (street, city, state, zip): Street Billings, MT 59101		☐ Rent ☑ Own	# Years at Address: 16 yrs
Email Address:	Present Employer (name, address, phone):	Title:	Length of Employment: 2½ Years
Marital Status: ☑ Single, divorced, widowed ☐ Married ☐ Separated	Previous Employer (name, address, phone):	Title: Billings MT 406	Length of Employment: 3½ years

CO-APPLICANT

Full Name:	List other names used:	Age:	Home Phone: ( )
Address (street, city, state, zip):		☐ Rent ☐ Own	# Years at Address:
Marital Status: ☐ Single, divorced, widowed ☐ Married ☐ Separated	Present Employer (name, address, phone):	Title:	Length of Employment:
	Previous Employer (name, address, phone):	Title:	Length of Employment:

HOUSEHOLD OCCUPANTS *Please list **ALL** individuals living in the home and their relationship to the Applicant (if not listed above)*

Name:	Age:	Relationship:	Disabled? ☐ Yes ☑ No
Name:	Age:	Relationship:	Disabled? ☐ Yes ☐ No
Name:	Age:	Relationship:	Disabled? ☐ Yes ☐ No
Name:	Age:	Relationship:	Disabled? ☐ Yes ☐ No
Name:	Age:	Relationship:	Disabled? ☐ Yes ☐ No

MONTHLY INCOME INFORMATION *Please list income for **ALL** individuals over the age of 18 who live in the home*

Income Type	*Applicant*	*Co-Applicant*	*Other (name):*	*Other (name):*
Gross (before tax) wage / salary	$ 2100.00	$	$	$
Other Regular Income	$ N/A	$	$	$
Pension, Annuities, Social Security, etc.	$ N/A	$	$	$
Net Income from Real Estate	$ N/A	$	$	$
Child Support, alimony	$ N/A	$	$	$
Other (explain):	$	$	$	$
Other (explain):	$	$	$	$

PERSONAL FINANCIAL INFORMATION

Please fill out information completely and accurately. This is the same type of information you would be required to provide for home improvement loans.

ASSETS		LIABILITIES		
Checking / Savings Accounts (list bank and account numbers):	*Balance*	*Automobiles (make, model, year)*	*Monthly Payment*	*Balance Owed*
Alaska Federal Credit Union	$ 6000.00		$ 0	$ 0
	$			
	$	*Automobile Loan Lender(s):*		
Stocks, Bonds, IRAs, 401Ks:	*Balance*	*Mortgages (not previously listed):*	*Monthly Payment*	*Balance Owed*
	$	Montana Board Housing	$ 666.00	$ 52,000
	$		$	$
Receivables (describe):	*Expected Income*	*Installment / Credit:*	*Monthly Payment*	*Balance Owed*
	$		$	$
	$		$	$
Cash Surrender Value of Life Insurance:	*Value*		$	$
	$		$	$
	$		$	$
Other Real Estate Owned / Location (indicate title owner):	*Market Value*	*Other Liabilities*	*Monthly Payment*	*Balance Owed*
	$			
	$			
Other Assets (cars, boats, RVs, etc.)	*Market Value*	*Comments:*		
	$ 5000.00			
	$			
TOTAL ASSETS	$ 5600.00	**TOTAL LIABILITIES**	$ 52,000	

- Agreement: The undersigned is applying for programs managed through the City of Billings - Community Development Block Grant program.
- The City of Billings Housing Loan Programs are secured by a title lien or a Trust Indenture on the property described herein and represents the property will not be used for any illegal or restricted purpose.
- All statements made in this application are true and correct and made for the purpose of obtaining a loan and evaluating eligibility for CDBG programs.
- Verification may be obtained from any source named in this application.
- The original or a copy of this application will be retained by the Community Development Division and applicable lender, even if the loan is not granted.
- The undersigned intends to occupy the property as their PRIMARY residence.
- The undersigned understands credit report(s) may be garnered to assist in determining program eligibility. Applicant and Co-Applicant hereby gives consent to obtain credit report(s).
- I / We fully understand it is a federal crime, punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above parts as applicable under the provisions of Title 18, United States Code, Section 1014.

Applicant Signature:	SSN:	Date: 11/25/2020
Co-Applicant Signature:	SSN:	Date:

INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is required by the Federal Government to monitor this program's compliance with Equal Opportunity and Fair Housing laws. The law provides that a lender may not discriminate on the basis of this information, whether or not it is furnished. ***FURNISHING THIS INFORMATION IS OPTIONAL.*** *IF YOU DO NOT WISH TO FURNISH THE FOLLOWING INFORMATION, PLEASE SIGN YOUR NAME(S) BELOW.*

Applicant Signature:	Co-Applicant Signature:
APPLICANT INFORMATION	**CO-APPLICANT INFORMATION**

City of Billings - Community Development Division

Housing Rehabilitation Loan Program Denial & Grievance - Rodier & [NAME REDACTED]

Email Communications Organized by Date, Oldest to Most Recent

From: Rodier, Tam
Sent: Thursday, December 03, 2020 3:20 PM
To: [REDACTED, EMPLOYMENT EMAIL]
Subject: Housing Rehab Program

To: [REDACTED, NAME]
[REDACTED, ADDRESS]
Billings, MT [REDACTED, ZIP]

Hi [REDACTED, NAME],

I received your application for the City's ***Housing Rehabilitation Program*** this week and completed my preliminary review. The application should be printed on legal-sized paper (8.5"x14"). However, what you filled out and sent was printed on letter-sized paper (8.5"x11"), so the bottom part of both pages is missing. The missing section I need is located at the bottom on page 1; I've pasted a copy of that section below. If you'd like, you can print this email, complete the missing section, sign and date underneath it, and send it back to me in whatever format works for you.

PROPERTY TO BE REHABILITATED *Housing expense, statement of ownership, and property liens*				
Address:			Do you own AND live in the home? ☐ Yes ☐ No	Year Home Built:
Rent / Mortgage Monthly Payment: $	Average Monthly Heat & Utilities: $	Other Housing Expenses (explain): $		
Home Type: ☐ Mobile Home ☐ Stick Built Home ☐ Manufactured ☐ Modular			Within City Limits? ☐ Yes ☐ No	
Purchase Price: $	Date Purchased:	Present Balance: $		**Loan Type:** ☐ Conventional ☐ FHA ☐ VA ☐ Real Estate Contract
Title or Mortgage Holder's Name and Address:				
List all liens against property (2nd mortgage, home improvement loans, tax liens, labor liens, etc.):				

As an alternative, I am attaching an electronic version of the application, in case you would prefer to print it. Please be sure to use 8.5"x14" paper.

Looking forward to hearing from you!

Tam

Billings PLANNING & COMMUNITY SERVICES

Tam Rodier
CD Program Coordinator
Community Development Division
rodiert@billingsmt.gov

billingsmt.gov/comdev

2825 3rd Avenue North, Suite 610
Billings, MT 59101
PHONE 406.657.8284
FAX 406.294.7595

City of Billings email messages and attachments are subject to the Right to Know provisions of Montana's Constitution (Article II, Section 9) and may be considered "public record" pursuant to Title 2, Chapter 6, Montana Code Annotated. As such, this email, its sender and receiver, and the contents may be available for public disclosure and will be retained pursuant to the City's record retention policies. Emails containing confidential information, such as information related to individual privacy, may be protected from disclosure by law. This message is intended for the use of the individual or entity named above. If you are not the intended recipient of this transmission, please notify the sender immediately, do not forward the message to anyone, and delete all copies. Thank you.

Masks are Required at City Offices for anyone over the age of 5. Please Stay Safe!
*COVID-19 has changed the way the Community Development Division conducts business. We will continue to serve our customers electronically, by phone, and by using a pick up / drop off area on the 6th Floor of the Miller Building. However, Community Development Division offices are closed to the public. Email inquiries are best during this time.

Staff note: Tam Rodier's signature block was included in all further emails, but is not included in this document for ease of reading.

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Monday, December 07, 2020 11:26 AM
To: Rodier, Tam <RodierT@billingsmt.gov>
Subject: [EXTERNAL] Re: Housing Rehab Program

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.

Thank you for the update, I will print, sign and return.

I did not pay attention to directions regarding the application be submitted using (8.5"x14"), I suspect this detail ignored generates many incomplete applications. And quite possible a tactic to weed out and eliminate applicants like myself, who would never think the paper size affects the process.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Rodier, Tam
Sent: Monday, December 07, 2020 11:38 AM
To: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Subject: RE: Housing Rehab Program

Hi [REDACTED, NAME]!

I'm always happy to help people apply and move through the process. The legal-sized paper does occasionally create problems for people; that's why I try to remember to mention it. If people don't have the ability to print on legal-sized paper, I always mail them a hardcopy.

Looking forward to receiving the information…and working with you!

Tam

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Tuesday, December 08, 2020 4:32 AM
To: Rodier, Tam <RodierT@billingsmt.gov>
Subject: [EXTERNAL] Re: Housing Rehab Program

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.

Hi Tam,

Please let me know if you need anything else from me.

Thank you for your help.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

ATTACHMENT:

REDACTED
APPLICATION INFORMATION

From: Rodier, Tam
Sent: Tuesday, December 08, 2020 8:14 AM
To: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Subject: RE: Housing Rehab Program

Thanks [REDACTED, NAME]! I will continue processing your application and I'll be in touch again soon.

Have a great day!

Tam [signature block]

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Tuesday, December 08, 2020 8:50 AM
To: Rodier, Tam <RodierT@billingsmt.gov>
Subject: [EXTERNAL] Re: Housing Rehab Program

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.

Awesome, with fingers crossed I'm looking forward to approval.
My imagination of how this grant could improve the quality of my home, thus the quality of my life, is truly limitless.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Rodier, Tam
Sent: Tuesday, December 08, 2020 8:56 AM
To: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Subject: RE: Housing Rehab Program

And that is exactly why this program was developed! 😊

Tam [signature block]

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Tuesday, December 08, 2020 4:32 AM
To: Rodier, Tam <RodierT@billingsmt.gov>
Subject: [EXTERNAL] Re: Housing Rehab Program

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.

Hi Tam,

Please let me know if you need anything else from me.

Thank you for your help.
[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Tuesday, December 15, 2020 8:41 AM
To: Rodier, Tam <RodierT@billingsmt.gov>
Subject: [EXTERNAL] RE: Housing Rehab Program

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.

Good Day Tam,
Can you please update me on the status of my application?
I look forward to hearing from you.
[REDACTED, NAME]

From: Rodier, Tam
Sent: Tuesday, December 15, 2020 8:59 AM
To: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Subject: RE: Housing Rehab Program

Hi [REDACTED, NAME],

I continued processing your application as soon as I received the mortgage information from you. Unfortunately, staff determined you are not currently eligible for the Housing Rehabilitation Deferred Loan Program for the following reason:

> In order to qualify for the Housing Rehab Deferred Loan Program, you must not have had any late mortgage payments in the last twelve (12) months. The credit report I obtained provides a mortgage payment history that shows multiple late and/or partial payments within the last 12 months. Therefore, you do not currently meet program eligibility requirements.

This information was contained within a letter mailed to you on Friday, December 11th.

Please feel free to reapply when you have at least twelve (12) consecutive months of timely and full mortgage payments. We look forward to hearing from you then.

Tam [signature block]

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Tuesday, December 15, 2020 9:55 AM
To: Rodier, Tam <RodierT@billingsmt.gov>
Subject: [EXTERNAL] Re: Housing Rehab Program

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.

Correct me if I am wrong, to be eligible the homeowner would not have credit which prevents the home owner from qualifying for refinancing. Would you say this conflict with the reason my application being declined?

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Rodier, Tam
Sent: Tuesday, December 15, 2020 10:00 AM
To: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Subject: RE: Housing Rehab Program

[REDACTED, NAME]I don't understand your question. However, to clarify, one of the criteria for program eligibility is no late mortgage payments within the previous 12 month period. The credit report is pulled to verify mortgage payment history.

Tam [signature block]

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Tuesday, December 15, 2020 10:19 AM
To: Rodier, Tam <RodierT@billingsmt.gov>
Subject: [EXTERNAL] Re: Housing Rehab Program

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.

Please see question #2 of the Housing Rehab Program Common Questions & Answers.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

Excerpt from the ***Housing Rehab Program Process*** available online at https://ci.billings.mt.us/DocumentCenter/View/7215/Rehab-Process-Handout---with-common-questions-PDF?bidId=)

See page 3, Common Questions & Answers:

2. What is the purpose of the Housing Rehab Loan Program?

The purpose of the program is to preserve and improve existing housing in the City of Billings, and to eliminate health and safety problems. The program targets low income owner-occupants who require home improvements and who are unable to obtain financial assistance through commercial lenders.

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Tuesday, December 15, 2020 10:39 AM
To: Rodier, Tam <RodierT@billingsmt.gov>
Subject: [EXTERNAL] Re: Housing Rehab Program

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.

The Housing Rehab Program written eligibility guidelines are conflicting with the purpose of the program. Who do I escalate my concerns to?

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Rodier, Tam
Sent: Tuesday, December 15, 2020 12:32 PM
To: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Subject: RE: Housing Rehab Program

[REDACTED, NAME] –

Following is the question and answer you referred to within the ***Housing Rehab Program / Common Questions and Answers***:

2. What is the purpose of the Housing Rehab Loan Program?

The purpose of the program is to preserve and improve existing housing in the City of Billings, and to eliminate health and safety problems. The program targets low income owner-occupants who require home improvements and who are unable to obtain financial assistance through commercial lenders.

The Housing Rehabilitation Brochure includes the following:
(Brochure is available on the Community Development Division website: Housing Rehabilitation Loan Program | City of Billings, MT - Official Website)

Borrower Eligibility:

· Income eligibility is determined using the combined gross annual income of ALL household members 18 years old or older. An applicant's annual household income must not exceed 80% of the Area Median Income (AMI) for the Billings area (see chart).
· The applicant must have owned and occupied the property to be rehabilitated for at least one year prior to application.

- The applicant cannot have any late mortgage payments for 12 months immediately preceding the application date.
- The applicant cannot have liquid assets in excess of $15,000. Liquid assets means: checking and savings accounts; time certificate of deposit; cash value of whole life insurance; equity in stocks or bonds; real property.
- The applicant may not have a second mortgage / lien. However, Program Staff may consider a City First Time Home Buyer, Montana Board of Housing, or other lien on a case-by-case basis ***IF*** there is enough equity in the home.
- Individuals previously assisted through the Minor Home Repair Program will be required to repay the previously received grant back to the City with the Housing Rehab Loan.

You said, "The Housing Rehab Program written eligibility guidelines are conflicting with the purpose of the program. " I do not see a conflict between the purpose of the program and the eligibility guidelines.

You then asked, "Who do I escalate my concerns to?" Following is a copy of the grievance process that appears on the Community Development Division website at Nondiscrimination, Accommodations & Grievances | City of Billings, MT - Official Website:

> **Grievance Procedure:** If you feel you have been denied equal access to Community Development programs, services or activities, you may file a written complaint including your contact information and a description of the alleged act(s) of discrimination, including the date and place of the act(s). The written complaint may be submitted to any Community Development employee or specifically directed to the Community Development Manager by phone at 406.657.8286 (Montana Relay 711), email beckettb@ci.billings.mt.us, in person (appointment recommended) or U.S. Postal Service at 2825 3rd Avenue North, 6th Floor, Billings, MT 59101.

Sincerely,

Tam [signature block]

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Wednesday, December 16, 2020 9:18 AM
To: Rodier, Tam <RodierT@billingsmt.gov>
Subject: [EXTERNAL] Re: Housing Rehab Program

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.

Thank you for the information, however the grievance process is via City of Billings and we both know how far my complaint with go. Kinda like the fax machine that sits above the garbage can.
These are federal grand dollars not city or state and the eligibility requirements are conflicting. You copied and highlighted so you are aware of what I am referring to. In the event I submit a grievance it will not be to the City of Billings.
I'm living in poverty not to be construed with stupid! You may have noticed or not; I've owned my home for 15 years.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Tuesday, January 12, 2021 4:09 AM
To: Rodier, Tam <RodierT@billingsmt.gov>
Subject: [EXTERNAL] Housing Rehab Deferred Loan Program-Grievance

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.

Please see attached letter.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

January 11, 2020

REDACTED INFORMATION

Community Development Division
Housing Rehab Deferred Loan Program
2825 3rd Ave North
Billings, MT 59103

To Whom it May Concern:

My name is [redacted] submitted a Housing Rehab Deferred Loan application. My application was determined ineligible related to; late mortgage payments and or *partial payments. It's important I communicate in writing my grievance and put forth concerns related to the integrity and administration of the Housing Rehab Deferred Loan program.

Beginning, March 2020 I was working 2 jobs; full time with REDACTED EMPLOYMENT INFORMATION My financial hardship is a direct result of the COVID-19 Pandemic. I lost wages; quarantined by Riverstone Community Health, followed by employer quarantine, and daycare closures. Mortgage payments were late no more than 15 days and my mortgage loan current upon submission of my application.

My grievance is with the City of Billings administration of Block Grants exempt of the rules, regulations, waivers, and alternate requirements mandated by HUD Community Development Block Grant Programs. Administration of the Housing Rehab Deferred Loan program is non-compliant with HUD void of; flexibility, waivers, and or alternative requirements. See below link for reference.
https://www.hud.gov/sites/dfiles/CPD/documents/FR-6218-N-01-CDBG-CV-clean-8-7-20-header-for-posting.pdf

I've owned my home for 16 years, equity estimated over $100,000; facts relevant to any loan program and not considered. In the event, mortgage payments were not late; I'm certain to qualify for a loan provided by a commercial lender. Therefore, It's unethical for The City of Billings to award applicants who are eligible for a commercial loan.

I am requesting my application reviewed, consideration of my home equity, and flexibility of requirements. Please direct me how to proceed with the complaint process. I look forward to your response.

Regards,

REDACTED INFORMATION

*COVID-19 mortgage assistance is based on a percentage of my income. Financial assistance payments were submitted directly to my mortgage lender Montana Board of Housing (MBOH). My credit report mortgage history is reflecting financial assistance payments as partial payments. Contact MBOH for more information or clarification of this practice.

From: Rodier, Tam
Sent: Tuesday, January 12, 2021 7:42 AM
To: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Subject: RE: Housing Rehab Deferred Loan Program-Grievance

Dear [NAME REDACTED],

I appreciate and thank you for your letter. I will ensure that it is passed along to my supervisor and others as deemed appropriate.

Sincerely,
Tam [signature block]

From: [REDACTED, NAME] <[REDACTED, EMPLOYMENT EMAIL]>
Sent: Sunday, January 31, 2021 11:33 PM
To: Rodier, Tam <RodierT@billingsmt.gov>; Beckett, Brenda <BeckettB@billingsmt.gov>
Subject: [EXTERNAL] [NAME REDACTED] Grievance Agenda-Supporting Documents

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.

Please provide the attached documents to the CDBG board members prior to Tuesday's meeting.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

February 1, 2021

REDACTED INFORMATION

Dear Community Development Block Grant Board and Committee;

My name [redacted] thank you for allowing me to share with you my grievance. My application for the Housing Rehabilitation Program is denied based on the City of Billings eligibility requirement. See attached document A.

"In order to qualify for the Housing Rehab Deferred Loan Program you must not have had any late mortgage payments in the last twelve (12) months. The credit report I obtained provides a mortgage payment history that shows multiple late and/or partial payments within the last 12 months. Therefore, you do not currently meet program eligibility requirements".

I qualified for mortgage payment assistance, partial payments were issued directly to Montana Board of Housing thus reflecting on my credit history report. Also, credit history void of partial payments is not an eligibility requirement, therefore should not be included in the reasons I don't qualify for the program.

The Housing Rehabilitation Program eligibility requirements conflict with its general conditions; *real estate taxes, mortgage payments, and assessments must be current and the property must be free of any delinquent liens / encumbrances.* My home mortgage, property taxes are current and there are no liens or encumbrances on my property.

The City of Billings implemented a program eligibility requirement that authorizes denial of applicants with late mortgage payment over the past 12 months. This requirement is unfair, denies viable applicants, and deflects rather "spearheads" grant funds from reaching targeted low income citizens thus excluding an entire class of citizens.

The class of citizens are those single family households living paycheck to paycheck for example; citizens may pay a disconnected water or other utility invoice, deciding to make a home mortgage payment after the 15th. This action reflects on credit reports, however the homeowner remains current with their mortgage payments. Payment of utilities always comes first as extreme weather conditions can impose a safety hazard for families without water. This specific eligibility requirement is only mentioned in the online program brochure.

The program is said to provide assistance to moderate and low income citizens who do not qualify for commercial loans. Does the city award loans to those who could qualify for a commercial loan? If so, it may be determined this action is unethical.

Program manager Brenda Beckett provided me inaccurate information describing the CARES Act relation to CDBG-CV and CDBG funds. The program manager has not adopted the federal registry regulations nor guidelines, and claims the CDBG HOME grants operate under separate jurisdictions ("managed separately") and are unrelated to Covid-19 response/ CARES Act FY 2020; contrary to the information available. *See Attached Federal Registry dated 8.20.2020 document B.*

In addition; Brenda the program manager attempted to discourage my online research stating "*federal regulations are very confusing, and it is difficult to research the requirements for various funding sources online*". See attachment document C.

I solely purchased my home in May 2004, I have established a considerable amount of equity over the course of 16 years. The equity amount is well over the grant funds I applied for and the CIty of BIllings is 100% guaranteed repayment if foreclosure or sale of my home results.

In closing, I would ask that the CDBG Board vote to waive the eligibility requirement that authorizes denial of my application.

Thank you for your consideration.

REDACTED INFORMATION

Billings PLANNING & COMMUNITY SERVICES

December 11, 2020

REDACTED

Community Development Division
2825 3rd Ave. N
Billings, MT 59101
6th Floor
P 406.657.8281
TTY 711

SUBJECT: HOUSING REHABILITATION DEFERRED LOAN PROGRAM

Dear [redacted]

Thank you for applying for the Housing Rehabilitation Deferred Loan Program. Staff reviewed the materials and determined you are not currently eligible for the Housing Rehabilitation Deferred Loan Program for the following reason:

In order to qualify for the Housing Rehab Deferred Loan Program, you must not have had any late mortgage payments in the last twelve (12) months. The credit report I obtained provides a mortgage payment history that shows multiple late and/or partial payments within the last 12 months. Therefore, you do not currently meet program eligibility requirements.

Please feel free to reapply when you have at least twelve (12) consecutive months of timely and full mortgage payments.

Please let me know if you have questions. You may reach me by phone at 657-8284 or by email to rodiert@billingsmt.gov.

Sincerely,

Tam Rodier

Tam Rodier
Program Coordinator

TLR

Enclosure

billingsmt.gov

Also attached were pages 51457 through 51475 of the Federal Register / Vol. 85, No. 162 /Thursday, August 20, 2020 / Notices

Staff note: Brenda Beckett, Community Development Manager, took over corresponding with [NAME REDACTED].

City of Billings - Community Development Division

Housing Rehabilitation Loan Program Denial & Grievance - Beckett & [NAME REDACTED]

Email Communications Organized by Email Subject, Oldest to Most Recent

Email Subject: Housing Rehabilitation Loan Program, CDBG, and CARES Act

From: Beckett, Brenda <BeckettB@billingsmt.gov>
Sent: Thursday, January 28, 2021 1:38 PM
To: [REDACTED, NAME & EMPLOYMENT EMAIL]

[REDACTED, NAME],

I understand there is some confusion relative to Community Development Block Grant (CDBG) funding and the CARES Act - Community Development Block Grant (CDBG-CV) award recently allocated to the City. I am hoping I can provide a little background to help clarify. You may already have this information; if so, please accept my sincere apologies.

The City receives CDBG funding annually and it is primarily allocated to First Time Home Buyer, home repair, and poverty impact programs. The City acts as a lender for the home buyer and repair programs and certain loan underwriting standards are utilized to ensure ethical use of federal funding. HUD requires underwriting standards for all loans issued by the City.

A special, separate CDBG-CV allocation was issued to the City of Billings through the CARES Act to be used exclusively for coronavirus response. We are currently in the process of identifying funding priorities and setting up an application process for agencies to respond to the pandemic. Waivers for CDBG-CV relate to public comment periods and timelines for submission of amendments to the City's Consolidated and Annual Action Plans. All other program requirements are still in effect (underwriting, environmental review, etc.). The City's Housing Rehabilitation program is unrelated to this funding source.

These two funding sources are managed separately, and the City will not utilize CDBG-CV CARES Act waivers for programs funded with CDBG.

Regarding HUD waivers - HUD does not intervene with local governmental policies and procedures, particularly when industry loan underwriting standards are utilized. These standards include denial of applicants with late mortgage payments over the past 12 months.

I am hopeful that you will be eligible for the program in the future. There are some mortgage assistance programs through primary lenders for those having difficulty making mortgage payments. The Home Center can also provide housing counseling if needed.

In closing, federal regulations are very confusing, and it is difficult to research the requirements for various funding sources online. I hope this information is helpful to you - please let me know if you have questions. I am out of the office for a couple of days, but I will be back in the office on Monday.

Kindest regards,

Brenda Beckett
[standard signature block]

From: [REDACTED, NAME & EMPLOYMENT EMAIL]
Sent: Thursday, January 28, 2021 3:45 PM
To: Beckett, Brenda <BeckettB@billingsmt.gov>

Please share with me how your program helps home owners who do not qualify for loans provided by a commercial lender? Any home owner current 12 months would qualify for a commercial loan. And why do the guidelines related to grants offered 2019, 2020 so not apply to this program?

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME & EMPLOYMENT EMAIL]
Sent: Thursday, January 28, 2021 3:46 PM
To: Beckett, Brenda <BeckettB@billingsmt.gov>

Specufically Cares Act guidelines.

[REDACTED, NAME]
[REDACTED, EMPLOYER]

From: Beckett, Brenda
Sent: Monday, February 1, 2021 8:36am
To: [REDACTED, NAME]

Good morning,

CARES Act funding must be used to exclusively prepare for and respond to the coronavirus. All of the waiver conditions must relate to coronavirus response.

The Housing Rehabilitation program does not relate to coronavirus response - therefore, none of the waiver conditions apply to this program.

As previously explained, the City is required to perform underwriting tasks to ensure financial risk is managed - including the industry standard related to late mortgage payments. The City is not required to provide loans to those with late mortgage payments.

Kind regards,

Brenda Beckett

From: [REDACTED, NAME]
Sent: Monday, February 1, 2021 8:38 AM
To: Beckett, Brenda

Provide the verbiage stating that. Your word means nothing to me.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

Staff note: Separate thread under the same email subject

From: [REDACTED, NAME]
Sent: Thursday, January 28, 2021 3:49 PM
To: Beckett, Brenda

HUD oversees discrimination grievances correct?

[REDACTED, NAME]
[REDACTED, EMPLOYER]

From: Beckett, Brenda
Sent: Monday, February 1, 2021 8:38am
To: [REDACTED, NAME]

Greetings!

All of the information relative to discrimination grievances can be found online here.

Kind regards,

Brenda Beckett

[REDACTED, NAME & EMPLOYMENT EMAIL]
Mon 2/1/2021 8:42AM
From: [REDACTED, NAME]
Sent: Monday, February 1, 2021 8:42 AM
To: Beckett, Brenda

Please confirm my documents are provided to CDBG board. That is all I need form you at this time.

Email Subject: [NAME REDACTED] Grievance Agenda-Supporting Documents

From: [REDACTED, NAME & EMPLOYMENT EMAIL]
Sent: Sun 1/31/2021 11:32 PM
To: Rodier, Tam <RodierT@billingsmt.gov>; Beckett, Brenda <BeckettB@billingsmt.gov>
Subject:[NAME REDACTED] Grievance Agenda-Supporting Documents

Please provide the attached documents to the CDBG board members prior to Tuesday's meeting.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Beckett, Brenda
Sent: Monday, February 1, 2021 8:49 AM
To: [REDACTED, NAME]; Rodier, Tam
Subject: Re: [NAME REDACTED] Grievance Agenda-Supporting Documents

Good morning,

The documents have been provided to the CD Board via email.

Kind regards,

Brenda Beckett

From: [REDACTED, NAME]
Sent: Mon 2/1/2021 8:50 AM
To: Beckett, Brenda

Thank you.
Now read the Federal Registry related FY 2020 grant funds.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME]
Sent: Mon 2/1/2021 9:20 AM
To: Beckett, Brenda

You are differentiating the CDBG grant funds the city received FY 2020 from the CDBG-CV grant funds in relation to the CARES Act. All funding FY 2020 no matter jurisdiction is covered under the CARES Act to help our communities respond and recover from this ongoing Pandemic.

I hope the information I provided to you helps you better understand the CARES Act and how it applies to funds the City of Billings received in the fiscal year of 2020.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME]
Sent: Mon 2/1/2021 9:45 AM
To: Beckett, Brenda

The documents I provided are not available on the City of Billings website and possibly why you are confused. The rules clearly state CARES Act applies to the Home Rehabilitation Program.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME]
Sent: Mon 2/1/2021 9:55 AM
To: Beckett, Brenda

Provide me the contact information of person overseeing your position.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME]
Sent: Mon 2/1/2021 12:32 PM
To: Beckett, Brenda; Rodier, Tam

Brenda,

Not responding to my inquiry request regarding contact information of your supervisors is your choice as is ignorant written statements about the CARES Act not applying to the CDBG funds designated to the Housing Rehabilitation Program. And the reason you cannot provide proof to support your statements is because you can't find proof.

Delivering the program to low-income citizens and encouraging participation should be your upmost concern and priority.

Hope to hear your explanation regarding the CARES Act and how it does not apply to the Housing Rehabilitation Program at tomorrow's meeting.

Have a good day.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Beckett, Brenda
Sent: Monday, February 1, 2021 12:48 PM
To: [REDACTED, NAME]; Rodier, Tam
Subject: Re: [NAME REDACTED] Grievance Agenda-Supporting Documents

[NAME REDACTED],

I am currently drafting a response to your questions and will be sure to provide all of this information prior to close of business today.

Kindest regards,

Brenda Beckett

From: [REDACTED, NAME]
Sent: Mon 2/1/2021 1:04 PM
To: Beckett, Brenda; Rodier, Tam

Please include facts and provide a link to the information. Also, I do understand that localities can legally implement eligibility requirements and that my application was denied due to a City if Billings requirement.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME]
Sent: Mon 2/1/2021 5:03 PM
To: Beckett, Brenda; Rodier, Tam

WRONG! Close of business day came and went.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Beckett, Brenda
Sent: Monday, February 1, 2021 5:07 PM
To: [REDACTED, NAME]; Rodier, Tam
Subject: Re: [NAME REDACTED] Grievance Agenda-Supporting Documents

Hello,

My apologies. We had significant connectivity issues today and I had to relocate offices to finish your letter. My business day often ends a little later than 5:00pm.

Please find attached a letter responding to your questions.

Brenda Beckett

Staff note: Please refer to 2.1.2021 - Response Letter

From: [REDACTED, NAME]
Sent: Mon 2/1/2021 5:13 PM
To: Beckett, Brenda; Rodier, Tam

Thank you, I'm just being a bitch because I am very disappointed I did not receive assistance from the program.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Beckett, Brenda
Sent: Monday, February 1, 2021 5:13 PM
To: [REDACTED, NAME]; Rodier, Tam
Subject: Re: [NAME REDACTED] Grievance Agenda-Supporting Documents

You are welcome.

I try my best to hold true to my word...and I am still at the office. I think the City's connection server fell apart - we all lost connectivity.

Absolute chaos.

I understand your disappointment. But please know we are still hoping you will be approved in the future - it is a wonderful program.

Brenda Beckett

From: [REDACTED, NAME]
Sent: Mon 2/2/2021 10:49 AM
To: Beckett, Brenda; Rodier, Tam

Good Day Brenda,

It appears that you have given me every reason to deny my application. When in fact you could approve it based on the following:

II.B. Authority To Grant Waivers and Alternative Requirements The CARES Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the use of CDBG–CV grants, fiscal year 2020 CDBG grants, and fiscal year 2019 CDBG grants to prevent, prepare for, and respond to coronavirus or that affect other aspects of program administration for the fiscal year 2019 and 2020 CDBG grants, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding by the Secretary that any such waivers or alternative requirements are necessary to expedite or facilitate the use of such amounts to prevent, prepare for, and respond to coronavirus. Additional waiver authority is provided in 24 CFR 5.110 and 91.600. In accordance with these provisions, HUD may waive regulatory provisions (subject to statutory

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Beckett, Brenda
Sent: Monday, February 1, 2021 5:13 PM
To: [REDACTED, NAME]; Rodier, Tam
Subject: Re: [NAME REDACTED] Grievance Agenda-Supporting Documents

Good morning,

The passage you copied below indicates **the HUD Secretary** is the only authority to grant waivers and alternative requirements. It does not authorize local governments to issue waivers or alternative requirements.

Authority To Grant Waivers and Alternative Requirements

Authority To Grant Waivers and Alternative Requirements The CARES Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the use of CDBG–CV grants, fiscal year 2020 CDBG grants, and fiscal year 2019 CDBG grants to prevent, prepare for, and respond to coronavirus or that affect other aspects of program administration for the fiscal year 2019 and 2020 CDBG grants, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding by the Secretary that any such waivers or alternative requirements are necessary to expedite or facilitate the use of such amounts to prevent, prepare for, and respond to coronavirus. Additional waiver authority is provided in 24 CFR 5.110 and 91.600. In accordance with these provisions, HUD may waive regulatory provisions…

Kind regards,

Brenda Beckett

Staff note: Web-based email changed the copied passage to plain text, which eliminated the colored font. BB sent it a couple more times - including photo format.

From: [REDACTED, NAME]
Sent: Mon 2/2/2021 11:00 AM
To: Beckett, Brenda; Rodier, Tam

It's probably too late to mention the signage that approved and posted in neighborhoods, Southside now includes a school mascot without providing directions to schools. In my opinion (a thought I'm very fond of) the signage further divides communities, implements boundaries and territories, therefore the city marked gang territory, so they don't need to. Mark my words!

I sure as hell hope this ignorant strategy did no use grant funds to beautify neighborhoods especially when homeowners living 6 ft from railroad tracks could use a privacy fence and address safety concerns.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME]
Sent: Mon 2/2/2021 11:36 AM
To: Beckett, Brenda; Rodier, Tam

Okay thank you. Ill stop being a bitch to you and I appreciate your patience.

[REDACTED, NAME]
[REDACTED, EMPLOYER]

From: [REDACTED, NAME]
Sent: Mon 2/2/2021 12:07 PM
To: Beckett, Brenda; Rodier, Tam

Justification: Under the authority at 24 CFR 91.600, HUD is authorized to waive this requirement when a determination of good cause is made and supported by documentation. Given the outbreak of the coronavirus known as SARSCoV-2 and the extenuating circumstances placed on state and local governments, and citizens, **HUD has determined that there is good cause for 2 waiving this provision. The extenuating circumstances and administrative strain supporting this waiver are well**

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Beckett, Brenda
Sent: Tue 2/2/2021 12:26 PM
To: [REDACTED, NAME]; Rodier, Tam

Greetings,

The passage copied below relates to the submission of the City's Comprehensive Annual Performance Evaluation Report (CAPER). Staff can turn in this report later if we can document the delay is related to the pandemic. There are several other waivers related to report deadlines.

HUD has not authorized the City to approve waivers for any of federal programs managed by the Community Development Division.

Project/Activity: The Consolidated Annual Performance and Evaluation Report (performance report) submission to HUD within 90 days after the close of a jurisdiction's program year.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Date Granted: May 7, 2020.

Reason Waived: Under the authority at 24 CFR 91.600, HUD is authorized to waive this requirement when a determination of good cause is made and supported by documentation. Given the outbreak of the coronavirus known as SARS-CoV-2 and the extenuating circumstances placed on state and local governments, and citizens, HUD has determined that there is good cause for waiving this provision. The extenuating circumstances and administrative strain supporting this waiver are well documented in the broad public news coverage related to the outbreak.

Applicability: For program year 2019 CAPERs, the requirement that grantees submit a performance report within 90 days after the close of a jurisdiction's program year is waived, subject to the condition that within 180 days after the close of a jurisdiction's program year the jurisdiction shall submit its performance report.

I need to attend to my other responsibilities this afternoon prior to the Community Development Board meeting, so I will be unable to respond to additional emails.

Kind regards,

Brenda Beckett

Staff note: While BB was writing the above email, two additional emails arrived.

From: [REDACTED, NAME]
Sent: Mon 2/2/2021 12:22 PM
To: Beckett, Brenda; Rodier, Tam

Seriously, I needed to provide you verbiage related to justification of the waivers? OMG

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME]
Sent: Mon 2/2/2021 12:25 PM
To: Beckett, Brenda; Rodier, Tam

24 CFR 5.110 and 91.600.
The piece of the puzzle you refuse to research and or acknowledge.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: Beckett, Brenda
Sent: Tue 2/2/2021 12:52 PM
To: [REDACTED, NAME]; Rodier, Tam

Hello,

One last email, as our messages crossed in cyber-space.

Both regulations reference the HUD Secretary and **they do not authorize the City to issue regulatory waivers.**

24 CFR § 5.110 - Waivers.
Upon determination of good cause, the Secretary [Secretary means the Secretary of Housing and Urban Development]may, subject to statutory limitations, waive any provision of this title and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)).

24 CFR § 91.600 - Waiver authority.
Upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part. Each such waiver must be in writing and must be supported by documentation of the pertinent facts and grounds.

Brenda Beckett

From: [REDACTED, NAME]
Sent: 2/2/2021 1:04 PM
To: Beckett, Brenda

Please use the amended regulations related to CARES Act and grants. Remember it was not that long ago you tried to tell me the CARES Act did not apply to existing CDBG grants, claiming jurisdiction rather "managed separately". You are on learning only you don't get the luxury of curve.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME]
Sent: 2/2/2021 1:12 PM
To: Beckett, Brenda

Tam, can you please give Brenda the message.

So glad I keep adding you to the conversation. Just to keep her honest not re-gifting toys or pretending to ensure that programs get to the community where need is greatest.

I'm sure her talking in circles for 15 years has everyone cringing as they pass by her.
And I quote "Blowing wind into sails" to move programs towards moderate income citizens.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

Email Subject: CDBG Board Members/Staff-Follow up Grievence [Grievance]

From: [REDACTED, NAME]
Sent: Tue 2/2/2021 11:49 PM
To: Beckett, Brenda; Rodier, Tam; jstockburger@billingsmt.gov; kkruger@billingsmt.gov; brutherford@billingsmt.gov; snoble@billingsmt.gov; jcorson@billingsmt

Hello All.

I work for [REDACTED, EMPLOYER] [REDACTED, JOB DUTIES], my hours vary depending on client immediate needs, given the fact we are in pandemic it is of upmost importance services are provided when demand is high. I was not available to attend the Zoom meeting, however I was able to view the recorded session on Facebook.

I filed a grievance and provided my grievance to Brenda Beckett and Tam Rodier. I was informed several times by staff that my attendance was not required. So, I don't know why it seemed shocking to many of you as to why I did not attend. .

And I quote "not going to spend any more time discussing her.....denial". When in fact it was a grievance that needed discussing.

What emails of information are you referring to? I submitted a single email with 3 documents attached to support my grievance. Any other emails between office staff and board members are your group conspiring and by any means concerning.

As the topic to discuss was denial not one of you understood my grievance although clearly stated in my letter. Partial payments reflected financial assistance provided by our Federal Government and the late payments reflected the unpaid portion. This portion was late as I was not informed of the amount of assistance received each month. Montana Board of Housing can provide details of this practice.

Please provide information related to escalation of my grievances. And I will work to involve community members who were viable applicants, a class of law-abiding citizens, single low-income families with minor children, but with only one voice, and we will be heard!

Thank you,

[REDACTED, NAME]

From: Beckett, Brenda
Sent: Wednesday, February 3, 2021 8:54 AM
To: [REDACTED, NAME]
Cc: Rodier, Tam

[NAME REDACTED],

As you know, the Community Development Board met yesterday and ultimately supported staff's recommendation to deny your Housing Rehabilitation Loan application based on late mortgage payments.

The City of Billings staff is not responsible for clearing errors on your credit report. Feel free to work with your lender, the Montana Board of Housing, to assist you in this matter.

If you would like to escalate the grievance, I will begin preparing a memo for an upcoming City Council meeting so they can review your grievance for a final determination on eligibility for the Housing Rehabilitation Loan program. Staff will also begin work on redacting your name, social security number, address, etc. from your application materials, credit report, email communications, and other backup documentation as they will also be submitted as attachments to the City Council memo.

Please note that emails relative to your grievance are considered “public record” and are routinely included as backup documentation in grievance files. Each of the emails sent to / from staff contains the following provision:

City of Billings email messages and attachments are subject to the Right to Know provisions of Montana's Constitution (Article II, Section 9) and may be considered "public record" pursuant to Title 2, Chapter 6, Montana Code Annotated. As such, this email, its sender and receiver, and the contents may be available for public disclosure and will be retained pursuant to the City's record retention policies. Emails containing confidential information, such as information related to individual privacy, may be protected from disclosure by law. This message is intended for the use of the individual or entity named above. If you are not the intended recipient of this transmission, please notify the sender immediately, do not forward the message to anyone, and delete all copies. Thank you.

If you choose to escalate this grievance, the next email communication you will receive, from me, will include the date of the City Council meeting and the finalized memo submitted for City Council review. This may take several weeks as Council materials take some time to move through approval processes prior to final submission.

I look forward to your reply.

Kind regards,

Brenda Beckett

From: [REDACTED, NAME]
Sent: Tue 2/3/2021 10:13 AM
To: Beckett, Brenda; Rodier, Tam

Thank you.
It would be great if you could work on the items at hand, and remember your emailed many, many times for now 3 days. You are not my original contact you provided inaccurate information that set the communications in play. And communications to me is only an excuse not to complete projects 2021-2022. If you research Cities with similar demographic makeup you may be albe to generate ideas to help respond and prepare to our community needs related to Covid-19. Hand washing stations is a frivolous waste of funds. There are hundreds of ways to help citizens, but it takes thinking outside the box and not proving yourself right at every interaction.

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

From: [REDACTED, NAME]
Sent: Tue 2/3/2021 5:47 PM
To: Beckett, Brenda; Rodier, Tam

I stated that in my follow up email.

Yes, I'm familiar with the "right to know". Are you familiar with Privacy in Communications?

https://leg.mt.gov/bills/mca/title_0450/chapter_0080/part_0020/section_0130/0450-0080-0020-0130.html

> 45-8-213. Privacy in communications, MCA - Montana
> History: En. 94-8-114 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 33, Ch. 359, L. 1977; R.C.M. 1947, 94-8-114; amd. Sec. 1, Ch. 356, L. 1979; amd. Sec. 1, Ch. 177, L. 1991 ...
> leg.mt.gov

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

Email Subject: Credit History Report

From: [REDACTED, NAME]
Sent: Tue 2/15/2021 10:04 AM
To: Beckett, Brenda; Rodier, Tam

Hello Tam,

On Friday, I spoke with my mortgage lender regarding the errors on my Credit History, the issues have been resolved. Please pull an updated credit history report prior to my scheduled hearing with the City Council. The corrected report will reflect on or before 2/28/2021. Please provide me the date and time of the City Council meeting and attach the agenda.

Thanks again,

[REDACTED, NAME]
[REDACTED, EMPLOYER]
[REDACTED, JOB TITLE]
[REDACTED, EMPLOYER PHONE NUMBER]

Billings
PLANNING
& COMMUNITY
SERVICES

Community Development Division

2825 3rd Ave N
Floor 6
Billings, MT 59101
P 406.657.8281
TTY 711

February 1, 2021

Name Redacted

I will do my absolute best to address each of your questions, including a couple of issues identified in your most recent grievance letter.

Email: "Thank you. Now read the Federal Registry related FY 2020 grant funds."

City staff has great experience and expertise relative to federal regulations. We read the federal register and HUD notices as they are published, participate in HUD trainings as offered, and we continue to re-read guidance several times to assist us in interpreting regulations. Collectively, four staff members have over 40 years of experience in HUD programs with an average of 10+ years per employee.

Grievance Letter: "... Brenda the program manager attempted to discourage my online research stating "federal regulations are very confusing, and it is difficult to research the requirements for various funding sources online"."

My references relative to confusing federal regulations and difficulty in researching the requirements online were not aimed at discouraging your research activities. They quite simply explained my personal experience in managing the use and performance of various federal, state, and local funding sources. My apologies if the verbiage I used was not very clear. I would always encourage further research; useful hyperlinks are provided herein.

Grievance Letter: "Program manager Brenda Beckett provided me inaccurate information describing the CARES Act relation to CDBG-CV and CDBG funds. The program manager has not adopted the federal registry regulations nor guidelines, and claims the CDBG HOME grants operate under separate jurisdictions ("managed separately") and are unrelated to Covid-19 response/ CARES Act FY 2020; contrary to the information available. See Attached Federal Registry dated 8.20.2020."

Email: "You are differentiating the CDBG grant funds the city received FY 2020 from the CDBG-CV grant funds in relation to the CARES Act. All funding FY 2020 no matter jurisdiction is covered under the CARES Act to help our communities respond and recover from this ongoing Pandemic. I hope the information I provided to you helps you better understand the CARES Act and how it applies to funds the City of Billings received in the fiscal year of 2020."

CARES ACT: HR 748

I am not finding language in the CARES Act encompassing all previously-approved FY20 CDBG activities unrelated to coronavirus response.

FEDERAL REGISTER

All language in the federal register notice is **exclusively related to coronavirus response** *(emphasis added - page 51458):*

- *The nation faces significant public health and economic challenges related to this respiratory disease. To address these challenges, CDBG–CV and CDBG grants are a flexible source of funding that can be used to pay costs that are not covered by other sources of assistance, particularly to benefit persons of low and moderate income.*
- *The Community Development Fund heading in title XII of Division B of the CARES Act modifies some CDBG program requirements to provide immediate support for coronavirus efforts.*
- *The CARES Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the [HUD] Secretary administers in connection with the use of CDBG–CV grants, fiscal year 2020 CDBG grants, and fiscal year 2019 CDBG grants to prevent, prepare for, and respond to coronavirus ... upon a finding by the Secretary that any such waivers or alternative requirements are necessary to expedite or facilitate the use of such amounts to prevent, prepare for, and respond to coronavirus.*

The federal register notice does not alter CDBG program regulations for activities unrelated to the pandemic. The FY19/FY20 CDBG allocations *can be used* for coronavirus response; the City is *not required* to utilize CDBG FY19/20 funding for coronavirus response.

FY19/20 CDBG ACTIVITIES

The City is not currently able to utilize FY19/FY20 CDBG funds for coronavirus response. The funded activities for CDBG FY19/FY20 are identified in the HUD-approved Consolidated Plan and Annual Action Plans. Before utilizing FY19/FY20 funding for coronavirus response, the City would need to: substantiate need; identify priorities; facilitate an application process; conduct public review activities; facilitate Community Development Board and City Council review/approval. Only then can staff submit a substantial amendment to HUD for approval. At present, staff and the Community Development Board are reviewing intended uses of FY2021 CDBG, HOME, and CDBG-CV resources for the FY2021-2022 Annual Action Plan; this plan will be submitted to HUD in the spring.

ADOPT vs COMPLY

The City is not required to "adopt" regulations posted in the federal register; the City is required to comply with those regulations when funding is used for coronavirus response.

WAIVERS

The federal register notice indicates the HUD Secretary can grant waivers and alternative requirements for CDBG-CV and FY19/FY20 CDBG allocations; **these waivers are only in place for coronavirus impact and response activities.** The federal register does not give the City the authority to issue program requirement waivers during the pandemic, particularly when not related to coronavirus response (i.e. the Housing Rehabilitation loan program).

The federal register also includes lists of provisions, including waivers, that apply to CDBG-CV and CDBG FY19/FY20 and further exemplifies activities **exclusively for coronavirus response** *(paraphrased, emphasis added - page 51475, the first substantive page of the notice):*

- *Provisions that apply to the use of fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus:*
    - *Use of Urgent Need National Objective*
    - *Modification of Location-Based Presumption of LMI Benefit for Job Creation and Retention National Objective Criteria*
    - *LMI Job Creation and Retention Records*
    - *Elimination of Aggregate Public Benefit Test, etc.*
- *Provisions That Do Not Apply to FY 19 and FY 20 Grants Waivers and alternative requirement - they apply to CDBG-CV:*
    - *Allocations of CDBG–CV Funds*
    - *General Grant Requirements*
    - *Responsible Use of CARES Act Funds*
    - *Overview of Process to Receive CDBG–CV Grants*
    - *CDBG–CV Application Content and Submission*
    - *Use of Funds for CARES Act Purposes*
    - *Reimbursements*
    - *Terms and Conditions Made Applicable by the CARES Act*
    - *Overall Benefit to LMI Persons, etc.*

"The documents I provided are not available on the City of Billings website and possibly why you are confused."

City staff members do not typically publish links to the federal register and other regulations to the City's website, as they are available for public review via various funding agencies.

"The rules clearly state CARES Act applies to the Home Rehabilitation Program."

I am unable to find references to "Housing Rehabilitation" programs in the CARES Act or the federal register. I can find reference to the "rehabilitation of private buildings to provide housing".

HUD published a Quick Guide for CDBG eligible activities that includes rehabilitation of commercial buildings, school buildings, hotels or motels. It also references making "interim improvements to private properties to enable an individual patient to remain quarantined on a temporary basis".

"Please share with me how your program helps home owners who do not qualify for loans provided by a commercial lender?"

The underwriting review for the Housing Rehabilitation Loan program does not include:

- Minimum credit scores
- Debt to income ratio limits

The Housing Rehabilitation Loan program also offers zero interest, deferred payment loans - very unlike other banking lenders.

"Provide me the contact information of person overseeing your position."

Planning and Community Development Department Director
Wyeth Friday, fridayw@billingsmt.gov

In closing, I hope these responses assist you in understanding the current situation relative to your Housing Rehabilitation Loan application. I sincerely hope you qualify for the loan in the future.

Kind regards,

Brenda Beckett
Community Development Manager
beckettb@billingsmt.gov

[EXTERNAL] Grievance Agenda-Supporting Documents

Sun 1/31/2021 11:33 PM

To: Rodier, Tam <RodierT@billingsmt.gov>; Beckett, Brenda <BeckettB@billingsmt.gov>

4 attachments (2 MB)

Grievence CDBG Progam.pdf; Federal Registy Document Attachment B.pdf; Beckett Email.html; Denial Letter Attachment A.jpeg;

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.

Please provide the attached documents to the CDBG board members prior to Tuesday's meeting.

February 1, 2021

Dear Community Development Block Grant Board and Committee;

My name is thank you for allowing me to share with you my grievance. My application for the Housing Rehabilitation Program is denied based on the City of Billings eligibility requirement. See attached document A.

"In order to qualify for the Housing Rehab Deferred Loan Program you must not have had any late mortgage payments in the last twelve (12) months. The credit report I obtained provides a mortgage payment history that shows multiple late and/or partial payments within the last 12 months. Therefore, you do not currently meet program eligibility requirements".

I qualified for mortgage payment assistance, partial payments were issued directly to Montana Board of Housing thus reflecting on my credit history report. Also, credit history void of partial payments is not an eligibility requirement, therefore should not be included in the reasons I don't qualify for the program.

The Housing Rehabilitation Program eligibility requirements conflict with its general conditions; *real estate taxes, mortgage payments, and assessments must be cur**rent** and the property must be free of any delinquent liens / encumbrances.* My home mortgage, property taxes are current and there are no liens or encumbrances on my property.

The City of Billings implemented a program eligibility requirement that authorizes denial of applicants with late mortgage payment over the past 12 months. This requirement is unfair, denies viable applicants, and deflects rather "spearheads" grant funds from reaching targeted low income citizens thus excluding an entire class of citizens.

The class of citizens are those single family households living paycheck to paycheck for example; citizens may pay a disconnected water or other utility invoice, deciding to make a home mortgage payment after the 15th. This action reflects on credit reports, however the homeowner remains current with their mortgage payments. Payment of utilities always comes first as extreme weather conditions can impose a safety hazard for families without water. This specific eligibility requirement is only mentioned in the online program brochure.

The program is said to provide assistance to moderate and low income citizens who do not qualify for commercial loans. Does the city award loans to those who could qualify for a commercial loan? If so, it may be determined this action is unethical.

Program manager Brenda Beckett provided me inaccurate information describing the CARES Act relation to CDBG-CV and CDBG funds. The program manager has not adopted the federal registry regulations nor guidelines, and claims the CDBG HOME grants operate under separate jurisdictions ("managed separately") and are unrelated to Covid-19 response/ CARES Act FY 2020; contrary to the information available. *See Attached Federal Registry dated 8.20.2020 document B.*

In addition; Brenda the program manager attempted to discourage my online research stating "*federal regulations are very confusing, and it is difficult to research the requirements for various funding sources online*". See attachment document C.

I solely purchased my home in May 2004, I have established a considerable amount of equity over the course of 16 years. The equity amount is well over the grant funds I applied for and the CIty of BIllings is 100% guaranteed repayment if foreclosure or sale of my home results.

In closing, I would ask that the CDBG Board vote to waive the eligibility requirement that authorizes denial of my application.

Thank you for your consideration.

• N–SUMHSS, an annual census of substance use and mental health treatment facilities which collects descriptive data on the location, scope of services provided, and operational characteristics of all known substance use and mental health treatment facilities in the United States and jurisdictions, and on utilization of services by means of a single-day count of clients in treatment; and

• I–BHS data collection activities associated with updating the inventory of both mental health treatment facilities and substance use treatment facilities.

The information in N–SUMHSS and I–BHS is needed to assess the nature and extent of these resources, to identify gaps in services, and to provide a database for treatment referrals.

The request for OMB approval will include a request to conduct the N–SUMHSS survey which includes facility characteristics and services and one-day client counts and to update the I–BHS facility listing on a continuous basis in 2021, 2022 and 2023. Also included in this request is the Between Cycle N–SUMHSS data collection (N–SUMHSS BC), to be conducted between annual surveys to collect information on new facilities for inclusion in the Treatment Locator. N–SUMHSS BC use is an abbreviated N–SUMHSS survey questionnaire.

The estimated annual burden for the I–BHS and BHSIS activities is as follows:

Type of respondent and activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours	Wage rate	Total hour cost
States:							
I–BHS Online [1]	56	75	4,200	0.08	336	$23	$7,728
State Subtotal	56		4,200		336		7,728
Facilities:							
I–BHS application [2]	800	1	800	0.08	64	19.40	1,242
Augmentation screener	1,300	1	1,300	0.08	104	19.40	2,018
N–SUMHSS questionnaire (either SU or MH)	32,000	1	32,000	0.67	21,333	47.95	1,022,917
N–SUMHSS (both SU and MH)	5,000	1	5,000	1.17	5,833	47.95	279,692
N–SUMHSS BC	1,000	1	1,000	0.58	580	47.95	27,811
Facility Subtotal	40,100		40,100		27,914		1,333,680
Total	40,156		44,300		28,250		1,341,408

[1] States use the I–BHS Online system to submit information on newly licensed/approved facilities and on changes in facility name, address, status, etc.

[2] New facilities complete and submit the online I–BHS application form in order to get listed on the Inventory.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

Carlos Graham,

Social Science Analyst.

[FR Doc. 2020–18220 Filed 8–19–20; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6218–N–01]

Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice describes the program rules, statutory and regulatory waivers, and alternative requirements applicable to supplemental Community Development Block Grant (CDBG) funds made available to prevent, prepare for, and respond to coronavirus (CDBG–CV funds) and to annual formula CDBG grants awarded in fiscal years 2019 and 2020. Except as otherwise described in this notice and the CARES Act, the statutory and regulatory provisions governing the CDBG program apply to CDBG–CV and CDBG grants. This notice also describes conforming waivers and alternative requirements for other formula programs included in the consolidated planning regulations in 24 CFR part 91.

DATES: *Applicable:* August 7, 2020.

FOR FURTHER INFORMATION CONTACT: Jessie Handforth Kome, Director, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone number 202–708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. Facsimile inquiries may be sent to Ms. Kome at 202–708–0033. Except for the "800" number, these telephone numbers are not toll-free. Questions regarding the CDBG–CV program may be submitted to *CPDQuestionsAnswered@hud.gov*. Interested parties may also visit HUD's website at *https://www.hud.gov/program_offices/comm_planning* for updated information and resources.

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I. Overview and Background

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) confirmed the first case in the United States of a coronavirus known by several names, including novel coronavirus, and SARS–CoV–2, and which causes the disease commonly referred to as COVID–19. On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. 116–136) (CARES Act). The CARES Act makes available $5 billion in CDBG coronavirus response (CDBG–CV) funds to prevent, prepare for, and respond to coronavirus. In the CARES Act and this notice, the term "coronavirus" means SARS–CoV–2 or another coronavirus with pandemic potential.

The nation faces significant public health and economic challenges related to this respiratory disease. To address these challenges, CDBG–CV and CDBG grants are a flexible source of funding that can be used to pay costs that are not covered by other sources of assistance, particularly to benefit persons of low and moderate income.

This notice is broken into sections. Section II provides a general overview of the CDBG–CV and CDBG program flexibilities provided by the CARES Act. Section III describes the allocations, grant procedures, program flexibilities, waivers, and alternative requirements applicable to CDBG–CV grants. Section IV describes the program flexibilities, waivers, and alternative requirements that apply to fiscal years 2019 and 2020 CDBG grants used to prevent, prepare for, and respond to coronavirus or that affect other aspects of program administration. Other sections contain administrative information related to this notice.

II. Summary of Special Authorities Under the CARES Act

The CARES Act modifies some CDBG program rules and authorizes the Secretary of HUD to grant waivers and alternative requirements. Accordingly, this notice describes how requirements of the CDBG program are modified for CDBG–CV grants, fiscal year 2020 CDBG grants under the Department of Housing and Urban Development Appropriations Act, 2020 (Pub. L. 116–94), and fiscal year 2019 CDBG grants under the Department of Housing and Urban Development Appropriations Act, 2019 (Pub. L. 116–6). For ease of reference, citations in this notice include parentheticals indicating whether a CDBG program statute or regulation applies to entitlement grants, state grants, insular area grants, or grants to nonentitlement counties in Hawaii. Where citations do not include Hawaii counties or insular areas, the additional citation is not necessary because the cited entitlement CDBG regulation applies to insular areas and Hawaii counties in addition to entitlement grantees.

II.A. Program Modifications in the CARES Act

The Community Development Fund heading in title XII of Division B of the CARES Act modifies some CDBG program requirements to provide immediate support for coronavirus efforts. The modifications are described in more detail in Section III, and are the following:

- Permits a public comment period of no less than 5 days when citizen participation is required.
- Permits grantees to develop expedited citizen participation procedures and to hold virtual public hearings when necessary for public health reasons.
- Eliminates the public services cap for coronavirus-related activities.
- Allows states and local governments to reimburse allowable costs of eligible activities regardless of the date the costs were incurred.

II.B. Authority To Grant Waivers and Alternative Requirements

The CARES Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the use of CDBG–CV grants, fiscal year 2020 CDBG grants, and fiscal year 2019 CDBG grants to prevent, prepare for, and respond to coronavirus or that affect other aspects of program administration for the fiscal year 2019 and 2020 CDBG grants, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding by the Secretary that any such waivers or alternative requirements are necessary to expedite or facilitate the use of such amounts to prevent, prepare for, and respond to coronavirus. Additional waiver authority is provided in 24 CFR 5.110 and 91.600. In accordance with these provisions, HUD may waive regulatory provisions (subject to statutory limitations) for good cause.

As required by the CARES Act, the Secretary has considered the waivers and alternative requirements in this notice and finds that there is good cause for each and that each is necessary to expedite or facilitate the use of grant funds to prevent, prepare for, and respond to coronavirus.

III. CDBG–CV Grants

This section describes the CDBG–CV allocations to states and units of general local government (including insular areas), the process to access grant funds, and the rules, waivers, and alternative requirements that apply to CDBG–CV grants.

III.A. Allocations of CDBG–CV Funds

Of the $5 billion made available by the CARES Act, HUD will use $10,000,000 to make technical assistance awards to provide an immediate increase in capacity building and technical assistance to support the use of CDBG–CV grants and CDBG grants to prevent, prepare for, and respond to coronavirus.

The remaining funds will be allocated as described in sections III.A.1. and III.A.2.

III.A.1. First Allocation

The CARES Act requires HUD to allocate up to $2 billion in CDBG–CV funds using the same formula that it used to allocate fiscal year 2020 CDBG

grants pursuant to section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306). HUD made this first CDBG–CV allocation on April 2, 2020, 24 days before the 30-day allocation deadline in the CARES Act, in the amount of $2 billion. The allocations are available on HUD's website at *https://www.hud.gov/program_offices/comm_planning/budget/fy20/.*

III.A.2. Additional Allocations

The CARES Act requires HUD to make a second round of CDBG–CV allocations within 45 days of enactment of the CARES Act. HUD is required to make this allocation in the amount of $1 billion directly to states and insular areas to prevent, prepare for, and respond to coronavirus within the state or insular area. HUD made this second round of CDBG–CV allocations on May 11, 2020, in the amount of $1 billion. The allocations and methodology are available on HUD's website at: *https://www.hud.gov/program_offices/comm_planning/budget/fy20/.* The second CDBG–CV allocations were based on factors identified in the CARES Act: Public health needs, risk of transmission of coronavirus, number of coronavirus cases compared to the national average, economic and housing market disruptions, and other factors, as determined by the Secretary, using best available data.

The CARES Act authorized HUD to allocate the remaining $2 billion in CDBG–CV funds, minus the $10 million set aside for technical assistance, on a rolling basis. The CARES Act provides that the remaining $2 billion shall be distributed directly to states or units of general local government, at the discretion of the Secretary, according to a formula based on factors to be determined by the Secretary, prioritizing risk of transmission of coronavirus, number of coronavirus cases compared to the national average, and economic and housing market disruptions resulting from coronavirus. The District of Columbia is defined as a metropolitan city under the Housing and Community Development Act of 1974 and not as a state or insular area. As such, it was not eligible for funding under the Round 2 $1 billion allocation. To ensure national geographic coverage in Round 2, HUD made an allocation from the third round of funding to the District of Columbia simultaneously with the second round because the District met the geographic criteria for the third round of allocations and was the only geographic area in the nation that was not covered by the second round of allocations.

HUD will publish additional third round allocations and a description of the allocation formulas on HUD's website at *https://www.hud.gov/program_offices/comm_planning/budget/fy20/* and will provide a link to this site in any press release announcing an allocation.

III.A.3. Reallocation

Under Section 106 of the Housing and Community Development Act of 1974 (HCD Act) (42 U.S.C. 5306), HUD reallocates annual formula CDBG funds that cannot be distributed to grantees when it allocates the next fiscal year's appropriation of annual formula CDBG funding. Given the immediate need for coronavirus assistance, the Department is specifying the following alternative requirement to sections 106I and (d)(3)I (42 U.S.C. 5306I and 5306(d)(3)I), and the reallocation provisions of 24 CFR 570.4(a), 570.420I, 570.429(d)(2), and 570.442(b), to expedite the use of any funds that may become available for reallocation.

If a jurisdiction receiving an allocation of CDBG–CV funds fails to apply for funding in accordance with the requirements of this notice by August 16, 2021 (the deadline established by the CARES Act) or HUD is unable to distribute funds to a grantee for another reason, HUD may notify the jurisdiction of the cancellation of all or part of its allocation amount. Funds that are not awarded to jurisdictions under the formulas described in paragraphs III.A.1. and III.A.2. may be reallocated based on factors identified in the CARES Act, as determined by the Secretary. If made, reallocations will be published on HUD's website.

III.B. CDBG–CV Grant Rules, Waivers, and Alternative Requirements

This section describes program flexibilities in the CARES Act and provides waivers and alternative requirements to expedite or facilitate the use of CDBG–CV funds. The rules, waivers, and alternative requirements described in this section only apply to CDBG–CV grants (as specified in this section) and in some cases to fiscal year 2019 and fiscal year 2020 CDBG grants (as specified in section IV) and program income (as specified in sections III.B.5.(f)(iv) and III.B.6.(a)). The CARES Act statutory flexibilities, waivers, and alternative requirements do not apply to other sources of CDBG funds (even if used in conjunction with CDBG–CV funds, fiscal year 2019 CDBG funds, or fiscal year 2020 CDBG funds) except as otherwise described in section IV.B.3.(b).

III.B.1. General Grant Requirements

CDBG–CV grants are subject to the requirements of the CARES Act, the authorities and conditions imposed on fiscal year 2020 CDBG grants, and the mandatory provisions of this notice and waivers and alternative requirements. Except as otherwise described, grantees must comply with statutory and regulatory provisions governing the CDBG program. These include regulations at: 24 CFR part 570 subpart I (states); 24 CFR part 570 subparts A, C, D, E, F, J, K, and O for CDBG (entitlements, nonentitlement Hawaii counties and insular areas).

To facilitate the use of CDBG–CV funds in accordance with the grant requirements, HUD is imposing an alternative requirement that the definitions of CDBG funds in 24 CFR 570.3 (entitlements) and 24 CFR 570.481(a)(2) (states) include CDBG–CV funds. This alternative requirement applies the requirements in 24 CFR part 570 to the use of CDBG–CV funds, except as modified by rules, waivers, and alternative requirements applicable to CDBG–CV grants.

CDBG–CV grant agreements will impose requirements by incorporating program rules, waivers, and alternative requirements (including those published in memoranda, in this and any future notices).

Grantees should not assume that their normal CDBG funding distribution procedures are adequate to swiftly distribute and use CDBG–CV grants. For example, if a grantee's existing policies mandate lengthy processes to select activities or complete procurements, grantees should try to expedite actions with local waiver authorities or emergency procedures that may be available without state or local rulemaking. In addition, urban counties that normally distribute CDBG funds on a proportional basis among all participating jurisdictions should consider whether their normal procedures would result in funding awards that are too small to be used expeditiously and productively by the participating jurisdictions.

III.B.2. Responsible Use of CARES Act Funds

CDBG–CV funds are subject to additional measures designed to prevent fraud, waste, and abuse. HUD will conduct regular oversight and monitoring activities to determine that use of CDBG–CV funds is consistent with grant requirements and limited to the necessary and reasonable costs of activities to prevent, prepare for, and respond to coronavirus. Measures to

increase transparency and accountability include:

- Regular reporting on the use of CDBG–CV funds, including reporting that may be required by the CARES Act to conduct audits and reviews of programs, operations, and expenditures relating to funds under the CARES Act and the Coronavirus response (see section III.B.8. for information on reporting requirements); and
- a requirement that grantees prevent the duplication of benefits that is caused when a person, household, business, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance is more than the total need (see section III.B.9. for information on duplication of benefits).

III.B.3. Overview of Process To Receive CDBG–CV Grants

On April 2, 2020, HUD published the first round of CDBG–CV allocations on the *hud.gov* website and notified jurisdictions of their allocation amounts. On April 9, 2020, John Gibbs, Acting Assistant Secretary for Community Planning and Development, issued a memorandum with the subject, "*CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response and plan amendment waiver*" ("April 9 memorandum"), available at *https://www.hud.gov/sites/dfiles/CPD/documents/CARES-Act-Flexibilities-CDBG-Funds-Used-Support-Coronavirus-Response.pdf*. The memorandum advised grantees to amend or prepare consolidated plan submissions for CDBG–CV grants as soon as possible. Grantees may have partially or fully completed the application process before HUD publishes this notice.

The April 9 memorandum also granted waivers to expedite this process of applying for CDBG–CV funds by permitting application for a grantee's share of the first $2 billion through a substantial amendment to a grantee's most recent annual action plan (the most recent year may be the 2019 annual action plan). These waivers and alternative requirements describing the content of a substantial amendment to add CDBG–CV allocations to the most recent annual action plan are in section III.B.4.(b)(i).

Submitting a substantial amendment may speed access to grant funds because consultation and public hearings are not required (although 24 CFR 570.441I(2) requires insular areas to hold a public hearing for amendments, section III.B.4.(a)(iii) waives this requirement for CDBG–CV substantial amendments). However, the April 9 memorandum does not preclude grantees from applying by submitting a FY 2020 Action Plan that includes the CDBG–CV funds. If the grantee chooses to include CDBG–CV grant funds in its annual action plan for FY 2020 funds, the grantee must comply with action plan submission procedures in 24 CFR part 91 (including consultation and a public hearing), as modified by the waiver and alternative requirements in paragraph III.B.4.(a)(iv), which apply the CARES Act citizen participation flexibilities to all consolidated plan formula grant programs.

The following procedures apply regardless of whether the grantee applies for CDBG–CV funds through an action plan or action plan substantial amendment:

- Rather than wait to apply until HUD allocates all available CDBG–CV funds, HUD recommends that grantees apply as soon as possible for CDBG–CV funds that HUD has allocated. Grantees receiving subsequent allocations can make substantial amendments to apply for subsequent allocation amounts after they are announced.
- All grantees may adopt and use expedited procedures to draft, propose, modify, or amend consolidated plans for CDBG–CV and fiscal year 2019 and 2020 CDBG grants as described in section III.B.4. These expedited procedures amend the grantee's citizen participation plan and require it be published for no less than 5 calendar days to solicit public comment. Expedited procedures may include virtual hearings, as described in section III.B.4.(a)(ii).
- The grantee must publish its application for CDBG–CV funds (whether through a new action plan or action plan substantial amendment) for no less than 5 calendar days to solicit public comment. The comment period can run concurrently with the comment period on changes to add expedited procedures to the citizen participation plan. The grantee must respond to public comments.
- The grantee must submit its application for CDBG–CV funds to HUD for review in accordance with 24 CFR 91.500. To receive a CDBG–CV grant, a grantee must also submit a SF–424, SF–424D and the certifications at 24 CFR 91.225(a) and (b) or 24 CFR 91.325(a) and (b) and 24 CFR 91.425.
- HUD and the grantee will enter a grant agreement and HUD will establish the grantee's line of credit.
- The grantee may draw funds from the line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 and, as applicable, receives from HUD the Authority to Use Grant Funds (AUGF) form and certification.

III.B.4. Application for Grant Funds and Citizen Participation

This section III.B.4. describes the CDBG program flexibilities in the CARES Act and additional waivers and alternative requirements that HUD granted to facilitate or expedite the process to amend consolidated plans and apply for CDBG–CV grants.

III.B.4.(a) Expedited Citizen Participation and Virtual Hearings

The CARES Act permits grantees to adopt expedited citizen participation procedures and hold virtual hearings for consolidated plan submissions for CDBG–CV funds and for CDBG grants for fiscal years 2019 and 2020. Section III.B.4.(a)(iii) includes a corollary waiver and alternative requirement to permit states to extend these flexibilities to units of general local government and insular areas. Section III.B.4.(a)(iv) includes a corollary waiver and alternative requirement extending these flexibilities to other consolidated plan formula programs.

III.B.4.(a)(i) Citizen Participation, Public Notice and Comment Period. The CARES Act authorizes a CDBG–CV grantee to adopt and utilize expedited procedures to prepare, propose, modify, or amend its consolidated plan, notwithstanding sections 104(a)(2), (a)(3), and (c) of the HCD Act (42 U.S.C. 5304(a)(2), (a)(3), and (c)) and section 105 of the Cranston-Gonzalez National Affordable Housing Act (NAHA, at 42 U.S.C. 12705). The expedited procedures may permit virtual hearings, as described in section III.B.4.(a)(ii), whenever a public hearing is required by 24 CFR 91.105 (entitlements), 91.115 (states), 570.431 (Hawaii counties), 570.441 (insular areas), or by the grantee's citizen participation plan. Expedited procedures adopted by the grantee shall provide citizens with notice and a reasonable opportunity to comment of no less than 5 days.

Expedited procedures must be published for no less than 5 calendar days to solicit public comment, and once adopted, become part of the grantee's citizen participation plan. The public comment period for incorporating expedited procedures into the citizen participation plan may run concurrently with the public comment period on a proposed CDBG–CV substantial amendment or other proposed consolidated plan submissions for CDBG–CV funds and fiscal year 2019 and 2020 CDBG grants. Consolidated plan submissions for other

programs are addressed in section III.B.4.(a)(iv).

The CARES Act modifies the annual formula CDBG program requirement that a grantee must solicit comments from its citizens for a period of at least 30 days before it submits a substantial amendment or an annual action plan to HUD.

III.B.4.(a)(ii) Virtual Hearings. For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, the CARES Act authorizes the grantee to hold virtual hearings in lieu of in-person public hearings for CDBG–CV grants and for fiscal year 2019 and 2020 CDBG grants (virtual hearings for other consolidated plan formula programs are addressed in section III.B.4.(a)(iv)). All virtual hearings held under the authority provided by the CARES Act shall provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses.

Therefore, grantees may use online platforms to hold virtual hearings that facilitate public access to all questions and responses and provide timely responses from local officials. Additionally, grantees must take appropriate actions to encourage the participation of all residents, including the elderly, minorities, persons with limited English proficiency, as well as persons with disabilities, consistent with the jurisdiction's citizen participation plan.

The CARES Act does not modify nondiscrimination requirements. Consistent with 24 CFR 91.105 (entitlements) and 91.115 (states), and 24 CFR 570.431 (Hawaii counties) and 570.441 (insular areas), a jurisdiction is expected to take whatever actions are appropriate to encourage the participation of all its citizens in virtual and in-person hearings, including minorities and persons with limited English proficiency, as well as persons with disabilities. Whether hearings are in-person or virtual, grantees must take appropriate steps to ensure effective communication with persons with disabilities consistent with the requirements of accessibility laws, such as Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. The grantee must provide appropriate auxiliary aides and services where necessary to afford individuals with hearing and vision impairments an equal opportunity to access and participate in such hearings. These may include effective methods that make aurally delivered information available to individuals who are deaf or hard or hearing, and visually delivered materials available to individuals who are blind or have low vision. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a grantee shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services should be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. For virtual hearings, such steps should include ensuring that information is provided on an accessible website, that emails and other digital notifications are accessible, and that the application or platform used to host the hearing is also accessible. Additional services such as audio description or captioning may also be needed to provide effective communication in a digital context. Helpful guidelines for ensuring the accessibility of web-based and digital materials are available through the World Wide Web Consortium's Web Accessibility Initiative at *https://www.w3.org/WAI/*. Examples of auxiliary aids and services that may be necessary when conducting hearings online can be found at 28 CFR 35.104.

Grantees must also take reasonable steps to provide meaningful access to persons with limited English proficiency consistent with Title VI of the Civil Rights Act. To ascertain their obligations, grantees should conduct the four-factor analysis set forth in HUD's limited English proficiency guidance found at *https://www.hud.gov/sites/documents/FINALLEP2007.PDF*, which may be covered by grantees' Language Assistance Plan, recognizing that the use of the internet to conduct such a hearing may change the analysis. For virtual or online hearings, such services may also include translation of documents and captioning or interpretation in the appropriate language(s). More information on the four-factor analysis and other requirements can be found at *https://www.hud.gov/sites/documents/FINALLEP2007.PDF*.

III.B.4.(a)(iii) Modifications to citizen participation requirements for local governments that receive funds from States and for insular areas. HUD is clarifying that by authorizing states to adopt expedited citizen participation procedures, the CARES Act authorized expedited procedures and virtual public hearings for citizen participation by units of general local government that receive CDBG–CV funds from a state through a method of distribution. This is because 24 CFR 91.115I requires states to include citizen participation requirements for units of general local government in its own citizen participation plan. Expedited procedures must still describe how units of local governments receiving funds from the state will meet the citizen participation requirements in 24 CFR 570.486.

Additionally, HUD is waiving the requirement in 570.441I(2) that an insular area must hold a public hearing on a substantial amendment. Instead, HUD is imposing an alternative requirement to permit the insular area to adopt expedited requirements by modifying its citizen participation plan to replace the hearing if it provides community residents with reasonable notice and an opportunity to comment on substantial amendments to the consolidated plan or annual action plan.

III.B.4.(a)(iv) Extension of CARES Act Flexibilities to All Consolidated Plan Formula Programs (CDBG, CDBG–CV, HOME, HOPWA, HTF, ESG) and Section 108 Loan Guarantees. The CARES Act altered consolidated plan citizen participation requirements for some CDBG–CV grants, fiscal year 2019 and 2020 annual formula CDBG grants, and Emergency Solutions Grant supplemental CARES Act (ESG–CV) grants. It did not modify citizen participation for other annual formula CDBG and ESG grants, Section 108 Loan Guarantees, or for HOME Investment Partnerships (HOME), Housing Trust Fund (HTF), and Housing Opportunities for Persons With AIDS (HOPWA) formula programs before fiscal year 2019.

On April 1, 2020, HUD issued two waivers to modify citizen participation requirements for consolidated plan substantial amendments for CDBG, ESG, HOME, HTF, and HOPWA. The first eliminated the 30-day minimum for the required public comment period for substantial amendments, provided that no less than 5 days are provided for public comments on each substantial amendment concerning the proposed uses of CDBG, HOME, HTF, HOPWA, or ESG funds. The second allowed grantees to determine what constitutes reasonable notice and opportunity to comment, given their circumstances, for the 2020 program year. The waivers were published in a memorandum

signed by Acting Assistant Secretary John Gibbs on March 31, 2020. It is available at: *https://www.hud.gov/sites/dfiles/CPD/documents/Availability-of-Waivers-of-CPD-Grant-Program-and-Consolidated-Plan-Requirements-to-Prevent-the-Spread-of-COVID-19-and-Mitigate-Economic-Impacts-Caused-by-COVID-19.pdf.*

HUD is now issuing waivers and alternative requirements to expedite procedures to modify citizen participation plans for *all* 2020 fiscal year consolidated plan and annual action plan submissions that pertain to ESG, HOME, HTF, and HOPWA formula programs. The waivers are necessary to effectively implement the CARES Act flexibilities offered to CDBG grantees because planning and annual action plan consolidated plan submissions for CDBG–CV and CDBG grants are inextricably linked with the consolidated plan submissions for ESG, HOME, HTF, and HOPWA.

In 1995, HUD published the consolidated plan regulation at 24 CFR part 91. The consolidated plan replaced the following separate application and planning submissions: The Comprehensive Housing Affordability Strategy (CHAS), enacted by NAHA at 42 U.S.C. 12701, the Community Development Plan requirements, added to the CDBG program by NAHA (42 U.S.C. 5304), the CDBG final statement, the HOME program description, and the ESG and HOPWA applications. In 2015, HUD published an interim rule that added HTF to the consolidated planning regulations. States and units of general local government (including insular areas) that apply for Section 108 loan guarantees pursuant to 24 CFR 570.704 may also be required to include the use of guaranteed loan funds in their consolidated plans.

Grantees that apply for CDBG–CV or CDBG funds as part of their 3–5 year consolidated plan or annual action plan submissions cannot reasonably take advantage of the expedited CARES Act citizen participation requirements unless the other programs included in these submissions are subject to the same expedited requirements. Creating a separate application process for CDBG–CV and CDBG funds would add time and complications that are likely to delay the availability of funds and undermine the purpose of the CARES Act provisions to expedite assistance. Further, separating CDBG planning and applications would thwart several of the reasons cited for the consolidated planning rule, *e.g.,* providing comprehensive information on the jurisdiction that is easy to understand and reducing paperwork and simplifying the process of requesting and obtaining federal funds available to the jurisdictions (60 FR 1878, published January 5, 1995).

Therefore, HUD is waiving provisions at 24 CFR 91.105(b)(4), (c)(2) and (k), 24 CFR 91.115(b)(4), (c)(2) and (i), 24 CFR 91.401, 24 CFR 570.431, 24 CFR 570.441, and 24 CFR 570.704 to the extent necessary to permit the following alternative requirement: CDBG, HOME, HTF, HOPWA, and ESG grantees may modify their citizen participation plans to adopt expedited procedures that apply when the grantees prepare, propose, modify, or amend any consolidated plan submissions that contain uses of CDBG–CV funds or uses of fiscal year 2019 or 2020 CDBG funds to prevent, prepare for, and respond to coronavirus. The expedited procedures must, at a minimum, provide citizens with notice and a reasonable opportunity to comment of no less than 5 days.

Additionally, HUD is waiving provisions at 24 CFR 91.105(b) and I, 24 CFR 91.115(b) and I, 24 CFR 91.401, and 24 CFR 570.431, 570.441, and 570.486(a) to the extent necessary to establish the following alternative requirement. For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, CDBG, ESG, HOME, HTF, and HOPWA grantees, and units of general local government receiving CDBG funds from state or insular area CDBG grantees, may hold virtual hearings in lieu of in-person public hearings to fulfill public hearing requirements imposed by 42 U.S.C. 12707(a)(3) and the regulations at 24 CFR part 91 and 24 CFR part 570, or by the grantee's citizen participation plan.

For each virtual hearing, a grantee shall provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses. Therefore, grantees may use online platforms to hold virtual hearings that provide public access to questions and responses and provide timely responses from local officials. This alternative requirement is only applicable to consolidated planning submissions describing the use of fiscal year 2019 or 2020 annual formula funds for CDBG, ESG, HOME, HTF, and HOPWA, or for CDBG–CV or ESG–CV funds provided under the CARES Act.

HUD cannot modify requirements for CDBG grantees to mirror the elimination of citizen participation for substantial amendments and new consolidated plan submissions for ESG–CV funds because HUD cannot waive the minimum requirements the CARES Act imposed on CDBG grantees. Therefore, this waiver and alternative requirement does not alter or expand the authority for ESG grantees to omit the citizen participation and consultation requirements for consolidated plan submissions that only pertain to ESG CARES Act (ESG–CV) funding.

III.B.4.(b) CDBG–CV Application Content and Submission

III.B.4.(b)(i). CDBG–CV Application Content, Submission, Consistency with Other Portions of Consolidated Plan. In the April 9 memorandum, HUD issued a waiver and alternative requirement that permits a grantee to apply for CDBG–CV funds by submitting a substantial amendment to its most recently approved annual action plan. Grantees may also apply for CDBG–CV funds in a future annual action plan submission.

As part of the application submission, HUD is temporarily waiving the requirements (found at 42 U.S.C. 12706 and 24 CFR 91.325(a)(5) and 91.225(a)(5)) that grantees certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. HUD is imposing a related alternative requirement that allows grantees to submit those certifications when the grantee submits its next full (3–5 year) consolidated plan due after the 2020 program year. Grantees may not have considered the needs associated with CDBG–CV funds when developing their current consolidated plan strategic plan and needs assessment.

In conjunction, HUD is temporarily waiving 42 U.S.C. 5304I to the extent that it requires HUD to annually review grantee performance under the consistency criteria. This waiver also only applies until the grantee submits its next full (3–5 year) consolidated plan due after the 2020 program year.

Applying through a substantial amendment to the most recent action plan. If the CDBG–CV application is submitted as a substantial amendment to the most recent annual action plan, the substantial amendment must include the CDBG–CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. To permit this expedited application process, in the April 9 memorandum HUD waived statutory provisions at 42 U.S.C. 12705(a)(2) to the extent they require

updates to the housing and homeless needs assessment, (24 CFR 91.205 and 91.405), housing market analysis (24 CFR 91.210 and 91.410), and strategic plan (24 CFR 91.215 and 91.415. HUD also waived 24 CFR 91.220 (entitlements) and 91.320 (states), to the extent those regulations limit the action plan to a specific program year, to permit grantees to prepare substantial amendments to their most recent annual action plan (including their 2019 annual action plan).

In the April 9 memorandum, HUD also issued a waiver and alternative requirement to 24 CFR 91.505 to facilitate the use of the CDBG–CV funds to the extent necessary to require submission of the substantial amendment to HUD for review in accordance with 24 CFR 91.500, and required that, to receive a CDBG–CV grant, a grantee must also submit a SF–424, SF–424D, and the certifications at 24 CFR 91.225(a) and (b) (entitlements) or 24 CFR 91.325(a) and (b) (states).

HUD is now adding to the waivers in the April 9 memorandum as follows. The abbreviated consolidated plan regulations for insular areas at 24 CFR 570.440(i) are waived to the extent necessary to impose the same alternative requirements in the April 9, 2020 waiver, so that if an insular area applies for CDBG–CV funds by submitting a substantial amendment to an abbreviated consolidated plan, the following requirements apply. The substantial amendment must include the CDBG–CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus. The grantee must submit the substantial amendment to HUD for review in accordance with 24 CFR 91.500, and to receive a CDBG–CV grant, it must submit a SF–424, SF–424D and the certifications at 24 CFR 570.440I.

If CDBG–CV funds are included in a substantial amendment to the most recently submitted annual action plan, existing cooperation agreements between a local government and an urban county governing other CDBG funds in the most recently submitted annual action plan (for purposes of either an urban county or a joint program) will automatically cover CDBG–CV funding as well. These cooperation agreements will continue to apply to the use of CDBG–CV funds for the duration of the CDBG–CV grant.

Applying through a new annual action plan submission. The action plan submission procedures in 24 CFR part 91 (including consultation and a public hearing) apply to grantees that choose to submit CDBG–CV applications by including CDBG–CV funds in a new annual action plan submission. Content of action plans is described at 24 CFR 91.220 (entitlements), 91.320 (states), and 24 CFR 570.440 (insular areas).

Applying for additional CDBG–CV allocations. The waivers and alternative requirements in the April 9 memorandum apply to all allocations of CDBG–CV funds. HUD encourages grantees to apply for additional allocations of CDBG–CV funds as they are announced by submitting substantial amendments to their most recent annual action plan. Grantees are advised that an application for an additional allocation of CDBG–CV funds should be submitted as a substantial amendment to the annual action plan that describes the first CDBG–CV allocation.

An application submitted as a substantial amendment must include the CDBG–CV allocation as an available resource for the year and include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus.

HUD strongly encourages grantees to apply for allocations through substantial amendments as they are announced. However, grantees that have not submitted applications for CDBG–CV funds when additional allocations are announced may submit a single application for all allocations as a substantial amendment to the most recent annual action plan, or as part of a new annual action plan.

III.B.4.(b)(ii). Content of CDBG–CV application for States Acting Directly. The waiver and alternative requirement in paragraph III.B.6.(b)(i) permit states to carry out activities directly. Therefore, HUD is granting the following waiver and alternative requirement to amend 24 CFR 91.320(d) and 24 CFR 91.320(k)(1)(i) to the extent necessary to require a state to submit a description of a method of distribution and include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus. A state that has already submitted its application for CDBG–CV funds may amend its annual action plan that describes the use of CDBG–CV funds to modify its description of a method of distribution and include a list of the use of all funds for activities it will carry out directly, and how the use of the funds will prevent, prepare for, and respond to coronavirus.

III.B.4.(b)(iii). Deadline to Apply for Assistance. Under the CARES Act, the deadline is August 16, 2021, for grantees to submit their CDBG–CV action plan and the annual Action Plan for fiscal year 2019 and 2020 CDBG funds. This deadline supersedes the August 16, 2020 deadline established by 24 CFR 91.15 in accordance with section 116(b) of the HCD Act.

III.B.5. Allowable Costs, Eligible Activities and National Objectives

This section describes modifications to the CDBG program requirements that address allowability of costs that can be charged to CDBG–CV grants.

III.B.5.(a) Use of Funds for CARES Act Purposes

The grantee is required to use all CDBG–CV funds for CDBG-eligible activities that are carried out to prevent, prepare for, and respond to coronavirus. CDBG–CV grants cannot be used for any other purpose. This requirement is discussed more fully in section III.B.5.(f), which discusses eligible activities.

Additionally, HUD weighed the purpose of the CARES Act to prevent, prepare for, and respond to coronavirus with the intent of Congress expressed in section 101I of the HCD Act (42 U.S.C. 5301I) that CDBG funds not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance. Given the extreme and unexpected downturn in local and national economic conditions, local resources are strained. Jurisdictions must provide new and expanded support with fewer resources. Therefore, HUD has concluded that when CDBG funding is used for purposes of the CARES Act, it is not considered to substantially replace the amount of local financial support previously provided to community development activities.

III.B.5.(b) Reimbursements

The CARES Act provides that CDBG–CV funds may be used to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality regardless of the date on which such costs were incurred. This authority is broader than the authority to reimburse costs with other CDBG funds.

The term "locality" is not defined by the CARES Act, the HCD Act, or the CDBG program regulations. For purposes of CDBG–CV grants, a "locality" shall mean units of general local government, as defined in section 102 of the HCD Act.

The CARES Act also requires that all costs reimbursed with CDBG–CV funds be allowable costs, meaning they comply with all grant requirements.

Therefore, HUD is adopting the following waivers and alternative requirements to 24 CFR 570.200(h) and 570.489(b) to facilitate the use of CDBG–CV funds to reimburse allowable costs by modifying current regulations that are inconsistent with CARES Act reimbursement authority and imposing safeguards to help ensure the allowability of all costs charged to the CDBG–CV grant:

Grantees shall not reimburse costs incurred before January 21, 2020, without written approval from HUD's Office of Block Grant Assistance (OBGA), by emailing the contact person listed at the beginning of this notice. HUD is imposing a presumption that costs of activities undertaken before January 21, 2020, the date the CDC confirmed the first case of coronavirus in the United States in the State of Washington,[1] are highly unlikely to be eligible for reimbursement because they likely are not costs to prevent, prepare for, and respond to coronavirus. The need to pay for coronavirus-related costs incurred after this date far exceeds the amount of CDBG–CV funds available. HUD cautions that it will only consider granting written approval in extraordinary cases where the clear link to the purposes of the CARES Act is documented by substantial evidence provided to HUD by the grantee. Inquiries related to this requirement can be submitted to the contact identified above for this notice.

HUD is waiving the requirements of 570.200(h) and 570.489(b) to the extent necessary to authorize a grantee to permit reimbursement of pre-application costs of subrecipients, units of general local government, and itself, in addition to pre-agreement and pre-award costs. However, an environmental review must be performed and a release of funds must be obtained in accordance with 24 CFR part 58 prior to committing CDBG–CV funds to reimburse such costs. After the grantee signs a CDBG–CV agreement it may reimburse a unit of general local government or subrecipient for costs incurred before the unit of general local government or subrecipient applies to the grantee for assistance.

For grantees subject to the entitlement CDBG regulation at 24 CFR 570.200(h), the following waivers and alternative requirements apply: In lieu of the effective date described at 570.200(h), the grantee shall use the date in box 4 of form HUD–7082, Funding Approval/Agreement. HUD is waiving the requirement at 570.200(h)(1)(i) and (ii) that the activity for which costs are incurred must be included in a consolidated plan action plan or amended consolidated plan action plan before incurring the costs. Instead, the activity for which costs were incurred must be included in the grantee's CDBG–CV application before CDBG–CV funds are used to reimburse those costs. Or, if the use of CDBG–CV funds for reimbursements is not included in the CDBG–CV application, this use may be included in a subsequent amendment to the annual action plan that describes the use of the CDBG–CV funds (following the grantee's citizen participation plan procedures for amendments). To facilitate the use of funds provided under a one-time grant rather than an annual appropriation, HUD is waiving the time limitation and the monetary limitation on reimbursements in 570.200(h)(1)(v) and (vi) and related provisions at 570.200(h)(2). HUD is not waiving the requirement at 570.200(h)(1)(iii) to comply with the environmental review procedures stated in 24 CFR part 58.

All grantees may authorize subrecipients to incur pre-award costs in accordance with pre-agreement cost authority under 24 CFR 570.489(b) (states) and pre-award cost authority under 24 CFR 570.200(h) (entitlements), as modified above. Consistent with the waiver and alternative requirement in paragraph III.B.6.(b)(i) that authorizes states to act directly, the provisions of 24 CFR 570.489(b) are waived to the extent necessary to authorize a state to charge to the grant pre-agreement costs of its subrecipients in addition to the pre-agreement costs of units of general local government, in accordance with procedures established by the state and subject to the requirements that apply to pre-agreement costs of units of general local government in 24 CFR 570.489(b), and the requirements that apply to the use of CDBG–CV funds.

While provisions of 24 CFR 570.489(b) requiring compliance with 24 CFR part 58 do not apply prior to an application for CDBG–CV funds, a unit of general local government or state must document compliance with the environmental review requirements at 24 CFR part 58 following the application to the state or unit of general local government for funding and prior to reimbursement of pre-application costs, per 24 CFR 570.200(h)(1)(iii) and 24 CFR 570.489(b). If a grantee cannot meet all requirements at 24 CFR part 58 and cannot demonstrate there was no environmental harm committed, the pre-application costs cannot be reimbursed with CDBG–CV or other HUD funds.

III.B.5.(c) Terms and Conditions Made Applicable by the CARES Act

The CARES Act subjects CDBG–CV funds to the authorities and conditions applicable to annual CDBG grants for fiscal year 2020. Therefore, the following requirements apply to CDBG–CV grants:

III.B.5.(c)(i). Limitations on Use of Funds for Eminent Domain. The grantee shall ensure that no CDBG–CV funds are used to support any Federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. 107–118) shall be considered a public use for purposes of eminent domain.

III.B.5.(c)(ii). Prohibition on Certain Funds Transfers. The Grantee or unit of general local government that directly or indirectly receives CDBG–CV funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the HCD Act or permitted by waiver and alternative requirements that apply to the use of CDBG–CV funds.

III.B.5.(c)(iii). E.O. 12372—Special Contract Condition. Notwithstanding any other provision governing CDBG–CV funds, no funds may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR part

[1] See CDC Press Release at: *https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html.*

52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

III.B.5.(c)(iv). Mandatory Evaluation of Special Economic Development Activities. CDBG–CV funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570—"Guidelines and Objectives for Evaluating Project Costs and Financial Requirements." Given the likelihood that CDBG–CV funds will be used to assist businesses needing working capital financing for everyday operations, such as payroll costs, HUD intends to provide advice or technical assistance on the application of the guidelines and objectives set forth in Appendix A to such assistance. HUD will consider providing advice or technical assistance in recognition of the differences in underwriting assistance for the wide range of economic development projects permitted under section 105(a)(17) (as implemented at 24 CFR 570.203(b)).

III.B.5.(d) National Objectives

III.B.5.(d)(i) Use of Urgent Need National Objective. HUD has received questions regarding the records necessary to document that a grantee's activities to prevent, prepare for, and respond to coronavirus satisfy the urgent need national objective. To meet the urgent need national objective criteria at 24 CFR 570.208I (entitlements) and 570.483(d) (states), a grantee (or in the case of the State CDBG program, a unit of general local government or a state, if the state is carrying out activities directly as authorized by section III.B.6.(b)(i)) must certify that: (1) The activity is designed to alleviate existing conditions; (2) those existing conditions pose a serious and immediate threat to the health or welfare of the community and are of recent origin or recently became urgent; and (3) that the grantee, state, or unit of general local government is unable to finance the activity on its own, and that other sources of funds are not available. The State CDBG regulation at 24 CFR 570.483(d) requires the state's determination of these elements in addition to the unit of general local government's certification.

Entitlement grantees must maintain records required by 24 CFR 570.506(b)(12) to document: (1) The nature and degree of seriousness of the condition requiring assistance and the timing of its development; (2) evidence that the recipient certified that the CDBG activity was designed to address the urgent need; and (3) evidence confirming that other financial resources to alleviate the need were not available. The State CDBG recordkeeping requirements at 24 CFR 570.490 require states and state recipients to maintain records to demonstrate compliance with the urgent need criteria.

The following information provides guidance on how a grantee may satisfy existing recordkeeping requirements for the urgent need national objective criteria in addition to a grantee's or unit of general local government's certification and a state's determination (or state's certification, if the state is acting directly):

Criteria 1: Is the activity designed to alleviate existing conditions? For CDBG–CV grants, the records the grantee maintains to demonstrate that the activity was designed to alleviate existing conditions can be the same records used to show that grant funds were used to prevent, prepare for, and respond to coronavirus, as required by the CARES Act.

Criteria 2: Does the condition pose a serious and immediate threat to the health or welfare of the community that is of recent origin or that recently became urgent? In light of the severity of coronavirus and the urgency of the nation in addressing its impacts, pursuant to 24 CFR 570.208I (entitlements) or 24 CFR 570.483(d) (states), a grantee may certify that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community within 18 months following a date determined by one of the following three methods:

- Referral to a U.S. Department of Health and Human Services issued press release declaring a public health emergency for the entire United States found at *https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html.* The declaration was retroactive to January 27, 2020;
- Referral to the President's declaration of the ongoing Coronavirus Disease 2019 (COVID–19) pandemic as an emergency of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the "Stafford Act"). (The President subsequently approved additional major disaster declarations for states); or
- Referral to the effective date of a grantee's own local or state emergency declaration.

Criteria 3: Is the grantee or unit of general local government unable to finance the activity on its own, and are other sources of funds are not available to carry out the activity? The extreme needs of local governments resulting from coronavirus in the United States outweigh available resources, despite the extraordinary level of assistance provided to states and units of general local government under the CARES Act. Therefore, documentation that the activity will prevent, prepare for, and respond to the coronavirus may be used to demonstrate that a grantee or unit of general local government is unable to finance the activity on its own.

All CDBG–CV grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits for assisted activities (as discussed in section III.B.9. of this notice). To demonstrate that no financial assistance has been received or is available to pay costs charged to a CDBG–CV grant, a grantee may demonstrate that no other funds are available for an activity by maintaining records of compliance with mandatory duplication of benefits requirements described in section III.B.9.

All grantees are reminded to consider how the use of the urgent need national objective will affect their compliance with the CDBG "overall benefit" requirements discussed in paragraph III.B.5.(d)(iv).

III.B.5.(d)(ii) Modification of Location-Based Presumption of LMI Benefit for Job Creation and Retention National Objective Criteria. To facilitate the use of funds for economic development, HUD is removing the higher poverty rate required in some cases for central business districts, which is not required by statute. HUD is instituting an alternative requirement to modify the regulations at 24 CFR 570.208(a)(4)(v) (entitlement) and 24 CFR 570.483(b)(4)(v) (state) by deleting the criteria at 24 CFR 570.208(a)(4)(v)(B) (entitlement) and 24 CFR 570.483(b)(4)(v)(B) (state). Under this alternative requirement, for purposes of the LMI job creation/retention national objective at 24 CFR 570.208(a)(4) and 24 CFR 570.483(b)(4), a census tract qualifies for the presumptions under the criteria established in regulations at 24

CFR 570.208(a)(4)(v) and 24 CFR 570.483(b)(4)(v) if the poverty rate is at least 20 percent and if it evidences pervasive poverty and general distress using the criteria described in 24 CFR 570.208(a)(4)(v)(C) (entitlement) and 24 CFR 570.483(b)(4)(v)(C) (states).

This alternative requirement eliminates a requirement that census tracts that contain at least a portion of a central business district must have a poverty rate of at least 30 percent before residents and businesses in the tract are entitled to a presumption of low- and moderate-income (LMI) benefit. HUD has determined that eliminating the 30 percent requirement for tracts that contain central business districts will standardize the required poverty rate to meet the presumption regardless of where the persons or the business is located, which facilitates the use of grant funds to assist desperate businesses. Central business districts are hubs that contain many coronavirus-affected businesses and facilitating assistance to businesses that seek to retain jobs is consistent with the purposes of the CARES Act. Standardizing the poverty rate for the LMI benefit presumption may help to avoid wholesale collapse of central business districts at a when many businesses have closed or at risk of closing due to insufficient revenues.

III.B.5.(d)(iii) LMI Job Creation and Retention Records. HUD is establishing the following waiver and alternative requirement to facilitate and expedite assistance to coronavirus-affected businesses by streamlining national objective criteria and recordkeeping requirements for activities that benefit LMI persons by retaining or creating jobs. The normal job creation and retention recordkeeping requirements consider family income when determining whether a beneficiary is a person of low or moderate income, but these requirements are likely to be burdensome during a time when unemployment has surged and family income is more difficult to document. Collection of income information directly from assisted businesses can streamline assistance. Therefore, notwithstanding that the definitions of low-income person and moderate-income person in 24 CFR 570.3 are based on family income, for purposes of meeting the national objective criteria for job creation or retention at 24 CFR 570.208(a)(4) and 24 CFR 570.483(b)(4), HUD is imposing the following waiver and alternative requirement: Grantees and employers may consider individuals that apply for or hold jobs to be members of one-person families for activities that prevent, prepare for, and respond to coronavirus. HUD is also modifying related recordkeeping requirements at 24 CFR 570.506(b)(7) (entitlement) and the jointly agreed upon requirements referenced in 24 CFR 570.490 (state) by adding the following additional presumption: The recipient may substitute records showing the type of job and the annual wages or salary of the job in lieu of maintaining records showing the person's family size and income to demonstrate that the person who filled or held/retained the job was a low- or moderate-income person, when required by paragraph 24 CFR 570.506(b)(5)(i)(B), (b)(5)(ii)(C), (b)(6)(iii) or (b)(6)(v) (entitlement) or the requirements referenced in 24 CFR 570.490 (state). HUD will consider the person income-qualified if the annual wages or salary of the job is equal to or less than the Section 8 low-income limit established by HUD for a one-person family. Under this alternative requirement, a grantee will have substantially reduced documentation requirements because they will be working with assisted businesses rather than each person, and potentially their households, who received a job.

III.B.5.(d)(iv) Overall Benefit to LMI Persons. HUD is establishing an alternative requirement to modify the calculation of overall LMI benefit, so that compliance with the requirement is separated from the annual formula CDBG program calculation of overall benefit. Overall LMI benefit for CDBG–CV grants will be calculated based on the percentage of the CDBG–CV grant that benefits LMI persons. This alternative requirement is consistent with the idea that one-time, supplemental funding should not skew the calculation of overall benefit for use of annual formula CDBG grants and guaranteed loan funds. This modification expedites and facilitates the use of funds in part by enabling grantees to best plan which activities will benefit LMI persons.

Section 101I of the HCD Act (42 U.S.C. 5301I) establishes the primary objective of the HCD Act: the "development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." CDBG–CV grants are subject to the requirement that 70 percent of funds are for activities that benefit LMI persons. The requirements at 42 U.S.C. 5301I, 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.200(a)(3) (entitlements and nonentitlement counties in Hawaii), 24 CFR 570.420(d)(2)–(3) (insular areas), and 24 CFR 570.484 (states) shall remain in place to the extent that they require the grantee to ensure that 70 percent of its CDBG–CV grant be expended for activities that benefit LMI persons. As an alternative requirement, however, HUD is requiring that grantees must demonstrate compliance with the overall benefit requirement separately for a grantee's total CDBG–CV grant allocation and not in combination with annual formula CDBG funding or commitments under the Section 108 Loan Guarantee program.

Under this alternative requirement, there is no option for grantees to select the timeframe for compliance. HUD previously instructed grantees to submit certifications required by 24 CFR 91.225 (entitlements) or 24 CFR 91.325 (states). The regulations at 24 CFR 91.225(b)(4)(ii) and 24 CFR 91.325(b)(4)(ii) require grantees to certify that the aggregate use of CDBG funds will comply with the overall benefit requirement during a period specified by the jurisdiction, consisting of one, two, or three specific consecutive program years. Under this alternative requirement, grantees are not required to carry out the grant consistent with the mandatory overall benefit certification because HUD has changed the requirement related to overall benefit.

III.B.5.(e) Public Benefit

III.B.5.(e)(i) Elimination of Aggregate Public Benefit Test. HUD is waiving the standard for aggregate public benefit that applies to economic development activities described in 24 CFR 570.209(b)(1)–(2) (entitlement) and in 24 CFR 570.482(f)(2)–(3) (state). The public benefit standards were designed to require that economic development activities, in the aggregate, provide an appropriate amount of public benefit based on the amount of CDBG funds used. Given the clear benefit derived from addressing economic disruptions due to coronavirus, CDBG–CV grantees can adequately demonstrate public benefit based on the individual public benefit standards, as modified by waivers and alternative requirements in section III.B.5.(e)(ii).

Therefore, to facilitate and expedite the use of CDBG–CV funds for coronavirus-related economic development activities, HUD is waiving the aggregate public benefit standards at 24 CFR 570.209(b)(1)–(2) (entitlement) and 24 CFR 570.482(f)(2)–(3) (state). In granting this waiver, HUD notes that based on the growing number of urgent requests for economic development assistance, particularly from small business, grantees are likely to have difficulty determining the appropriate

amount of CDBG assistance, in the aggregate, for their current and next program years.

III.B.5.(e)(ii) Modification of Individual Public Benefit Standards. To facilitate the use of grant funds by providing greater leeway to grantees to identify the most advantageous means of providing economic development assistance, HUD is modifying the individual public benefit standards. HUD is imposing a waiver and alternative requirement to establish an alternative means by which grantees can demonstrate public benefit from the use of CDBG–CV funds for individual special economic development activities.

Certain economic development activities described in 24 CFR 570.209 (entitlement) and in 24 CFR 570.482(f)(1) (state) are subject to individual public benefit standards at 24 CFR 570.209(b)(3) (entitlement) and 24 CFR 570.482(f)(4) (state). Grantees must satisfy these public benefit standards to show that the amount of CDBG funds used for individual economic development activities is appropriate relative to the benefit to the public from those activities.

HUD is waiving the individual standards at 24 CFR 570.209(b)(3) and 24 CFR 570.482(f)(4) and imposing the following alternative requirement. For activities subject to the public benefit standards, grantees must document that: (a) The activity will create or retain at least one full-time equivalent, permanent job per $85,000 of CDBG funds used; (b) the activity will provide goods or services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one LMI person per $1,700 of CDBG funds used; or (c) the assistance was provided due to business disruption related to coronavirus (in which case, no monetary standard applies because HUD has determined that there is sufficient public benefit derived from the provision of assistance to stabilize or sustain businesses in the grantee's jurisdiction that suffer disruption due to coronavirus, and that facilitation of business assistance for this purpose may help to avoid complete economic collapse within the grantee's jurisdiction). This alternative requirement does not modify the requirements related to eligible activities and national objectives criteria.

III.B.5.(f) Eligible Activities

Grantees may use CDBG–CV funds only for those activities carried out to prevent, prepare for, and respond to coronavirus. By law, use of funds for any other purpose is unallowable. To satisfy these purposes, grantees may assist activities that respond to direct effects, such as the need to rehabilitate a building to add isolation rooms for recovering coronavirus patients. A grantee may also undertake activities to address indirect effects of the virus, such as the economic and housing market disruptions caused by social distancing measures and stay at home orders implemented to prevent the spread of coronavirus.

Some activities clearly tie back to the purposes of the CARES Act, such as public services, economic development and microenterprise assistance, public facilities, and the rehabilitation of private buildings to provide housing. However, HUD is not prohibiting grantees from carrying out any particular CDBG eligible activity described in the HCD Act and the part 570 regulations, because other CDBG eligible activities, such as acquisition, can justifiably be used to fulfill the CARES Act purposes depending upon the circumstances.

To remain consistent with the structure of a block grant program and the flexibility of CDBG to provide multiple avenues to achieve the purposes of the CARES Act, HUD is implementing the limitation that funds be used for the coronavirus-related purposes of the CARES Act by requiring grantees to document the use of funds to prevent, prepare for, and respond to coronavirus, rather than by expressly prohibiting grantees from undertaking any of the eligible activities described in the HCD Act. HUD cautions grantees that the recordkeeping requirements of this notice require clear documentation that all uses of funds satisfy the statutory purposes of the CARES Act.

The current needs to prevent, prepare for, and respond to coronavirus may require use of CDBG–CV funds for uncommon activities. HUD is preparing a series of technical assistance products that describe opportunities to quickly deploy CDBG–CV funds to address immediate needs. As this technical assistance is developed, it will be posted on the CDBG–CV page on the *https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19.*

When identifying eligible activities to be carried out with CDBG–CV funds, grantees can reduce the potential for duplication of benefits by designing activities that address needs not covered by other sources of financial assistance. More information on requirements to prevent the duplication of benefits is described in section III.B.9.

III.B.5.(f)(i) Extension of Emergency Payments. HUD is providing an alternative requirement to extend the period that grantees can make emergency grant payments on behalf of individuals and families. Normally, CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the HCD Act for states, and which are expressly prohibited by 24 CFR 570.207(b)(4) in the Entitlement CDBG regulations. The phrase *income payments* means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes *emergency payments* made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

Coronavirus has had a massive impact on families' ability to work for pay, make rent or mortgage payments, access or pay for food, clothing, and basic utilities, and access many other essential items and services. To help individuals and families address these challenges, HUD is waiving section 105(a)(8) of the HCD Act and 24 CFR 570.207(b)(4) only to the extent necessary to establish the following alternative requirement: CDBG–CV funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months.

Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. CDBG–CV grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. Grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

III.B.5.(f)(ii) Opportunity Zones and Related Flexibilities for Economic Development. To facilitate and expedite the use of grant funds for economic development during this time of extraordinary need, HUD is clarifying the existing requirements and adopting an alternative requirement that expands economic development activities that can be carried out with CDBG–CV funds. HUD is adopting this alternative requirement because the entitlement

regulations at 24 CFR 570.203(b) describe some financing mechanisms for economic development, but do not provide an exhaustive list of the forms of support grantees can provide to private, for-profit businesses and to nonprofits for special economic development activities. Many economic development activities are carried out in conjunction with other forms of assistance and Federal tax-based programs that help provide additional sources of financing for economic development, particularly in LMI areas. HUD wants to facilitate the ability for grantees to use CDBG–CV funds to fill financing gaps that cannot be met by other sources and quickly launch critical economic development projects, particularly in Opportunity Zones and other target areas, without taking the time to seek additional clarification from HUD on activity eligibility for individual projects.

First, this notice clarifies an existing requirement of economic development activities that grantees may carry out pursuant to 24 CFR 570.203(b) (entitlement) or section 105(a)(17) of the HCD Act (state). Grantees may provide assistance to an economic development project through a for-profit entity that passes the funds through a financing mechanism (*e.g.,* Qualified Opportunity Funds and New Markets Tax Credit (NMTC) investment vehicles). The regulations at 24 CFR 570.203(b) already list forms of support by which grantees can provide assistance to private, for-profit businesses where the assistance is appropriate to carry out an economic development project. HUD has previously interpreted this provision to allow for CDBG assistance to NMTC investment vehicles. This clarification makes clear that such assistance through any financing mechanism (which is not limited to NMTC investment vehicles) is eligible under 24 CFR 570.203(b). The regulation also does not apply to states, but states may consider 24 CFR 570.203(b), as clarified by the following alternative requirement, as guidance in the same way that they may consider other Entitlement CDBG regulations.

HUD is not waiving 24 CFR 570.203(b) (entitlement) or section 105(a)(17) (state), and other statutory and regulatory requirements remain in place.

Second, this notice establishes an alternative requirement that expands the authority in section 105(a)(15) of the HCD Act and 24 CFR 570.204 to permit grantees subject to entitlement CDBG regulations to assist nonprofit organizations serving the development needs of their jurisdiction by carrying out community economic development projects through a financing mechanism. The nonprofit may pass assistance through a financing mechanism to another entity based on the language in section 105(a)(15) of the HCD Act. Grantees subject to entitlement regulations must document that the assisted nonprofit is serving the development needs of the jurisdiction and that the assistance is used for a community economic development project that is necessary to prevent, prepare for, and respond to coronavirus.

III.B.5.(f)(iii) Public Services Cap. The CARES Act provides that notwithstanding section 105(a)(8) of the HCD Act (42 U.S.C. 5305(a)(8)), there shall be no per centum limitation for the use of funds for public services activities to prevent, prepare for, and respond to coronavirus. The CARES Act provides this flexibility for all CDBG–CV funds and CDBG funds appropriated in fiscal years 2019 and 2020 to the extent that grantees use these funds to carry out public service activities to prevent, prepare for, and respond to coronavirus.

Following enactment of the CARES Act, the public services cap described in section 105(a)(8) of the HCD Act and 24 CFR 570.201I has no effect on CDBG–CV grants. Program income generated by the use of CDBG–CV funds is given special treatment, as discussed in III.B.6.(a). Therefore, notwithstanding the provisions of section 105(a)(8) of the HCD Act, program income is not a consideration for purposes of determining the amount of CDBG–CV funds that can be expended on public services. The calculation of the public services cap for fiscal year 2020 and 2019 annual formula CDBG grants is discussed in section IV.B.4.(a).

III.B.5.(f)(iv) Other Public Services Considerations. HUD reminds grantees to comply with other requirements in section 105(a)(8) of the HCD Act, and for grantees subject to entitlement CDBG regulations, 24 CFR 570.201I. Namely, CDBG–CV funds may only be used for those public service activities that are new or that represent a quantifiable increase above the level of an existing service that has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the state in which it is located) in the 12 calendar months before the submission of the action plan, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government.

Additionally, grantees are reminded that the purchase of personal property and equipment is generally ineligible. However, the entitlement CDBG regulation at 24 CFR 570.207(b)(1) (which may be used as guidance by state grantees), allows grantees to purchase or to pay depreciation in accordance with 2 CFR part 200, subpart E, for personal property, fixtures, and equipment when necessary when such items constitute all or part of a public service. Examples of use of equipment that constitute all or part of a public service include equipment and supplies owned by the grantee or subrecipient that provides the public service, *e.g.,* ventilators or other medical equipment and supplies that will be used in providing health care at a field clinic, or a vehicle outfitted with medical equipment to provide mobile health care.

III.B.5.(f)(v). Clarification on Application of Requirements in 2 CFR part 200. In response to the coronavirus pandemic, the Office of Management and Budget (OMB) released two memoranda that allow Federal agencies to grant exceptions to some requirements under 2 CFR part 200, the *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.* HUD reminds grantees that the flexibilities in these memoranda do not automatically apply to grantees. HUD has not approved class exceptions to 2 CFR part 200 for CDBG–CV grants or CDBG grants, so the requirements in 2 CFR part 200 continue to apply.

The OMB memoranda were for limited purposes and were not intended to cover all grantees and activities. The March 9, 2020 memorandum, M–20–11, *Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID–19)* (available at *https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-11.pdf*), allows Federal agencies to grant class exceptions in instances where the agency has determined that the purpose of the Federal awards is to support the continued research and services necessary to carry out the emergency response related to COVID–19. The March 19, 2020 memorandum, M–20–17, *Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID–19) due to Loss of Operations* (available at *https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf*) allows HUD to make class exceptions for an expanded scope of recipients affected by the loss of operational capacity and increased costs due to the COVID–19 crisis. OMB indicated that it would

reassess the authority granted by these memoranda within 90 days.

III.B.6. Other Program Requirements

III.B.6.(a) Program Income

To expedite use of grant funds, HUD is clarifying the requirements for CDBG–CV grants on the treatment of program income at 24 CFR 570.504 (entitlement) and 24 CFR 570.489I–(f) (state) that is generated by the use of CDBG–CV funds. The receipt and expenditure of program income that is generated by the use of CDBG–CV funds shall be treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program. This clarification will facilitate expenditures of CDBG–CV grant funds for their intended purpose, while continuing to maintain appropriate controls on the use of program income.

III.B.6(a)(i) Use of program income before annual formula CDBG grant funds. Any program income generated from the use of CDBG–CV funds will be receipted in HUD's Integrated Disbursement and Information System (IDIS) as program income to the annual formula CDBG grant program.

III.B.6(a)(ii) Inapplicability of float-funded activities. Based on the treatment of income generated from the use of CDBG–CV funds as annual formula CDBG program income, HUD is waiving 24 CFR 570.301(b) and section 104(h) of the HCD Act for CDBG–CV grants. HUD is imposing the following alternative requirement: Grantees shall not use CDBG–CV funds for float-funded activities or guarantees.

III.B.6(a)(iii) Retention of program income by subrecipients. A grantee may permit subrecipients (including units of general local government receiving funds from a state) to retain program income from the use of CDBG–CV funds under this paragraph if the amount held does not exceed the subrecipient's projected cash needs for CDBG activities including activities to prevent, prepare for, and respond to coronavirus.

III.B.6.(b) Rules Applicable to State CDBG–CV Grants

The paragraphs in this section apply only to State CDBG–CV grantees.

III.B.6.(b)(i) Direct Action by States. The waivers and alternative requirements in this section and in sections III.B.6.(b)(ii)–(iv) permit a state grantee to use a portion of its funds to act directly to carry out activities through employees, contractors, and subrecipients in all geographic areas within its jurisdiction, including entitlement areas and tribal populations. HUD is issuing the waivers and alternative requirements in this section based in part on information in requests from states and in part to implement provisions of the CARES Act that permit grant funds allocated to states to be used in entitlement areas.

HUD has determined that this waiver and alternative requirement will facilitate and expedite the use of CDBG–CV funds by supporting states in their roles as significant coordinators of statewide and regional activities to prevent, prepare for, and respond to coronavirus. Additionally, these waivers and alternative requirements are designed to reduce administrative costs and streamline the delivery of assistance by maintaining a single set of grant requirements for all CDBG–CV allocations.

These waivers and alternative requirements are only available to a state if it complies with the following alternative requirements in this paragraph and in III.B.6.(b)(ii)–(iv):

Nonentitlement set aside: A state must set aside a portion of its grant for use by nonentitlement units of general local government. The nonentitlement set aside must be no less than an amount equal to the state's first CDBG–CV allocation and may be from any portion of the state's additional CDBG–CV allocation. This limitation is imposed for consistency with the CDBG–CV formulas, which include a direct allocation to entitlement areas and to states on behalf of nonentitlement areas to prevent, prepare for, and respond to coronavirus. The nonentitlement set aside fulfills the intent reflected by the formula to address needs in urban and rural areas, while giving states the flexibility to determine how to expend each allocation as it is made based on needs within its jurisdiction.

Inclusion in CDBG–CV Application: A state's proposal to act directly and to distribute or use CDBG–CV funds in entitlement areas must be published for public comment in its application for CDBG–CV funds or in a subsequent substantial amendment to the annual action plan that includes the CDBG–CV funds.

Activities carried out in tribal areas: A state grantee may carry out activities in tribal areas. States carrying out projects in tribal areas through employees, contractors, or subrecipients must obtain the consent of the Indian tribe with jurisdiction over the tribal area.

Other conforming changes: Requirements at section 106(d) of the HCD Act (42 U.S.C. 5306(d)) and 24 CFR 570.480(g) are waived to the extent necessary to allow a state to use its CDBG–CV funds for eligible activities that the state carries out directly. The standard at 24 CFR 570.480I and the provisions at section 104I(2) of the HCD Act (42 U.S.C. 5304I(2)) are modified to also include activities that the state carries out directly. Section 106(d) of the HCD Act is not otherwise waived, except as provided in this notice.

A state may carry out eligible activities directly, consistent with the entitlement program requirement of 24 CFR 570.200(f), through its employees, through procurement contracts, or through assistance provided under agreements with subrecipients. Pursuant to section 102I of the HCD Act, one or more public agencies may be designated by the chief executive officer of a state to undertake activities assisted under this chapter. A state is responsible for ensuring that CDBG–CV funds are used in accordance with all program requirements. The use of interagency agreements, subrecipient agreements (including agreements with Indian tribes and designated public agencies, as described in section III.B.6.(b)(ii)) or contracts does not relieve the state of this responsibility. States are responsible for determining the adequacy of performance under subrecipient agreements and procured contracts, and for taking appropriate action when performance problems arise. State grantees continue to be responsible for civil rights, labor standards, and environmental protection requirements, for compliance with all applicable requirements, including conflict of interest provisions in 24 CFR 570.489(g) and (h).

The national objective criteria in 24 CFR 570.483 are modified by the following alternative requirement when states carry out activities directly: The state must fulfill all requirements that 570.483 imposes on units of general local government to demonstrate compliance with national objective criteria.

The recordkeeping requirements at 24 CFR 570.490(b) are waived when states carry out activities directly, and the following alternative requirement shall apply: The state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of CDBG–CV funds, under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the state shall be sufficient to: (1) Enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance

determinations for activities carried out directly; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the CDBG–CV application. For fair housing and equal opportunity (FHEO) purposes, as applicable, such records shall include data on the race, ethnicity, and sex of persons who are applicants for, participants in, or beneficiaries of the activity.

The change of use of real property rule at 24 CFR 570.489(j) is modified to include instances when a state carries out activities directly. All references to "unit of general local government" shall be read as "state, unit of general local government (UGLG) or state subrecipient."

To include instances when a state carries out activities directly, 24 CFR 570.492 is waived and the following alternative requirement applies: The state shall make reviews and audits, including on-site reviews of any subrecipients and local governments, as may be necessary or appropriate to meet the requirements of section 104I(2) of the HCD Act, as amended. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The state shall establish remedies for noncompliance by any subrecipients or local governments.

To include instances when a state carries out activities directly in accordance with the waiver in this paragraph, 24 CFR 570.489(g) is modified to revise the requirement that "[t]he state shall establish requirements for procurement policies and procedures for units of general local government" so that it applies to "units of general local government and subrecipients." To facilitate grant administration by adopting state-wide procurement policies, a state agency designated to oversee the use of all its CDBG–CV funds pursuant to section 102I of the HCD Act may impose its procurement requirements on all uses of CDBG–CV funds by the state, including by other state agencies that administer a portion of the CDBG–CV grants, so long as those requirements comply with 24 CFR 570.489(g).

III.B.6.(b)(ii) Use of Subrecipients by States (Including Nonprofits and Tribes). HUD is adopting the following alternative requirement that shall apply when states carry out activities directly: States carrying out activities through subrecipients must comply with 24 CFR 570.489(m) relating to monitoring and management of subrecipients. The definition of subrecipient at 24 CFR 570.500(c) applies when states carry out activities through subrecipients, and the requirements of 24 CFR 570.489(g) (as modified by section III.B.6.(b)(i)) shall apply.

For purposes of this alternative requirement, the definition of subrecipients at 24 CFR 570.500I is modified to expressly include Indian tribes. Indian tribes that receive CDBG–CV funding from a state grantee must comply with the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301 *et seq.*). This conforming requirement is necessary because the state CDBG regulations do not anticipate states distributing funds through means other than a method of distribution to units of general local government.

III.B.6.(b)(iii) Activities Carried Out by States in Entitlement Areas. The provisions of 24 CFR 570.486(c) are waived to the extent that they allow States, either directly or through units of general local government, to use CDBG–CV funding for activities located in entitlement areas without contribution from the entitlement jurisdiction, consistent with the waiver and alternative requirements in sections III.B.6.(b)(i) and (ii). HUD is granting this waiver to facilitate and expedite the use of grant funds for consistency and ease of administration by granting the same geographic flexibilities to all allocations of CDBG–CV funds, since they will be administered under a single grant.

III.B.6.(b)(iv) Use of the "upper quartile" or "exception criteria" for LMI area benefit activities. Section 105(c)(2)(A) of the HCD Act authorizes HUD to permit an exception to the LMI area benefit national objective criteria that are normally satisfied when at least 51 percent of the population of an area are persons of low and moderate income. HUD is clarifying how this "exception criteria" applies when State CDBG–CV grantees carry out activities in entitlement jurisdictions as authorized by section III.B.6.(b)(iii). If the area in which the activity is carried out would benefit from the "exception criteria" that permit a grantee to use a percentage less than 51 percent to qualify activities under the LMI area benefit criteria, those exception criteria apply to the use of CDBG–CV funds by a state the same way that they apply to the use of CDBG funds by the entitlement grantee in the same area. CDBG–CV grantees are required to use the most recent data available in implementing the exception criteria. For more information on the data set, please visit *https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-exception-grantees/.*

III.B.6.(b)(v) Elimination of State Administrative Match. To expedite the use of CDBG–CV funds, HUD is waiving the requirement for matching state administrative funds, subject to the requirements of section III.B.6.(b)(vi) below. Requiring states to match administrative funds may considerably slow down the expenditure of CDBG–CV funds in states struggling to accurately project and adjust their budgets given the challenges caused by coronavirus. The requirements at 42 U.S.C. 5306(d)(3)(A) and 24 CFR 570.489(a) are waived to the extent necessary to eliminate the state match requirement for general administrative costs.

III.B.6.(b)(vi) Cap on State Administrative Costs and Technical Assistance. Pursuant to 24 CFR 570.489(a)(3)(iii), a state and its funded units of general local government and subrecipients are, in aggregate, permitted to expend no more than 20 percent of the CDBG–CV grant for planning, management, and administrative costs. Under 42 U.S.C. 5306(d)(5) and (6) and 24 CFR 570.489(a)(1) a state may not directly use more than $100,000 plus 3 percent of its annual grant for administrative and technical assistance costs combined. HUD is waiving 42 U.S.C. 5306(d)(5) and (6) and 24 CFR 570.489(a)(1) and establishing an alternative requirement that a state may use up to 7 percent of its CDBG–CV grant combined for general administration and technical assistance costs; of that 7 percent, a state may use up to 5 percent of CDBG–CV funds for general administration costs and up to 2 percent of the grant for technical assistance activities. The remainder of the amount may be used by units of general local government for administrative and technical assistance costs, provided that a state and its funded units of general local government and subrecipients expend no more than 20 percent of the CDBG–CV grant for planning, management, and administrative costs. A grantee must meet this alternative requirement over the life of its grant, as amended to incorporate additional allocations of CDBG–CV funds.

CDBG–CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG–CV funds may be used to pay costs that benefit both the CDBG–CV grant and another CDBG award and can be distributed

between the grants in proportions that may be reasonably approximated.

III.B.6.(b)(vii) Procurement. Except as described in section III.B.6. to accommodate states acting directly, this notice does not modify procurement requirements at 24 CFR 570.489(g) for state grantees. As discussed above, the local procurement policies and procedures that apply to the use of annual formula CDBG grant funds may not be nimble enough to accommodate this urgent need to quickly procure goods and services necessary to carry out eligible activities. HUD recommends that CDBG–CV grantees review their existing procurement policies to explore the potential use of state or local waiver authority and emergency procedures that may expedite procurement processes.

Additionally, if the grantee plans to use CDBG–CV grants to carry out eligible activities that satisfy non-Federal cost share requirements under section 105(a)(9) of the HCD Act, the grantee should consider modifying procurement policies to authorize grantees to use procurement policies and procedures of the agencies paying the Federal cost share of the activity, to the extent that those policies and procedures are consistent with the procurement requirements on the use of CDBG–CV funds. Modifying procurement policies to allow the use of procurement requirements imposed by other Federal grants is easier for state grantees, but entitlement grantees that anticipate use of a substantial amount of CDBG–CV funds to satisfy non-Federal cost share may also be able to adopt a similar provision where the other Federal granting agency imposes the procurement requirements in 2 CFR part 200.

III.B.6.(c) Rules for Entitlements, Insular Areas, and Nonentitlement Hawaii Counties

III.B.6.(c)(i) Administrative and Planning Cost Caps. To expedite the use of grant funds, HUD is waiving requirements of 24 CFR 570.200(g) that are inconsistent with the treatment of program income in section III.B.6.(a) and the treatment of CDBG–CV funds as a standalone grant. The following alternative requirement applies to grants subject to subpart D (entitlement grants and grants to the nonentitlement counties of the State of Hawaii): No more than 20 percent of the total CDBG–CV grant shall be expended for planning and program administrative costs, as defined in 24 CFR 570.205 and 24 CFR 570.206, respectively. There is no program year obligation test for planning and administrative costs of CDBG–CV grants. Additionally, CDBG–CV funds shall not be included in the compliance determination of the program year obligation test applicable to annual formula CDBG funds. Additionally, program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the administrative and planning cost cap applicable to annual formula CDBG grants and program income, separately from CDBG–CV funds.

CDBG–CV grant funds shall not be used to pay planning and program administrative costs allocable to another grant under the CDBG annual formula program; however, CDBG–CV funds may be used to pay costs that benefit both the CDBG–CV grant and another CDBG award and can be distributed between the grants in proportions that may be reasonably approximated.

III.B.6.(d) Compliance With Environmental Review Requirements

III.B.6.(d)(i) Overview of Environmental Review Requirements. Environmental regulations at 24 CFR 58.22 prohibit CDBG grantees, a recipient, and any other participant in the development process from committing HUD or non-HUD funds to a project until the environmental compliance review process has been successfully completed or until receipt of the Authority to Use Grant Funds, if applicable. In addition, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. Therefore, it is very important for grantees to begin and complete any required environmental compliance review as soon as possible. Grantees are urged to contact their Field Environmental Officer for more information about environmental review requirements.

III.B.6.(d)(ii) Clarifying note on the process for environmental release of funds when a State carries out activities directly. Usually, a state distributes CDBG funds to local governments and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. Under the waiver and alternative requirement in paragraph III.B.6.(b), HUD will allow a State CDBG–CV grantee to carry out activities directly in addition to distributing funds to subrecipients. Thus, per 24 CFR 58.4, when a state carries out activities directly, the state must submit the Certification and Request for Release of Funds to HUD for approval.

III.B.6.(d)(iii) Clarifying note on emergency environmental review procedures. HUD's environmental review regulations in 24 CFR part 58 include two provisions that may be relevant to environmental review procedures for activities to prevent, prepare for, and respond to coronavirus. The first is 24 CFR 58.34(a)(10), which provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of part 58 or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.

The second is a streamlined public notice and comment period in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially-declared or locally-declared public health emergency is discussed in the Notice, *Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID–19* posted at *https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf.*

III.B.6.(e) Compliance With Labor Laws

CDBG–CV grants are subject to the Davis-Bacon prevailing wage requirements imposed by section 110(a) of the HCD Act. HUD cannot waive this or other labor laws. Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where Federal assistance is not approved prior to contract award (or the beginning of construction if there is no contract award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications. However, if there is no evidence that the owner intended to apply for the CDBG–CV assistance prior to the contract award or the start of the construction, HUD may request that DOL allow prospective,

rather than retroactive, application of the Davis-Bacon wage rates. DOL may allow prospective application of Davis-Bacon requirements where it finds that it is necessary and proper in the public interest to prevent injustice or undue hardship and it finds no intent to apply for the federal assistance before contract award or the start of construction. The CDBG–CV Grantee should contact a HUD Labor Relations Specialist if such a situation arises.

III.B.6.(f) Relationship to Section 108 Loan Guarantees

Under the Section 108 Loan Guarantee Program, CDBG grantees can borrow up to five times their most recent CDBG grant by issuing federally guaranteed notes. To ensure that CDBG–CV funds are used for the purposes authorized by the CARES Act, HUD is issuing the following alternative requirement to sections 108(b) and (c) of the HCD Act (42 U.S.C. 5308(c)): CDBG–CV funds shall not be factored into a grantee's Section 108 borrowing authority.

A grantee may use CDBG–CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent, prepare for, and respond to coronavirus. The necessity of such use shall be documented by the grantee or the subrecipient that provided the assistance (*e.g.,* if Section 108 funds were used by the grantee to provide assistance to a for-profit business in the form of a loan and the business is unable to make a payment due to the reduction in revenue caused by coronavirus, any restructuring of that loan must be supported by modification to loan documents that document the relationship to coronavirus). When CDBG–CV funds are used to subsidize or replace principal, interest, or fees due under a loan previously made with guaranteed loan funds as part of an activity to assist a for-profit or a subrecipient, and the CDBG–CV assistance is necessary to respond to the impact of coronavirus (*e.g.,* a third-party business borrower whose loan is the intended source for repayment of a Section 108 loan is not collecting sufficient revenue due to local public health conditions), the documentation that the original assisted activity satisfies national objective criteria shall be sufficient to demonstrate that the use of the guaranteed loan funds and the additional CDBG–CV assistance meet a CDBG national objective.

This alternative requirement does not limit the Secretary's authority under section 108I of the HCD Act.

III.B.7. Period of Performance, Timeliness, and Closeout

III.B.7.(a) Period of Performance

CDBG–CV grantees must expend all CDBG–CV funds (including CDBG–CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) within the 6-year period of performance established by the CDBG–CV grant agreement. HUD is imposing this period of performance to ensure the use of CDBG–CV funds to prevent, prepare for, and respond to coronavirus. The CDBG regulations at 24 CFR 570.200(k) and 24 CFR 570.480(h) permit HUD to establish a period for expenditure and performance in a grant agreement that is shorter than the normal 8-year period. HUD is exercising its authority to establish a 6-year period of performance and expenditure deadline in the CDBG–CV grant agreement. Grant funds are not available for expenditure after the period of performance. In addition, to further ensure the expedited use of the funds, HUD is imposing an alternative requirement that each grantee must expend at least 80 percent of all CDBG–CV funds (including CDBG–CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) no later than the end of the third year of the period of performance established by the CDBG–CV grant agreement. If this three-year requirement is not met, and evidence meeting the criteria for extension described in section III.B.7.(c) below is not provided, an amount equivalent to the difference between the total amount expended at the end of the third year and 80 percent of all CDBG–CV funds will be recaptured from the CDBG–CV grant.

III.B.7.(b) Timeliness

CDBG–CV grants are available for limited purposes under the CARES Act. They are subject to a shortened period of performance. Under section III.B.6.(a), program income generated by the use of CDBG–CV funds is treated as program income to a grantee's annual formula CDBG program. For these reasons, HUD is waiving to the extent necessary to allow HUD to determine that every grantee has circumstances beyond its reasonable control the timely performance enforcement actions found at 24 CFR 570.902 (entitlement timely expenditure), and 24 CFR 570.494 (state timely distribution). CDBG–CV funds will not be included in determining compliance with the requirements of 24 CFR 570.902 and 570.494. However, as program income to the grantees' annual formula CDBG programs, income generated from CDBG–CV activities will be included in timely expenditure compliance determinations for each entitlement grantee's annual formula CDBG program. Grantees should consider the potential effects of additional program income to compliance with timeliness requirements applicable to their annual formula CDBG grant program when they select and design CDBG–CV assisted activities.

III.B.7.(c) Closeout

To facilitate the use of grant funds in a timely manner, HUD is waiving the CDBG closeout regulations at 24 CFR 570.509 for grantees subject to entitlement regulations and imposing an alternative requirement that HUD will close out grants in accordance with grant closeout requirements of 2 CFR 200.343. This approach is consistent with the state regulation at 24 CFR 570.489(o). This will help all grantees to expend grant funds within a short timeframe designed to maximize the ability of CDBG–CV funds to prevent, prepare for, and respond to coronavirus. Grantees subject to this alternative requirement must submit all financial, performance, and other reports as required by 24 CFR 91.520.

In general, HUD expects all grantees to comply with all grant requirements and fully close out a grant at the end of the period of performance. However, HUD recognizes that there are many things that could disrupt a grantee's intended timeline for activity completion: Litigation, disasters, limited construction seasons due to weather, or other extenuating circumstances. Therefore, HUD may authorize an extension of the three-year expenditure requirement or the overall period of performance if the grantee provides evidence of such extenuating circumstances that would warrant the extension and that they could demonstrate they would meet all program requirements within the extended expenditure period or period of performance.

HUD may consider, in closing out CDBG–CV grants, any requirements that remain applicable after closeout. These may include authority for HUD to monitor the recipient's compliance and performance after the closeout of the award with respect to requirements that are applicable after closeout, and HUD may take findings of noncompliance into account, with the closeout process, as unsatisfactory performance of the recipient, in the consideration of any future grant made under title I of the HCD Act. Examples of requirements that may survive closeout include: (i)

Closeout costs (*e.g.,* audit costs) and costs resulting from contingent liabilities described in the closeout agreement; (ii) use of real property assisted with CDBG funds in accordance with program regulations; (iii) taking measures that are adequate to enforce and implement mandatory flood insurance coverage requirements; and (iv) other provisions included in the grant closeout agreement.

III.B.8. Reporting

The reporting requirements that apply to the use of annual formula CDBG grants also apply to CDBG–CV grants. Section 104I of the HCD Act requires that the Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether the grantee has carried out its activities in a timely manner, whether the grantee's activities and certifications are carried out in accordance with the requirements and the primary objectives of the HCD Act and other applicable laws, and whether the grantee has the continuing capacity to carry out those activities in a timely manner.

III.B.8.(a) General Reporting Requirements

Reporting requirements for CDBG–CV grantees can be found at 42 U.S.C. 12708(a), 24 CFR 91.520, 24 CFR 570.507 (entitlement), 24 CFR 570.440(j) (insular areas), and 24 CFR 570.491 (state).

III.B.8.(b) Additional CARES Act Reporting

Section 15011 of the CARES Act requires that recipients of $150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing: Information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient. As outlined in OMB memorandum M–20–21, *Implementation Guidance for Supplement Funding in Response to the Coronavirus Disease (COVID–19)* (available at *https://www.whitehouse.gov/wp-content/uploads/2020/04/Implementation-Guidance-for-Supplemental-Funding-Provided-in-Response.pdf*), existing reporting requirements are anticipated to meet the requirements of Section 15011, but the content and format for this reporting is still under development and will need to be reviewed against current program practices. The Department will work in coordination with OMB to ensure that this requirement can be fulfilled by recipients of CARES Act funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden. If additional reporting is necessary, further advice or technical assistance will be provided by the Department.

III.B.9. Duplication of Benefits

The CARES Act requires HUD to ensure that there are adequate procedures in place to prevent any duplication of benefits as required by section 312 of the Stafford Act, as amended by section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115–254; 42 U.S.C. 5121 *et seq.*).

Duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs.

A grantee is required to develop and maintain adequate procedures to prevent a duplication of benefits that address (individually or collectively) each activity or program. A grantee's policies and procedures are not adequate unless they include, at a minimum: (1) A requirement that any person or entity receiving CDBG–CV assistance (including subrecipients and direct beneficiaries) must agree to repay assistance that is determined to be duplicative; and (2) a method of assessing whether the use of CDBG–CV funds will duplicate financial assistance that is already received or is likely to be received by acting reasonably to evaluate need and the resources available to meet that need.

Most CARES Act assistance programs have more limited durations for availability of assistance or a more limited scope of eligible activities or entities than does CDBG–CV. HUD strongly encourages each CDBG–CV grantee to become familiar with the range of available assistance and uses and apply its more flexible CDBG–CV assistance to unmet needs or to gaps, with special attention to the coronavirus response, prevention, or preparation needs of LMI persons.

HUD will provide advice and technical assistance to grantees to facilitate compliance with this requirement.

III.B.10 Citizenship Requirements

Please note that the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services provides that the Immigration Reform and Control Act, 8 U.S.C. 1324a *et seq.* prohibits employers from hiring and employing an individual for employment in the U.S. knowing that the individual is not authorized with respect to such employment. This generally applicable law also applies to CDBG grantees and their subrecipients and/or contractors/subcontractors (including relating to employees recruited under Section 3). For more information, please see *https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/10-why-employers-must-verify-employment-authorization-and-identity-of-new-employees* and *https://www.uscis.gov/i-9-central/legal-requirements-and-enforcement.*

IV. Fiscal Year 2019 and Fiscal Year 2020 CDBG Grants

IV.A. General Requirements

Except as described in this notice or other applicable waivers and alternative requirements, the statutory and regulatory provisions governing the CDBG program apply to fiscal year 2019 and 2020 CDBG grants, including regulations at 24 CFR part 570 subpart I (states), 24 CFR part 570 subparts A, C, D, E, J, K, and O (entitlements), and 24 CFR subpart F (insular areas and Hawaii counties).

IV.B. Flexibilities, Waivers, and Alternative Requirements

The following rules, waivers, and alternative requirements apply to fiscal year 2019 and 2020 CDBG grants. These include statutory authorities included in the CARES Act and other waivers and alternative requirements or clarifications that HUD is making for fiscal year 2019 and 2020 grants.

IV.B.1. Timeliness

Because of the coronavirus many local governments are operating under extenuating circumstances and may need additional time for certain administrative requirements, HUD is suspending for fiscal year 2020 all corrective actions, sanctions, and informal consultations for timeliness effective January 21, 2020. Grantees are advised that this suspension does not eliminate the timely expenditure

requirements set forth in 24 CFR 570.902 (entitlements). HUD will continue to run expenditure reports and will continue to notify grantees of deficiencies.

Based on government restrictions, closures, shelter-in-place orders, and social distancing guidance related to coronavirus, HUD has determined that all entitlement grantees have factors beyond their reasonable control that, to HUD's satisfaction, impact the carrying out of CDBG-assisted activities in a timely manner. As a result, HUD has determined that corrective actions related to timeliness are not appropriate at this time. HUD will monitor changing conditions. Before the end of the fiscal year, HUD will determine whether to extend this suspension for all or a portion of fiscal year 2021. HUD may consider regional and local conditions when determining when to begin scheduling informal consultations.

IV.B.2. Consolidated Plan, Citizen Participation, and CAPER

IV.B.2.(a) Expedited Citizen Participation and Virtual Hearings

Section III.B.4.(a) of section III apply to all fiscal year 2019 and 2020 annual formula CDBG grants, regardless of the use of funds. This section describes the program flexibilities provided by the CARES Act related to Expedited Citizen Participation and Virtual Hearings. Where this section refers to CDBG–CV funds, it shall apply equally to fiscal years 2019 and 2020 CDBG grants.

IV.B.2.(b). Deadline To Submit Consolidated Plans and FY 2020 Annual Action Plans

The deadline for grantees to submit action plans and other updates to their consolidated plans submissions for fiscal years 2019 and 2020 to include CDBG–CV funds is August 16, 2021.

IV.B.2.(c) CAPER Extension

On May 7, 2020, Acting Assistant Secretary John Gibbs issued a memorandum to all Community Planning and Development Field Office Directors, Deputy Directors and Program Managers with the subject "Availability of a Waiver and Alternate Requirement for the Consolidated Annual Performance and Evaluation Report (Performance Report) for Community Planning and Development (CPD) Grant Programs in Response to the Spread of Coronavirus." This memorandum authorized a waiver of the regulatory requirement at 24 CFR 91.520(a) that grantees submit a performance report known as the Consolidated Annual Performance and Evaluation Report (CAPER) within 90 days of the end of a jurisdiction's program year. The waiver was granted under HUD's regulatory waiver authority at 24 CFR 5.110 and 24 CFR 91.600. Under this memorandum, for program year 2019 CAPERs, the requirement that grantees submit a performance report within 90 days after the close of a jurisdiction's program year is waived, subject to the condition that within 180 days after the close of a jurisdiction's program year the jurisdiction shall submit its performance report.

IV.B.2.(d) Other Consolidated Planning Waivers

HUD is temporarily waiving the requirement for consistency with the consolidated plan (requirements at 42 U.S.C. 12706 and 24 CFR 91.325(a)(5) and 91.225(a)(5)) when fiscal year 2019 and 2020 CDBG funds are used to prevent, prepare for, and respond to coronavirus, because grantees may not have considered the needs associated with this special purpose funding when developing their current consolidated plan strategic plan and needs assessment. In conjunction, HUD is temporarily waiving 42 U.S.C. 5304(e) to the extent that it would require HUD to annually review grantee performance under the consistency criteria. These waivers apply only until the grantee submits its next full (3–5 year) consolidated plan due after the 2020 program year.

HUD is imposing a related alternative requirement. The regulations at 24 CFR 91.225(b)(5) (entitlements) and 24 CFR 91.325(b)(5) (states) require grantees to certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. Under this alternative requirement, grantees are not required to carry out the portions of their fiscal year 2019 and 2020 annual formula CDBG grants that are used to prevent, prepare for, and respond to coronavirus in a manner consistent with the certifications in 24 CFR 91.225(b)(5) and 24 CFR 91.325(b)(5), because HUD has changed the requirement related to consistency.

IV.B.3. Flexibilities That Apply to Coronavirus-Related Activities

The following flexibilities apply to all fiscal year 2019 and 2020 CDBG grants when those grants are used for activities to prevent, prepare for, and respond to coronavirus.

IV.B.3.(a) Calculation of the Public Services Cap. As described in paragraph III.B.5.(f)(iii), following enactment of the CARES Act, the public services cap described in section 105(a)(8) of the HCD Act and 24 CFR 570.201(e) has no effect on assistance available to the grantee for fiscal years 2019 and 2020, including the program income that would normally be included in the grantee's calculation of the program income cap for fiscal years 2019 or 2020, when the grantee uses CDBG grant funds to prevent, prepare for, and respond to coronavirus. For fiscal years 2019 and 2020, the cap shall still be calculated and shall apply to public service activities carried out for activities that do not prevent, prepare for, and respond to coronavirus. Additionally, CDBG–CV grant funds shall not be included in the public service cap compliance determination which is applicable to annual formula CDBG funds used for activities not related to coronavirus.

Program income generated by the use of CDBG–CV grants is considered program income to the grantee's annual formula CDBG program, as discussed in section III.B.6.(a).

The public services cap imposed by section 105(a)(8) of the HCD Act applies to "the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide) under this title *including program income*" (emphasis added). The CARES Act provision that removes the public services cap applies to all "activities to prevent, prepare for, and respond to coronavirus" for the CDBG–CV grants and fiscal year 2019 and 2020 annual formula CDBG grants. The activities for grants are described in each grantee's annual action plan required by 24 CFR 91.220 (entitlements), 24 CFR 91.320 (states), or 24 CFR 570.440 and 24 CFR 91.235 (insular areas). In these regulations, the activities for grants include activities carried out with grant funds and program income expected to be made available. Therefore, removing the cap in section 105(a)(8) of the HCD Act for activities to prevent, prepare for, and respond to coronavirus also removes the public services cap on the use of the program income, and removes the corresponding regulatory cap in 24 CFR 570.201(e) (entitlements) for CDBG–CV funds and fiscal year 2019 and 2020 funds used to prevent, prepare for, and respond to coronavirus.

Program income generated by the use of CDBG–CV grants is considered program income to the grantee's annual formula CDBG program, as discussed in section III.B.6.(a). Additionally, program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the public service cap applicable to the annual

formula CDBG grants and program income, separately from CDBG–CV funds. For purposes of calculating the public services cap, the treatment of program income generated by the CDBG–CV grant and received (*i.e.*, documented in IDIS) by the annual formula CDBG program shall be considered as any other program income received by the annual formula CDBG program.

IV.B.3.(b) Provisions in Section III that apply to Coronavirus-Related Activities. The following provisions in Section III apply to the use of fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus; these provisions shall also apply to the use of Section 108 guaranteed loan funds when they are used together with fiscal year 2019 and 2020 CDBG funds for activities to prevent, prepare for, and respond to coronavirus. Where these paragraphs refer to CDBG–CV funds, they shall apply equally to fiscal years 2019 and 2020 CDBG grants.

- III.B.5.(d)(i) Use of Urgent Need National Objective.
- III.B.5.(d)(ii) Modification of Location-Based Presumption of LMI Benefit for Job Creation and Retention National Objective Criteria.
- III.B.5.(d)(iii) LMI Job Creation and Retention Records.
- III.B.5.(e)(i) Elimination of Aggregate Public Benefit Test.
- III.B.5.(e)(ii) Modification of Individual Public Benefit Standards.
- III.B.5.(f)(i) Extension of Emergency Payments.
- III.B.5.(f)(ii) Opportunity Zones and Related Flexibilities for Economic Development.
- III.B.5.(f)(iii) Public Services Cap.
- III.B.5.(f)(iv) Other Public Services Considerations.
- III.B.5.(f)(v) Clarification on Application of Cost Principles.
- III.B.6.(d)(iii) Clarifying note on emergency environmental review procedures.
- III.B.9. Duplication of Benefits (applies for programs and activities with annual formula CDBG funds when the grantee uses these funds to carry out programs to respond to losses caused by disasters and emergencies).
- III.B.10. Citizenship Requirements.

IV.B.4. Provisions That Do Not Apply to FY 19 and FY 20 Grants

Waivers and alternative requirements and other provisions in the following paragraphs of Section III do *not* apply to fiscal year 2019 CDBG Grants and fiscal year 2020 CDBG grants:

- III.A. Allocations of CDBG–CV Funds
- III.B.1. General Grant Requirements
- III.B.2. Responsible Use of CARES Act Funds
- III.B.3. Overview of Process to Receive CDBG–CV Grants
- III.B.4.(b) CDBG–CV Application Content and Submission
- III.B.5.(a) Use of Funds for CARES Act Purposes
- III.B.5.(b) Reimbursements
- III.B.5.(c) Terms and Conditions Made Applicable by the CARES Act
- III.B.5.(d)(iv) Overall Benefit to LMI Persons.
- III.B.6.(a) Program Income
- III.B.6.(b) Rules Applicable to State CDBG–CV Grants
- III.B.6.(c) Rules for Entitlements, Insular Areas, and Nonentitlement Hawaii Counties
- III.B.6.(d)(ii) Clarifying note on the process for environmental release of funds when a state carries out activities directly.
- III.B.6.(e) Compliance with Labor Laws
- III.B.6.(f) Relationship to Section 108 Loan Guarantees
- III.B.7. Period of Performance, Timeliness, and Closeout
- III.B.8. Reporting

Paperwork Reduction Act: The information collection requirements in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2506–0085. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Catalog of Federal Domestic Assistance: The Catalog of Federal Domestic Assistance numbers for the CDBG–CV grants under the CARES Act are: 14.218 (Community Development Block Grants/Entitlement Grants); 14.225 (Community Development Block Grants/Special Purpose Grants/Insular Areas); and 14.228 (Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii) (formerly CDBG Grant/Small Cities Program).

Environmental Impact: A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for inspection at HUD's Funding Opportunities web page at: *https://www.hud.gov/grants/*. The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

John Gibbs,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2020–18242 Filed 8–19–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2020–N106; FVHC98220410150–XXX–FF04H00000]

Louisiana Trustee Implementation Group Deepwater Horizon Oil Spill Draft Restoration Plan and Environmental Assessment #7: Wetlands, Coastal, and Nearshore Habitats; and Birds

AGENCY: Department of the Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA); the National Environmental Policy Act of 1969 (NEPA); the Final Programmatic Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS) and Record of Decision; and the Consent Decree, the federal and state natural resource trustee agencies for the Louisiana Trustee Implementation Group (LA TIG) have prepared the *Louisiana Trustee Implementation Group Draft Restoration Plan #7 and Environmental Assessment: Wetlands, Coastal and Nearshore Habitats; and Birds* (RP/EA #7). In the Draft RP/EA #7, the LA TIG proposes projects to help restore bird habitat and marshes injured as a result of the *Deepwater Horizon* (DWH) oil spill in the Louisiana Restoration Area under the ''Wetlands, Coastal and Nearshore Habitats'' and ''Birds'' restoration types described in the Final PDARP/PEIS. The approximate cost to implement the LA TIG's proposed project with five preferred alternatives is $234,100,000. We invite public comments on the Draft RP/EA #7.

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Housing Rehabilitation Loan Program, CDBG, and CARES Act

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To:

I understand there is some confusion relative to Community Development Block Grant (CDBG) funding and the CARES Act - Community Development Block Grant (CDBG-CV) award recently allocated to the City. I am hoping I can provide a little background to help clarify. You may already have this information; if so, please accept my sincere apologies.

The City receives CDBG funding annually and it is primarily allocated to First Time Home Buyer, home repair, and poverty impact programs. The City acts as a lender for the home buyer and repair programs and certain loan underwriting standards are utilized to ensure ethical use of federal funding. HUD requires underwriting standards for all loans issued by the City.

A special, separate CDBG-CV allocation was issued to the City of Billings through the CARES Act to be used exclusively for coronavirus response. We are currently in the process of identifying funding priorities and setting up an application process for agencies to respond to the pandemic. Waivers for CDBG-CV relate to public comment periods and timelines for submission of amendments to the City's Consolidated and Annual Action Plans. All other program requirements are still in effect (underwriting, environmental review, etc.). The City's Housing Rehabilitation program is unrelated to this funding source.

These two funding sources are managed separately, and the City will not utilize CDBG-CV CARES Act waivers for programs funded with CDBG.

Billings
PLANNING
& COMMUNITY
SERVICES

Community
Development
Division

2825 3rd Ave. N
Billings, MT 59101
6th Floor
P 406.657.8281
TTY 711

December 11, 2020

SUBJECT: HOUSING REHABILITATION DEFERRED LOAN PROGRAM

Dear

Thank you for applying for the Housing Rehabilitation Deferred Loan Program. Staff reviewed the materials and determined you are not currently eligible for the Housing Rehabilitation Deferred Loan Program for the following reason:

> *In order to qualify for the Housing Rehab Deferred Loan Program, you must not have had any late mortgage payments in the last twelve (12) months. The credit report I obtained provides a mortgage payment history that shows multiple late and/or partial payments within the last 12 months. Therefore, you do not currently meet program eligibility requirements.*

Please feel free to reapply when you have at least twelve (12) consecutive months of timely and full mortgage payments.

Please let me know if you have questions. You may reach me by phone at 657-8284 or by email to rodiert@billingsmt.gov.

Sincerely,

Tam Rodier

Tam Rodier
Program Coordinator

TLR

Enclosure

COMMUNITY DEVELOPMENT DIVISION

Community Development Board Agenda

2825 3rd Avenue North, Billings, MT 59101 Phone: 406.657.8281 Fax: 406.294.7595 Relay: 711 www.CityofBillings.net/ComDev

Board Members: Presented below is the agenda for the upcoming Community Development Board Meeting. If you have any additional items to add to the agenda, if you have questions, or if you are unable to attend the meeting, please call Carly Collins at 406-247-8675 or notify via email at collinsc@billingsmt.gov.

COMMUNITY DEVELOPMENT BOARD AGENDA **3:00 pm, Tuesday, February 2, 2021** **Virtual Video Conference via Zoom & Planning & Community Services Facebook - Live**			
Order	*Agenda Items*	*Person(s)*	*Process*
I.	**Welcome / Introduction / Announcements**	Rebecca Noell	-
II.	**Public Comment Period – As Required:** *3 Minute Maximum per Person*	Rebecca Noell	Public Comment
III.	**Meeting Minutes**	Rebecca Noell	Action
IV.	**Staff Reports**	CD Staff	Report
	Staff will report on current programs and progress to date on projects, including: First Time Home Buyer program; Home Repair programs; Foreclosure Acquisition / Rehabilitation program; and the Billings Metro VISTA Project.		
V.	**Housing Rehab Program Denial Grievance**	Tam Rodier	Report
	Information regarding the Community Development Division's ***Nondiscrimination, Accommodations & Grievances*** *policies and guidance may be found here. This includes the following:* • ***Program Eligibility:*** *If you disagree with a staff decision relative to program eligibility unrelated to discrimination, you may submit a written appeal to the Community Development Division. The letter must be received at least two weeks prior to the Community Development Board meeting when the appeal would be reviewed. If the Community Development Board upholds the staff decision, you have the option to have the appeal reviewed during the next City Council meeting.*		
VI.	**Review Applications**	Brenda Beckett	Report
	An opportunity for the Board to review applications submitted for CDBG/HOME funding.		
VII.	**Project Activity Summary, Preliminary Revenues**	Brenda Beckett	Report
	The preliminary report on revenues for CDBG and HOME will be presented to the Board. A status report of all currently open activities will be reviewed.		
VIII.	**CDBG-CV CARES Act Funding**	CD Staff	Report
	The City of Billings has been allocated a total of $909,126 in CDBG-CV funds to be used to prevent, prepare for, and respond to the coronavirus. HUD has issued regulatory guidance for the use of CDBG-CV funds and duplication prevention; staff is reviewing and interpreting guidance. *Upcoming processes:* • *Staff will provide an update on the* **Billings Coronavirus Community Assessment** *document.* • *The CD Board will discuss findings and set priorities for funding applications and distribution.* • *A publicly advertised grant application process will be established and carried out.* • *The CD Board will prioritize applications to fund activities to meet community needs relative to pandemic response.* • *Staff will submit an amendment to the FY2020-2021 Annual Action Plan to HUD for approval.* • *Subrecipient training can be carried out prior to executing agreements; activities will commence; staff will monitor implementation and report on outcomes.*		
VII.	**Neighborhood Concerns & Happenings**	CD Board	Updates
	An opportunity for board members to share information or concerns.		
Set Next Meeting Agenda & Adjournment: *Next Meeting: March 2, 2021*			

Note: Additional information on any of these items is available in the Community Development Office. Public meetings are accessible to individuals with physical disabilities. Special arrangements for participation in the public meetings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the meeting. Please notify Carly Collins at 406-247-8675 or email at collinsc@billingsmt.gov.

2825 3rd Avenue North, Billings, MT 59101 Phone: 406.657.8281 Fax: 406.294.7595 Relay: 711 www.CityofBillings.net/ComDev

Regular Meeting of the Community Development Board
February 2, 2021

Board Members Present: Rebecca Noell, Katrina Kruger, Jim Corson, Jessica Schmidt, Shane Noble, Joe Stockburger, Hannah Olson, Council Member Denise Joy

Board Members Excused: Bret Rutherford, Laura Gittings-Carlson

Staff Present: Brenda Beckett, Dina Harmon, Tam Rodier, Carly Collins

Welcome / Introductions / Announcements: The Community Development (CD) Board met via virtual videoconference as scheduled. Board Chair, Rebecca Noell, called the meeting to order at approximately 3:00pm.

Public Comment: No public comment.

Meeting Minutes: Board member, Jim Corson, moved to approve the January meeting minutes. Board member, Shane Noble, seconded the motion. A vote was taken, and the minutes were approved unanimously.

Staff Reports:

- **Foreclosure Acquisition / Housing Rehabilitation Program:** The Request for Proposals on the 930 Steffanich property is advertised on the City website and will remain open until a contract can be executed. No proposals have been submitted. Staff will continue to review options for how to move forward with this project.

  Construction at the 817 N. 22nd Street property is nearly complete. Staff provided answers to questions posed at the last meeting including purchase price, lot square footage, and costs of the project to date. Staff will order an after-rehab appraisal as soon as the punch list has been completed. Staff offered for the board to do a walk-through in person, which will be scheduled immediately following the March meeting.

- **Housing Rehabilitation:** Two new applications were received in January. There is funding available to assist one or two more properties during this fiscal year.

- **First Time Home Buyer Program**: The program has four pending closings scheduled for the next couple of weeks, and applications are received regularly. There is funding available to assist several more households. Jim Corson asked how much assistance applicants receive. Staff explained that households with annual incomes below 60% of the Area Median Income (AMI) receive a loan up to $15,000, and households above 60% but below 80% AMI can receive up to $10,000. These loans are designed to cover closing costs first, then down payment assistance. Loans must be repaid to the City if the applicant sells the property, refinances, or uses the residence it a rental.

- **Affordable Housing Development:** The NeighborWorks project at the C & C Resident Owned Community (ROC) is moving forward. Additional reimbursements for the project have been processed and items are being prepared for bidding. City permits are prepared, and an internal review of the plans and drainage report is underway.

- **Billings-Metro VISTA Project:** Two new AmeriCorps VISTA Members will be starting service terms on February 16th. Staff will send out VISTA bios for our new members following the meeting. Current members organized and participated in a variety of direct service projects for the MLK Day of Service in January. Several new Host Sites submitted proposals for new VISTA projects starting in July / August. Jim Corson suggested that if Board Members have information about potential new Host Sites, please contact Carly Collins.

Housing Rehab Program Denial Grievance: Staff presented a timeline of the application process and reason for denial. The applicant is appealing program eligibility, which is a disagreement with staff's decision, unrelated to discrimination. Staff indicated that if the CD Board upholds the staff's decision, the applicant has the option to present an appeal for review at a City Council meeting. Board Chair, Rebecca Noell, asked if it is the position of staff that we need to review the grievance further, with the understanding that the staff's decision was to deny the application. Shane Noble asked if the applicant has indicated whether they will have legal representation. Staff did not have any additional information about this.

Jim Corson moved for the CD Board to uphold staff's decision on the denial. Board Member, Hannah Olson, seconded the motion. A vote was taken, and the decision to uphold the denial was unanimous.

Review Applications: Brenda Beckett emailed the applications for FY 2021-2022 Community Development Proposed Activities for the Board to review. Staff reviewed the proposed activities and funding for current programs. The Board will have the opportunity to review applications prior to next month's meeting.

Staff proposed that CDBG and HOME Administration be funded at the 20% maximum amount. There are no current CHDO (Community Housing Development Organizations) development applications pending outside of the C&C ROC.

The Housing Rehabilitation Loan Program proposes to assist 4 households, but staff is also reviewing this program as applications have been low in recent years. Brenda offered for the Board to discuss this program with staff and provide recommendations going forward. The number of assisted households may be lowered, and funding recommendations can change in the future.

There were no changes to the First Time Home Buyer Program. Staff proposes to assist 35 households. There may be changes in the future if there are ongoing issues about affordability or availability of units. In the Foreclosure Acquisition / Rehabilitation Loan Program, funding for one household was proposed. When properties are sold, some funding is returned to the City as Program Income and can be used for future projects.

The Billings Metro VISTA Project proposes to assist 200 individuals and the division's financial commitment is around $63,000. The proposed funding will allow for some flexibility in case of grant extensions or changes in the future. The Project is moving out of a project grant status to a support grant. Staff support will be a little lower as a result and staff time / admin costs will be less as well. Staff reviewed an updated valuation of the VISTA program, which totals over $9.5 million.

Project Activity Summary, Preliminary Revenues: This report was postponed until staff has determined specific HUD allocations for the City and can evaluate current program budgets for accurate program allocations.

Community Development Block Grant COVID-19 (CDBG-CV) / CARES Act Funding: Staff continues to review possible duplicated funding sources. Staff will prepare a report of potential funding priorities after completing this review. The CD Board will submit recommendations prior to moving through the development of the application process.

Brenda Beckett mentioned that HRDC is using CARES Act funding to supplement their energy assistance programs, so this will not be an eligible allocation. There may be a way to work out with HUD to extend income eligibility guidelines for some of their programs, but HUD must be consulted on this. Tam Rodier reported that because the City of Billings manages water and utility bills, a conflict of interest exists, and would not be an eligible allocation. Rebecca Noell asked about assisting other CHDOs like NeighborWorks Montana to establish more ROCs. Brenda mentioned CDBG-CV funds cannot be used to develop affordable housing because it does not directly impact the coronavirus (requirement is that activities must prevent, prepare for or respond to Coronavirus). As far as property disposition goes, if property is developed that is specific to coronavirus, but is later used for other reasons, the funding must be returned as it has been a "change of use." The state has already allocated funds for

many opportunities, so the field is narrowing. In addition, Brenda noted that HUD waivers are mostly related to expediting fund use – there is no waiver for environmental reviews, social justice reviews, lead based paint, etc. All other regulations are still in place.

Jim Corson asked if it is possible to use CDBG-CV funds to enhance cleaning of restrooms in parks and playgrounds. Brenda expressed that it would have to be a higher cleaning standard than is currently in place but could potentially be a funding recommendation. With the Board's recommendation, Brenda will work with City administration to approach other City departments and discuss what ideas or unmet needs they have had in relation to responding to coronavirus. Board Member, Katrina Kruger, noted that the funding aspect of handwashing stations could be a challenge, as it may not be proven to benefit the low-income population. Brenda added that other cities have tiered their application process to fund different opportunities at different times.

Neighborhood Concerns and Happenings: Jim Corson mentioned that he has several Montana Legislative Guides to distribute to CD Board Members and he will arrange to provide them for anyone interested.

Next Meeting: Board Chair, Rebecca Noell adjourned the meeting at approximately 3:45pm. The next meeting will be held on March 2, 2021.

City Council Regular

Date:	04/26/2021
Title:	Hunters Point Subdivision, Preliminary Minor Plat
Presented by:	Karen Husman
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

Staff recommends conditional approval of the preliminary plat of Hunter's Point Subdivision to the City Council, and adoption of the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

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

1. To minimize the effects on local service, prior to final plat approval the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On March 15, 2021, Sanderson Stewart, applied for preliminary minor plat approval for Hunter's Point Subdivision. The proposed subdivision creates 3 lots for development. The subject property is generally located at 3038 Central Avenue. The property is zoned Corridor Mixed Use 1 (CMU1) and Mixed Residential 3 (NX3). The land is currently a single large lot described as Certificate of Survey 2991, Parcel 1C.

Consistency with the 2016 Growth Policy, the 2018 Transportation Plan and the Billings Area Bikeway and Trail Master Plan are discussed within the Findings of Fact which is attached to this report.

VARIANCES REQUESTED

No variances from the City Subdivision Regulations have been requested.

PROCEDURAL HISTORY

- Pre-application meeting February 4, 2021.
- Preliminary plat application submitted to Planning Division March 15, 2021.
- Preliminary plat to City Council April 26, 2021.
- 35 working-day preliminary plat review period ends May 3, 2021.

PLAT INFORMATION
General location: 3038 Central Avenue
Legal Description: C/S 2997, Parcel 1C
Owner/Subdivider: Bach Homes
Engineer and Surveyor: Sanderson Stewart
Existing Zoning: CMU1 and NX3
Existing land use: Vacant
Proposed land use: Residential
Gross and Net area: 8.86 Acres/8.26 Acres
Proposed number of lots: 4
Lot size: Max: 4.23 acres
Min.: 1.01 acres
Parkland requirements: No parkland is required as this is a minor plat

STAKEHOLDERS
A public hearing is not scheduled for the City Council meeting; however nearby property owners and any members of the public may attend the City Council meeting. Prior to creating this staff report, the Planning Division has received no public comments or questions regarding the proposed subdivision.

ALTERNATIVES
One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. When negative effects are identified, it is the subdivider's responsibility to mitigate those effects.

Various City departments, private service/utility providers and the affected school district has reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be minimal impacts from this proposed subdivision.

In accordance with state law, the City Council has 35 working days to act upon this minor preliminary plat. The 35 working day review period for the proposed plat ends on May 3, 2021. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated.

Within the 35 working day review period, the City Council is required to:
1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FISCAL EFFECTS
Approval of this subdivision does not impact the Planning Division budget.

Attachments

Findings of Fact
SIA

Preliminary Plat
Mayor's Approval Letter

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary minor plat of Hunter's Point Subdivision. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(8), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302 (8)(b)]

1. Effect on agriculture and agricultural water user facilities

The subject property is not used as farmland. The land has not been used for farming for quite some time. This proposed subdivision will have no effect on agriculture or water user facilities.

2. Effect on local services

a. **Utilities** – Water service will be provided by the City of Billings. Currently, the property is provided with an existing 8-inch City water service from a 12-inch main in Central Avenue. New water services will be installed for all lots in the subdivision at the time of development. Water service easements shall be recorded with the subdivision plat to allow water service for Lot 4 to cross Lot 1, and for the water service for Lot 3 to cross Lot 2. New fire hydrants will be installed in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality (MDEQ).

b. **Sewer** - Sanitary sewer service will be provided by the City of Billings. The property is currently served by an existing 8-inch sanitary sewer main that is within a Perpetual Right-of-Way Easement. New sewer services will also be installed for all lots in the subdivision. At the time of development for Lot 4 Proposed Multi-family residential use, each building will be provided an individual sanitary sewer service connection from the main. The subdivider will install new sewer line services in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ.

c. **Storm water** –All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the City Engineering Division.

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

e. **Streets** – The subdivision will be provided access from two access points off Central Avenue, along with a reciprocal access easement with the existing

Hunter's Pointe Apartments to the west (Lot 2 Summer Ridge Sub.). Developer will construct public streets, and curb and gutter within the subdivision. They will be built to meet the requirements of the City of Billings Engineering Division and receive their approval before any construction.

f. **Emergency services** – The Billings Police and Fire Department will respond to emergencies within the proposed subdivision. The nearest fire station is located at 605 S 24th Street West (Station #5). When the lots develop in the future, the lot developer will install fire hydrants at the required locations to meet regulations outlined in Fire Code.

   The subdivision is located within the ambulance service area of American Medical Response (AMR). AMR comments indicate they have adequate staff and equipment to service the new subdivision.

g. **Schools** –The district had no comments to indicate capacity for the subdivision could not be accommodated within the surrounding schools.

h. **Parks and Recreation** – There is no parkland requirement for this subdivision.

i. **Mail Delivery -** The United States Postal Service (USPS) will provide postal service to the subdivision.

3. Effect on the natural environment

The subject property is relatively level. In the SIA there is a paragraph notifying future lot owners there may be limitations or special requirements of the lot soils that should be investigated before construction on the lots (SIA page 2, II B).

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. This subdivision should have a minimal effect on wildlife and wildlife habitat.

5. Effect on the public health, safety and welfare

There should be no impacts to public health, safety and welfare because of this subdivision.

B. Was an Environmental Assessment required? [(MCA 76-3-616 and BMCC 23-902]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616 (2), MCA.

C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]

1. City of Billings 2016 Growth Policy

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

> **Essential Investments:** Infill development and development near existing City infrastructure may be the most cost effective. (p.6)
>
> **Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):** Neighborhoods that are safe and attractive and provide essential services are much desired. (p.8)
>
> **Home Base (healthy, safe and diverse housing options)** Homes that are safe and sound support a healthy community

2. 2018 Billings Urban Area Long Range Transportation Plan

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

3. Billings Area Bikeways and Trail Master Plan (BABTMP)

The proposed subdivision lies within the jurisdiction of the BABTMP. There is no trail identified within the proposed subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302(8)(b)(1)]

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302 (8)(b)(5)]

The subject property will conform to the requirements of current zoning. When the lots are sold and they submit for a building permit at that time the additional requirements of zoning will be reviewed with the permit process.

F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302 (8)(b)(2)]

The subdivider has provided utility easements for private utility companies.

G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302 (8)(b)(3)]

Legal and physical access to the proposed lots will be provided for lots 1, 2 and 3 from Central Avenue, lot 4 will have access through a reciprocal access easement with Lot 2 of

Summer Ridge Subdivision west of the lot, and an existing reciprocal access easement between Brookshire Subdivision to the east.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Hunter's Point Subdivision does not create any adverse impacts that warrant denial of the subdivision.

- The proposed subdivision conforms to several of the goals and policies of the 2016 Growth Policy and does not conflict with the Transportation Plan or Billings Area Bikeways and Trail Master Plan.

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

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

RECOMMENDATION

Staff recommends conditional approval of the preliminary plat of Hunter's Point Subdivision to the City Council, and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, April 12, 2021

_____

William A. Cole, Mayor

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

SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS HUNTER'S POINTE SUBDIVISION

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

SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS HUNTER'S POINTE SUBDIVISION

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between **BACH HOMES**, whose address for the purpose of this agreement is 11650 S State Street, Suite 300, Draper, Utah, 84020, hereinafter referred to as "Subdivider", and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the plat of Hunter's Pointe Subdivision, being Tract 1C of Certificate of Survey No. 2991, located in Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

WHEREAS, at a regular meeting conducted on the 26th day of April, 2021, the City Council conditionally approved a preliminary plat of Hunter's Pointe Subdivision; and

WHEREAS, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat; and

WHEREAS, the provisions of this agreement shall be effective and applicable to Hunter's Pointe Subdivision upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

I. VARIANCES

A. Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1101, BMCC):

1. None requested.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

A. Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.

B. Lot owners should be aware that a geotechnical investigation will be required prior to future construction. Assessment and mitigation of any conditions shall be the responsibility of the lot owner.

C. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider, and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

D. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

E. The subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the city

and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

III. TRANSPORTATION

A. Streets

Subdivider and City agree that the required street improvements are as follows:

1. All future site improvements within the subdivision will be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, the Uniform Building Code, the most current *Stormwater Management Manual*, and other applicable City codes, rules, and regulations.

2. A Traffic Impact Study shall be required to be submitted to the Engineering Division for review and approval prior to final plat approval. Construction and/or financial contribution for improvements along adjacent streets, and within the subdivision, shall be in accordance with that document and as generally described herein.

3. Intersection contributions are also identified within the Traffic Impact Study and noted herein. The costs for these intersection improvements shall be paid for at time of initial development of any lot within the subdivision.

   Based on the Traffic Impact Study, the intersection contributions shall be paid at the time of initial development of any lot within the subdivision and are as follows:

   - Central Avenue and 32nd St. W. (2.13%) $5,325.00

     Total Contribution $5,325.00

B. Curb, Gutter and Sidewalks

Curb, gutter and sidewalks do not currently exist along the Central Avenue frontage of the subdivision. Lots 1 and 2 front Central Avenue, and at the time of development of either of these lots, the Subdivider will install curb, gutter and sidewalk along the frontage. The sidewalk width and style shall be as specified by the City.

Internal sidewalks will be required to comply with 50-60-213, MCA.

C. Street Lighting

No street lighting exists along Central Avenue in the vicinity of this subdivision. No new street lighting will be required as a result of this subdivision but is included in the Waiver of Right to Protest Future Special Improvement Districts.

D. Traffic Control Devices

No street traffic control devices are anticipated at this time for the subdivision but is included in the Waiver of Right to Protest Future Special Improvement Districts.

E. Access

Access to the lots will be provided from two access points off of Central Avenue, along with a reciprocal access easement with the existing Hunter's Pointe Apartments to the west (Lot 2 of Summer Ridge Subdivision).

The first access on Central Avenue is existing and is through a Reciprocal Access Easement executed by and between Lydia Kramer Real Estate Management and Legacy Homes, Inc., recorded the 9th day of June 2008, under Document No. 3469479 between Tract 1C and 1B of Certificate of Survey 2991, according to the official plat on file in the Office of the Clerk and Recorder of Yellowstone County, under Document No. 3033373.

The second access will be a new full access on the common lot line of Lots 1 and 2 and is intended to provide reciprocal access between these two lots and lot 3. The City agrees to allow this full access until such time there is an engineering study by the City documenting the need to modify the approach to either a ¾ access or a right-in right-out only access due to traffic crash information or an access control study.

Lot 4 will have a reciprocal access easement with Lot 2 of Summer Ridge Subdivision which is west of the subject lot.

F. Billings Area Bikeway and Trail Master Plan

No segment of the Bikeway and Trail Master Plan is located in this subdivision.

G. Public Transit

There are existing MET Transit routes in the vicinity of this Subdivision. No additional improvements are required for the subdivision relating to public transit.

IV. EMERGENCY SERVICES

Emergency services will be provided by the City of Billings. Access will be provided by the adjacent roadway of Central Avenue, along with secondary access through the existing Hunter's Pointe Apartments to the west (Lot 2 of Summer Ridge Subdivision) by a reciprocal access easement.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (fire hydrants) in place to allow for fire suppression requirements. Prior to the issuance of a building permit for construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus access roads and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along the approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of twenty (20) feet wide.
- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

- Paved emergency access roads and a looped private fire line system with hydrants exists within the development.

  The roads and hydrants shall be maintained in accordance to the currently adopted fire code requirements by the Subdivider.

V. STORM DRAINAGE

Stormwater will be handled through surface flow and piping within the subdivision. All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development. A complete stormwater management plan shall be submitted to the Engineering Division for review and approval at the time of development of each individual lot.

VI. UTILITIES

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension/connection of/to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the subdivision shall be subject to the applicable System Development Fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

A. Water

Currently, the property is provided with an existing 8-inch City water service from a 12-inch water main in Central Avenue. At the time of development, each lot will be required to install an individual water service for domestic water supply from the main in Central Avenue. Water service

easements shall be recorded with the subdivision plat to allow the water service for Lot 4 to cross Lot 1, and for the water service for Lot 3 to cross Lot 2.

B. Sanitary Sewer

Currently, the property is served by an existing 8-inch sanitary sewer main that is contained within a Perpetual Right-of-Way Easement, dated June 9, 2008, executed by Hunter's Pointe Apartments, LLC, Lydia Kramer Real Estate Management and Legacy Homes, Incl, granted to the City of Billings and recorded June 17, 2008 under Document No. 3469480.

At the time of development, each lot will be required to install an individual sanitary sewer service from this main. At the time of development of Lot 4, which is currently contemplated as a multi-family residential land use, each building will be provided an individual sanitary sewer service connection from the main.

C. Power, Telephone, Gas, and Cable Television

Power, telephone, gas, and cable television lines already exist within the public right of-way. Appropriate utility easements will be provided across the subdivision lots for service to the proposed development.

VII. PARKS/OPEN SPACE

There is no parkland requirement for proposed Hunter's Pointe Subdivision, as this is a minor subdivision [MCA 76-3-621(3)(a)].

VIII. IRRIGATION

No irrigation ditches are located on this property.

IX. SOILS/GEOTECHNICAL STUDY

A geotechnical investigation shall be provided as part of a building permit application for any new structure within this subdivision.

X. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install, and construct said required improvements with cash or by utilizing the mechanics of a private contract secured

by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

A. Subdivider agrees to guarantee all public improvements for a period of two years from the date of final acceptance by the City of Billings.

B. The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.

C. The covenants, agreements, and all statements in this Agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.

D. In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.

E. Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.

F. Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

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

"SUBDIVIDER" **BACH HOMES**

By: _____

Title: _____

STATE OF _____)
: ss
County of _____)

On this _____ day of _____, 20__, before me, a Notary Public in and for the State of_____, personally appeared _____, known to me to be the _____ of **BACH HOMES**, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

This agreement is hereby approved and accepted by the City of Billings, this ____ day of _____, 20__.

"CITY" **CITY OF BILLINGS, MONTANA**

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
: ss
County of Yellowstone)

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

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

WAIVER OF RIGHT TO PROTEST
FUTURE SPECIAL IMPROVEMENT DISTRICTS

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements which the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties, and shall run with the land and shall be binding upon the undersigned, their successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

Hunter's Pointe Subdivision

Signed and dated this _____ day of _____, 20___.

"SUBDIVIDER" **BACH HOMES**

By: _____

Title: _____

STATE OF _____)
: ss
County of _____)

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of _____, personally appeared _____, known to me to be the person who executed the forgoing instrument as the _____ of **BACH HOMES** and acknowledged to me that he/she executed the same.

IN WITNESS WHEROF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

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

HUNTER'S POINTE SUBDIVISION

BEING TRACT 1C, CERTIFICATE OF SURVEY NO. 2991

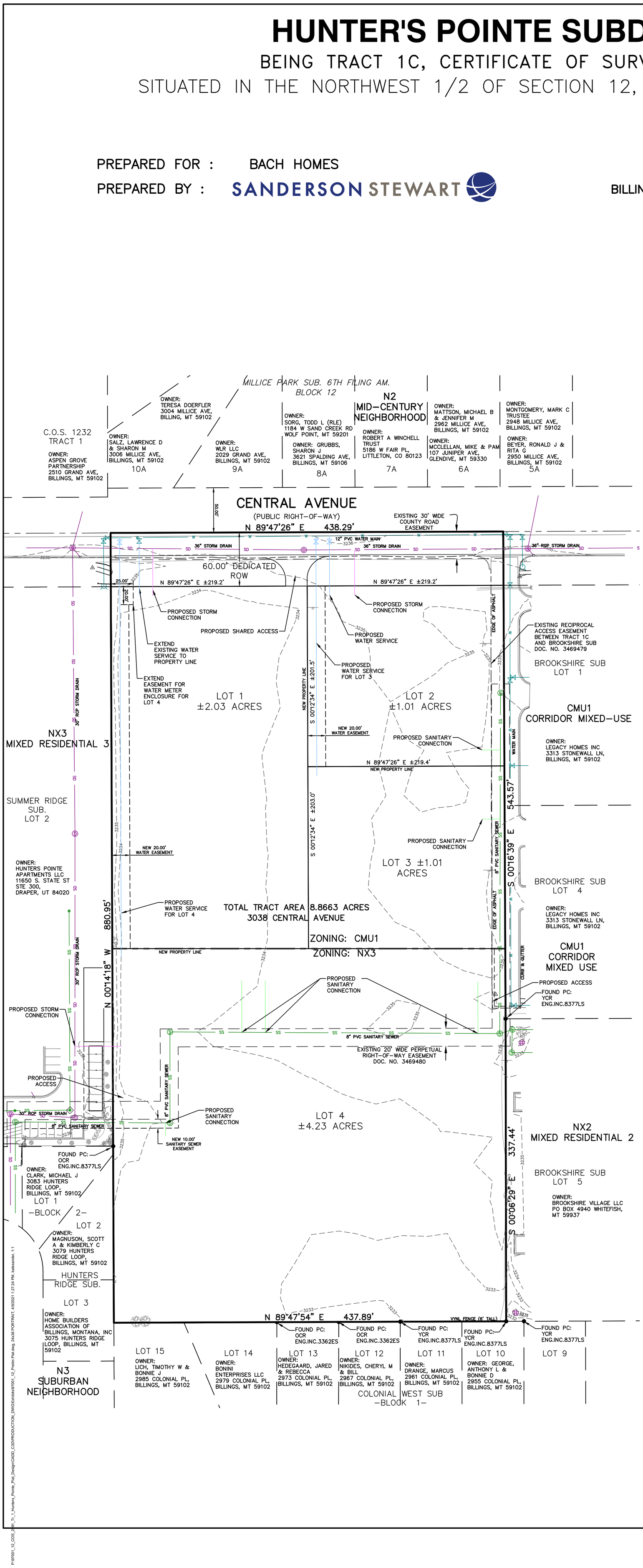
SITUATED IN THE NORTHWEST 1/2 OF SECTION 12, T. 1 S., R. 25 E., P.M.M

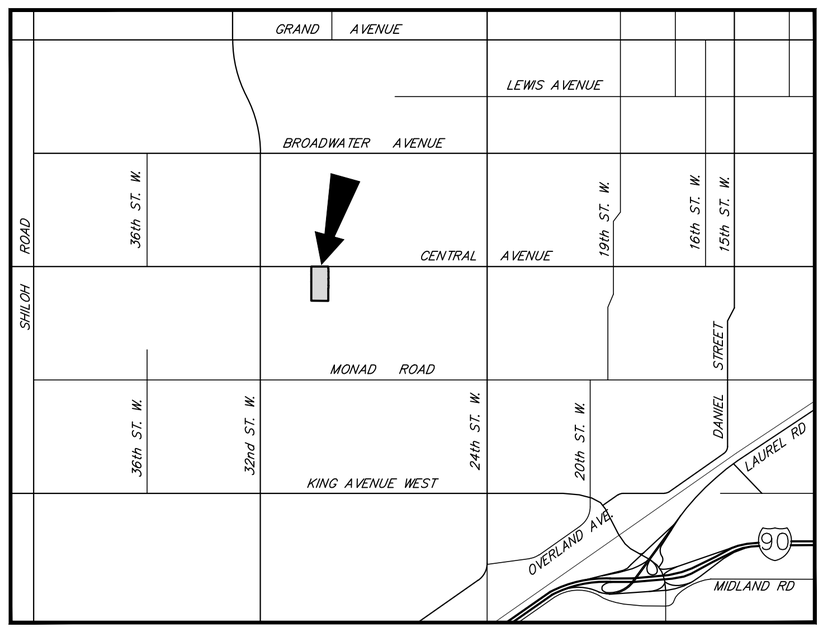
PREPARED FOR : BACH HOMES

PREPARED BY : SANDERSON STEWART

APRIL 2021

BILLINGS, MONTANA





VICINITY MAP

NOT TO SCALE

NORTH

50 25 0 50 100

SCALE:1" = 50'

BASIS OF BEARING: THE BASIS OF BEARINGS FOR THIS SURVEY HAS BEEN DERIVED FROM GPS OBSERVATIONS USING SURVEY GRADE RECEIVERS. DISTANCES SHOWN ARE GROUND.

LEGEND

●	SET REBAR WITH CAP MARKED "SANDERSON STEWART"	□	CATCH BASIN
		⋈	WATER VALVE
○	FOUND CORNER MONUMENT, AS NOTED		FIRE HYDRANT
		—o—	SIGN
—o—	POWER POLE	▫	TELEPHONE RISER
⊠	ELECTRIC SERVICE	—SS—	SANITARY SEWER MAIN
⊡	GAS SERVICE	—SD—	STORM DRAIN
Ⓢ	SAN SEWER MH	—W—	WATER MAIN
Ⓓ	STORM DRAIN MH	—G—	GAS LINE

ZONING DISTRICT BOUNDARY BY GRAPHIC PLOTTING

The underground utilities shown have been located from field survey information and existing drawings. The surveyor makes no guarantees that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated although he does certify that they are located as accurately as possible from the information available. The surveyor has not physically located the underground utilities.

PLAT DATA

GROSS AREA	= 8.86 ACRES
NET AREA	= 8.26 ACRES
NUMBER OF LOTS	= 4
MINIMUM LOT SIZE	= 1.01 ACRES
MAXIMUM LOT SIZE	= 4.23 ACRES
PARKLAND REQUIREMENT	= NONE REQUIRED
EXISTING ZONING:	
NORTH	= CORRIDOR MIXED-USE (CMU1)
SOUTH	= MIXED RESIDENTIAL 3 (NX3)
SURROUNDING ZONING:	
NORTHEAST	= CORRIDOR MIXED-USE (CMU1)
SOUTHEAST	= MIXED RESIDENTIAL 2 (NX2)
WEST	= MIXED RESIDENTIAL 3 (NX3)
SOUTH	= SUBURBAN NEIGHBORHOOD (N3)
SOUTHWEST	= SUBURBAN NEIGHBORHOOD (N3)
NORTH	= MID-CENTURY NEIGHBORHOOD (N2)
EXISTING LAND USE	= VACANT LOT
PROPOSED LAND USE:	
LOT 1	= COMMERCIAL
LOT 2	= COMMERCIAL
LOT 3	= COMMERCIAL
LOT 4	= 123 MULTI-FAMILY UNITS (68 GARAGES) & 236 TOTAL PARKING SPACES

P:\97001_12_COS_2991_T1_1_Hunters_Pointe_Plat_Design\CADD_C3D\PRODUCTION_DWG\Exhibits\97001_12_Prelim Plat.dwg, 24x36 PORTRAIT, 4/9/2021 1:27:24 PM, balexander, 1:1

CITY OF
Billings
MAYOR'S OFFFICE

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

April 26, 2021

Bach Homes
11650 S. State Street, Suite 300
Draper, Utah 84020

Dear Applicant:

On April 26, 2021, the Billings City Council conditionally approved the preliminary plat of Hunters Point Subdivision, subject to the following conditions of approval:

1. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.

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

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

Should you have questions please contact Dave Green at (406) 247-8666 or by email at greend@billingsmt.gov.

Sincerely,

_____
William A. Cole, Mayor

pc: Sanderson Stewart

City Council Regular

Date:	04/26/2021
Title:	Authorizing the Issuance and Calling for a Negotiated Sale for Sidewalk Bonds
Presented by:	Teri Walker
Department:	Finance
Presentation:	No

RECOMMENDATION

Staff recommends the City Council approve the resolution amending the resolution 21-10922 to add W.O. 20-12 to the pooled bond amount. W.O. 20-12 will reconstruct South 32nd Street West between King Avenue West and Gabel Road.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On January 25, 2021, the council approved the resolution authorizing a negotiated bond sale for W.O. 19-02 and W.O. 19-35. The sale of those bonds has not been finalized which allows the City to include W.O.20-12 as part of the pooled bond financing.

ALTERNATIVES

City Council may:

- Approve; or,
- Not approve the resolution and not include W.O. 20-12 in this bond sale.

FISCAL EFFECTS

By adding W.O. 20-12 to the pooled bond sale, the interest rate will be lower and the bond proceeds for this project will be available sooner. This will add approximately $900,000 to the bond sale, which will be repaid through assessments to benefited properties.

Attachments

resolution

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 21-_____, entitled: "RESOLUTION RELATING TO UP TO $1,510,000 POOLED SPECIAL SIDEWALK, CURB, GUTTER AND ALLEY APPROACH BONDS, SERIES 2021; AUTHORIZING THE ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF AND THE PLEDGE OF THE REVOLVING FUND TO THE SECURITY THEREOF; AND AMENDING AND RESTATING RESOLUTION NO. 21-10922 ADOPTED JANUARY 25, 2021" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on April 26, 2021, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

WITNESS my hand officially this _____ day of _____, 2021.

_____
City Clerk

RESOLUTION NO. _____

RESOLUTION RELATING TO UP TO $1,510,000 POOLED SPECIAL SIDEWALK, CURB, GUTTER AND ALLEY APPROACH BONDS, SERIES 2021; AUTHORIZING THE ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF AND THE PLEDGE OF THE REVOLVING FUND TO THE SECURITY THEREOF; AND AMENDING AND RESTATING RESOLUTION NO. 21-10922 ADOPTED JANUARY 25, 2021

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

Section 1. Prior Acts. This Council has duly and validly ordered in under Montana Code Annotated, Title 7, Chapter 14, Part 41, as amended and Title 7, Chapter 12, Parts 41 and 42, as amended (collectively, the "Act"), the installation, construction, reconstruction, or replacements of certain curbs, gutters, sidewalks, drive approaches, driveways, alley approaches and appurtenant improvements in certain locations in the City, which are designated as W.O. 19-02, Missing Sidewalk/Miscellaneous Project (the "Missing Sidewalk Improvements"), W.O. 19-35, Metal Streets Improvements (the "Metal Streets Improvements"), and W.O. 20-12 (the "South 32nd Street West Improvements"). The Missing Sidewalk Improvements, Metal Streets Improvements and the South 32nd Street West Improvements are referred to collectively herein as the "Improvements." The City has determined to assess the costs of the Improvements against property adjacent to the Improvements. Costs of the Improvements include costs of the design, engineering, construction and installation of the Improvements, costs of funding a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund"), costs associated with the sale of the Bonds (as hereinafter defined) and all other incidental costs.

On January 25, 2021, this Council adopted Resolution No. 10922 (the "Original Resolution") authorizing the City to issue and sell a series of special sidewalk, curb, gutter and alley approach bonds in the aggregate principal amount of up to $610,000 in order to finance on a pooled basis the Missing Sidewalk Improvements and the Metal Streets Improvements. Given the requisite timing for the financing of the South 32nd Street Improvements, the City desires to include the South 32nd Street West Improvements as part of the pooled bond financing authorized pursuant to the Original Resolution. Accordingly, the Council desires to amend and restate the Original Resolution in its entirety as provided herein.

Section 2. Recitals.

2.01. Proposed Bond Issue. The City proposes to issue special sidewalk, curb, gutter and alley approach bonds of the City in the maximum estimated principal amount of $1,510,000 to pay the costs of the Improvements (the "Bonds"). The Bonds are to be payable from special assessments to be levied against property adjacent to the Improvements, which property will be specially benefited by the Improvements. Assessments will be levied against the property adjacent to the Improvements in an amount not less than the principal amount of the Bonds to be issued.

The costs of the Improvements are currently estimated, as follows:

	Missing Sidewalk Improvements	Metal Streets Improvements	South 32nd Street West Improvements
Construction	$253,553.97	$217,487.80	$663,142.78
City Engineering (Project Management)	46,746.03	31,912.20	21,059.50
Consultant Management	—	—	139,597.72
City Financing Expense	1,200.00	6,600.00	1,200.00
Revolving Fund Deposit	16,500.00	14,000.00	45,000.00
Costs of Issuance	12,000.00	10,000.00	12,000.00
Total	$330,000.00	$280,000.00	$900,000.00

2.02. Pooling. The City is authorized pursuant to Montana Code Annotated, Sections 7-14-4109(5)(a) and 7-12-4193, to issue and sell sidewalk, curb, gutter and alley approach bonds relating to more than one project in a single offering on a pooled basis upon a determination that such pooling is in the best interests of the properties specially benefiting from the Improvements and the City and will facilitate the sale of the bonds under more advantageous terms or with lower interest rates.

Section 3. Sale and Term of Bonds.

3.01. Principal Amount. Pursuant to Sections 7-7-4204 and 17-5-107, Montana Code Annotated, this Council hereby determines that it is in the best interests of the properties specially benefiting from the Improvements and the City to sell the Bonds in a single pooled offering for the Improvements, at a private negotiated sale. The City Finance Director is authorized to select one or more purchasers (the "Purchaser") for the Bonds and to negotiate the sale thereof, subject to Section 3.02 hereof.

Improvement	Principal Amount
Missing Sidewalk Improvements	$ 330,000.00
Metal Streets Improvements	$ 280,000.00
South 32nd Streets Improvements	$ 900,000.00
	$1,510,000.00

3.02. Pricing and Terms. The Bonds shall be sold to the Purchaser on the terms and at a purchase price subject to the following limitations and conditions: (1) the aggregate principal amount of the Bonds shall not exceed $1,510,000; (2) the net interest cost on the Bonds shall not exceed 4.00%; (3) the purchase price of the Bonds shall not be less than 100% of the principal amount thereof; (4) the term of the Bonds shall not exceed 12 years; (5) the Bonds shall be payable from special assessments to be levied against property adjacent to the Improvements; and (6) the Bonds shall be callable from the prepayment of special assessments.

All costs of issuing the Bonds (including, without limitation, the fees and expenses of Dorsey & Whitney LLP, the City's Bond Counsel, the fees of the Paying Agent and Registrar

and the Bonds, if any) shall be paid by the City as part of the financing from proceeds of the Bonds or other available sources.

3.03. Bond Purchase Agreement. The City Administrator and City Finance Director are hereby authorized and directed to approve the final principal amount of the Bonds, dated date, the debt service schedule, interest rates and redemption provisions of the Bonds, subject to the limitations contained in Section 3.02 hereof and the Act. Upon approving such terms, the City Administrator and City Finance Director are hereby authorized and directed to approve, execute and deliver to the Purchaser a bond purchase agreement (the "Bond Purchase Agreement"), containing the agreement of the City to sell, and the agreement of the Purchaser to purchase, the Bonds on the terms so approved, and containing such other provisions as such officers shall deem necessary and appropriate. In the event of the absence or disability of the City Administrator and City Finance Director, the Mayor or Deputy City Administrator shall make such approvals and execute and deliver the Bond Purchase Agreement. The execution and delivery by appropriate officers of the City of the Bond Purchase Agreement shall be conclusive as to the approval of such officers of the terms of the Bonds and the agreement of the City to sell the Bonds on such terms in accordance with the provisions thereof.

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

Section 4. Pledge of Revolving Fund. In the resolutions ordering in the Missing Sidewalk Improvements, the Metal Streets Improvements and the South 32nd Street West Improvements adopted by the City Council on May 13, 2019, April 13, 2020 and March 22, 2021, respectively, this Council found it to be in the public interest, and in the best interest of the properties specially benefitting from the Improvements and the City, to secure payment of principal of and interest on the Bonds by the Revolving Fund and authorized the City to enter into the undertakings and agreements authorized in the Act in respect of the Bonds, based on the factors required to be considered under Section 7-12-4225(4) of the Act. Those findings and determinations are hereby ratified and confirmed. It is hereby covenanted and recited that the City has the power under the Act to pledge the Revolving Fund to payment of the principal of and interest on the Bonds.

Section 5 Effect of Resolution. This resolution shall be effective immediately upon its passage. It amends, restates and supersedes the Original Resolution in its entirety.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, this 26th day of April, 2021.

_____
Mayor

Attest: _____
City Clerk

City Council Regular

Date:	04/26/2021
Title:	Bond Resolution for General Obligation Refunding Bonds
Presented by:	Teri Walker
Department:	Finance
Presentation:	No

RECOMMENDATION

Staff recommends the City Council approve the bond resolution for the General Obligation Refunding bonds.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The Council approved the resolution awarding the bid on April 12th, 2021. Once the bond resolution is passed, the City can prepare for the bond closing on May 11th. The bond proceeds will be held in escrow until July 1 when the Series 2012 Library bonds can be paid off.

ALTERNATIVES

There are no alternatives, as the City Council already accepted the bid from Robert W. Baird and Co., Inc. at the April 12, 2021 meeting.

FISCAL EFFECTS

The true interest cost is .923% which results in a net present value savings of $1,361,025. These savings will reduce the property tax levy in Billings.

Attachments

resolution

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO $7,310,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2021; FIXING THE FORM AND DETAILS, MAKING COVENANTS WITH RESPECT THERETO, AUTHORIZING THE EXECUTION AND DELIVERY AND LEVYING TAXES FOR THE PAYMENT THEREOF" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on April 26, 2021, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: _____

_____; voted against the same: _____; abstained from voting thereon: _____; or were absent:_____.

WITNESS my hand and seal officially this 26th day of April, 2021.

_____
City Clerk

(SEAL)

RESOLUTION NO. _____

RESOLUTION RELATING TO $7,310,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2021; FIXING THE FORM AND DETAILS, MAKING COVENANTS WITH RESPECT THERETO, AUTHORIZING THE EXECUTION AND DELIVERY AND LEVYING TAXES FOR THE PAYMENT THEREOF

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

Section 1. Authorization and Sale; Recitals.

1.01 Authorization. At an election duly called and held on November 8, 2011, the electors of the City authorized the issuance and sale of general obligation bonds in the principal amount of $16,300,000. Pursuant to such authorization, the City sold and issued general obligation bonds of the City denominated its General Obligation Bonds, Series 2012, in the aggregate principal amount of $15,460,000 (the "Series 2012 Bonds"). The proceeds of the Series 2012 Bonds were used to pay costs of designing, constructing and equipping a new library building in replacement of the Parmly Billings Library and related improvements (the "Project") and paying costs associated with the issuance and sale of the Series 2012 Bonds.

For the purpose of reducing the interest costs and reducing the taxes necessary to pay the principal of and interest on the Series 2012 Bonds, this Council has determined that it is in the best interests of the City and the owners of taxable property therein for the City to pursue the sale of general obligation refunding bonds in order to (i) refund the Series 2012 Bonds maturing on and after July 1, 2022 and outstanding in the aggregate principal amount of $8,215,000 (the "Refunded Bonds"), and (ii) pay the costs associated with the refunding and the sale and issuance of such bonds.

1.02 Sale. Pursuant to Resolution No. 21-10934, adopted by the Council on March 22, 2021, the City authorized and provided for the sale and issuance of general obligation refunding bonds of the City, to be denominated "General Obligation Refunding Bonds, Series 2021" (the "Series 2021 Bonds"), at a public competitive sale. Pursuant to such authorization, by a resolution adopted on April 12, 2021, the Council awarded the sale of the Series 2021 Bonds to Robert W. Baird & Co., Inc., of Milwaukee, Wisconsin (the "Original Purchaser"), on its bid to purchase the Series 2021 Bonds in the aggregate principal amount of $7,310,000 at a purchase price of $8,293,084.27 (reflecting an underwriter's discount of $37,092.78 and original issue premium of $1,020,177.05), the Series 2021 Bonds to bear interest at the rates and mature on the dates and in the amounts and contain the further terms and conditions set forth in this resolution. The sale of the Series 2021 Bonds to the Original Purchaser is hereby ratified and confirmed. The indebtedness to be evidenced by the Series 2021 Bonds and all other indebtedness of the City does not exceed the limitation set forth in Section 7-7-4201, Montana Code Annotated.

The interest rates to be borne by the Series 2021 Bonds result in a total dollar interest cost of $1,445,577.92, a true interest cost of 0.9234685%, an average annual interest rate of

3.0884934% per annum, and a net present value interest savings of $1,361,024.84, using a discount rate of 0.847% per annum (the approximate yield of the Series 2021 Bonds) over the term of the Refunded Bonds. As required by Montana Code Annotated, Section 7-7-4304, the refunding results in a reduction of total debt service to the City. It is now desirable, proper and in the best interest of the City that the form and details of the Series 2021 Bonds be set forth and prescribed in the official proceedings of this Council.

1.03 Foundation Gift. The Billings Public Library Foundation and the City entered into the Parmly Billings Library Foundation Gift Memorandum of Agreement, dated July 9, 2012 (the "Memorandum of Agreement"), pursuant to which the Foundation agreed to donate $3,000,000 to the City in the form of a pledge to be fulfilled over a ten year period, commencing August 1, 2012 (the "Foundation Gift"); provided that the Foundation actually collects pledges or donations in amounts sufficient to pay the Foundation Gift. The Foundation Gift is to be used to pay principal of and interest on the Bonds. The City expects to receive the final amount of the Foundation Gift in August 2021, and will apply that amount to pay a portion of the principal and/or interest on the Series 2021 Bonds.

1.04 Recitals. All acts, conditions and things required by the Constitution and laws of the State of Montana, including Montana Code Annotated, Title 7, Chapter 7, Parts 42 and 43, as amended, in order to make the Series 2021 Bonds valid and binding general obligations in accordance with their terms and in accordance with the terms of this Resolution have been done, do exist, have happened, and have been performed in regular and due form, time and manner as so required. The City has full power and authority to issue the Series 2021 Bonds.

Section 2. Bond Terms, Execution and Delivery.

2.01 Term of Bonds. The Series 2021 Bonds shall be issued in the aggregate principal amount of $7,310,000 and shall be designated "General Obligation Refunding Bonds, Series 2021." The Series 2021 Bonds shall be in the denomination of $5,000 within a single maturity and in integral multiples thereof. The Series 2021 Bonds shall mature on July 1 in the years and amounts listed below, and Series 2021 Bonds maturing in such years and amounts shall bear interest from date of original issue until paid or duly called for redemption at the rates shown opposite such years and amounts, as follows:

Year	Principal Amount	Interest Rate	Year	Principal Amount	Interest Rate
2022	$735,000	5.00%	2028	$680,000	5.00%
2023	530,000	5.00	2029	705,000	5.00
2024	555,000	5.00	2030	745,000	1.00
2025	585,000	5.00	2031	755,000	1.10
2026	610,000	5.00	2032	765,000	1.20
2027	645,000	5.00			

Interest on the Series 2021 Bonds shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

2.02 Registered Form, Interest Payment Dates. The Series 2021 Bonds shall be issuable only in fully registered form, and the ownership of the Series 2021 Bonds shall be transferred only upon the bond register of the City hereinafter described. The interest on the Series 2021 Bonds shall be payable on January 1 and July 1 in each year, commencing January 1, 2022. Interest on the Series 2021 Bonds shall be payable to the owners of record thereof as such appear on the bond register as of the close of business on the fifteenth day of the month immediately preceding each interest payment date, whether or not such day is a business day. Interest on, and upon presentation and surrender thereof, the principal of each Series 2021 Bond, and, upon presentation and surrender thereof, shall be payable by check or draft issued by the Registrar described herein.

2.03 Dated Date. Each Series 2021 Bond shall be originally dated as of May 11, 2021, and upon authentication of any Series 2021 Bond the Registrar (as hereinafter defined) shall indicate thereon the date of such authentication.

2.04 Registration. The City shall appoint, and shall maintain, a bond registrar, transfer agent and paying agent (collectively, the "Registrar"). The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

(a) Register. The Registrar shall keep at its operations center a bond register in which the Registrar shall provide for the registration of ownership of the Series 2021 Bonds and the registration of transfers and exchanges of the Series 2021 Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Bonds. Upon surrender to the Registrar for transfer of any Series 2021 Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Series 2021 Bonds of a like aggregate principal amount and maturity, as the case may be, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer of any Series 2021 Bond or portion thereof selected or called for redemption.

(c) Exchange of Bonds. Whenever any Series 2021 Bond is surrendered by the registered owner for exchange, the Registrar shall authenticate and deliver one or more new Series 2021 Bonds of a like aggregate principal amount, interest rate and maturity, as requested by the registered owner or the owner's attorney in writing.

(d) Cancellation. All Series 2021 Bonds surrendered upon any transfer or exchange shall be promptly canceled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When any Series 2021 Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Series 2021 Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The

Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the person in whose name any Series 2021 Bond is at any time registered in the bond register as the absolute owner of such Series 2021 Bond, whether such Series 2021 Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Series 2021 Bond and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability of the City upon such Series 2021 Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer of Series 2021 Bonds or exchange of Series 2021 Bonds, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. In case any Series 2021 Bond shall become mutilated or be lost, stolen or destroyed, the Registrar shall deliver a new Series 2021 Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Series 2021 Bond or in lieu of and in substitution for any such Series 2021 Bond lost, stolen or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Series 2021 Bond lost, stolen or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Series 2021 Bond was lost, stolen or destroyed, and of the ownership thereof, and upon furnishing to the Registrar an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the City and the Registrar shall be named as obligees. All Series 2021 Bonds so surrendered to the Registrar shall be canceled by it and evidence of such cancellation shall be given to the City. If the mutilated, lost, stolen or destroyed Series 2021 Bond has already matured or such Series 2021 Bond has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Series 2021 Bond prior to payment.

2.05 Appointment of Initial Registrar. The City hereby appoints U.S. Bank National Association, in Salt Lake City, Utah, to act as Registrar. The City reserves the right to appoint a successor Registrar, but the City agrees to pay the reasonable and customary charges of the Registrar for the services performed. Upon merger or consolidation of a bank or trust company that is acting as the Registrar, if the resulting corporation is a bank or trust company authorized by law to conduct such business, such corporation shall be authorized to act as successor Registrar. The City reserves the right to remove any Registrar upon 30 days' notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar shall deliver all cash and Series 2021 Bonds in its possession as Registrar to the successor Registrar and shall deliver the bond register to the successor Registrar.

2.06 Optional Redemption. The Series 2021 Bonds with stated maturities in the years 2022 through 2029 are not subject to redemption prior to their stated maturities. The Series 2021 Bonds with stated maturities on or after July 1, 2030 will be subject to redemption on July 1,

2029, and any date thereafter, at the option of the City, in whole or in part, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date, without premium. If less than all of the Series 2021 Bonds are to be redeemed, the Series 2021 Bonds to be redeemed shall be from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a maturity in $5,000 principal amounts selected by the Registrar by lot or other manner as directed by the City). The date of redemption and the principal amount of the Series 2021 Bonds to be redeemed shall be fixed by the City Finance Director who shall give notice thereof to the Registrar at least thirty-five days prior to the date of redemption. The Registrar shall, at least thirty days prior to the designated redemption date, cause notice of redemption to be provided, by first class mail, or by other means required by the securities depository, to the registered owners of each Series 2021 Bond to be redeemed at their addresses as they appear on the bond register described in Section 2.04, but no defect in or failure to give such notice shall affect the validity of proceedings for the redemption of any Series 2021 Bond not affected by such defect or failure. The notice of redemption shall specify the redemption date, redemption price, the numbers, interest rates and CUSIP numbers of the Series 2021 Bonds to be redeemed and the place at which the Bonds are to be surrendered for payment, which is the operations center of the Registrar. Official notice of redemption having been given as aforesaid, the Series 2021 Bonds or portions thereof so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified and from and after such date (unless the City shall default in the payment of the redemption price) such Series 2021 Bonds or portions thereof shall cease to bear interest.

2.07 Form. The Series 2021 Bonds shall be prepared in substantially the form as set forth on the attached Exhibit A, and by this reference made a part hereof, with such modifications as may be necessary or desirable in accordance with State law and this Resolution.

2.08 Execution and Delivery. The Series 2021 Bonds shall be forthwith prepared for execution under the direction of the City Clerk and shall be executed on behalf of the City by the signatures of the Mayor, the City Finance Director and the City Clerk, provided that said signatures may be printed, engraved or lithographed facsimiles thereof. The seal of the City need not be imprinted on or affixed to any Series 2021 Bond. In case any officer whose signature or a facsimile of whose signature shall appear on the Series 2021 Bonds shall cease to be such officer before the delivery thereof, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. When the Series 2021 Bonds have been so executed by said City officers, they shall be registered by the City Finance Director in accordance with Montana Code Annotated, Section 7-7-4257, as amended. Notwithstanding such execution, no Series 2021 Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under the Resolution unless and until a certificate of authentication on such Series 2021 Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Series 2021 Bonds need not be signed by the same representative. The executed certificate of authentication on each Series 2021 Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution. When the Series 2021 Bonds have been fully executed and authenticated, they shall be delivered by the Registrar to the Original Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore

made and executed, and the Original Purchaser shall not be obligated to see to the application of the purchase price.

2.09 Securities Depository for the Bonds.

(a) For purposes of this Section 2.09, the following terms shall have the following meanings:

"Beneficial Owner" shall mean, whenever used with respect to a Series 2021 Bond, the person in whose name such Series 2021 Bond is recorded as the beneficial owner of such Series 2021 Bond by a Participant on the records of such Participant, or such person's subrogee.

"Cede & Co." shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Series 2021 Bonds.

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

"Participant" shall mean any broker-dealer, bank or other financial institution for which DTC holds Series 2021 Bonds as securities depository.

"Person" shall mean any individual, corporation, partnership, joint venture, limited liability company, limited liability partnership, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other legal entity.

"Representation Letter" shall mean the Blanket Issuer Letter of Representations pursuant to which the City agrees to comply with DTC's Operational Arrangements.

(b) The Series 2021 Bonds shall be initially issued as separately authenticated fully registered bonds, and one Series 2021 Bond shall be issued in the principal amount of each stated maturity of the Series 2021 Bonds. Upon initial issuance, the ownership of such Series 2021 Bonds shall be registered in the bond register in the name of Cede & Co., as nominee of DTC. The Registrar and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Series 2021 Bonds registered in its name for the purposes of payment of the principal of or interest on the Series 2021 Bonds, selecting the Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Series 2021 Bonds under this resolution, registering the transfer of Series 2021 Bonds, and for all other purposes whatsoever; and neither the Registrar nor the City shall be affected by any notice to the contrary. Neither the Registrar nor the City shall have any responsibility or obligation to any Participant, any Person claiming a beneficial ownership interest in the Series 2021 Bonds under or through DTC or any Participant, or any other Person not shown on the bond register as being a registered owner of any Series 2021 Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Series 2021 Bonds, with respect to any notice which is permitted or required to be given to owners of Bonds under this resolution, with respect to the selection by DTC or any

Participant of any person to receive payment in the event of a partial redemption of the Series 2021Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Bonds. So long as any Series 2021 Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Series 2021 Bond, and shall give all notices with respect to such Series 2021 Bond, only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and interest on the Series 2021 Bonds to the extent of the sum or sums so paid. No Person other than DTC shall receive an authenticated Series 2021 Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Series 2021 Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the City determines to discontinue the book-entry-only system for the Series 2021 Bonds, the City may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Series 2021 Bonds in the form of certificates. In such event, the Series 2021 Bonds will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Series 2021 Bonds at any time by giving notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Series 2021 Bonds will be transferable in accordance with paragraph (e) hereof.

(d) The Representation Letter sets forth certain matters with respect to, among other things, notices, consents and approvals by registered owners of the Series 2021 Bonds and Beneficial Owners and payments on the Series 2021 Bonds. The Registrar shall have the same rights with respect to its actions thereunder as it has with respect to its actions under this resolution.

(e) In the event that any transfer or exchange of Series 2021 Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Series 2021 Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this resolution. In the event Series 2021 Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Series 2021 Bonds, or another securities depository as owner of all the Series 2021 Bonds, the provisions of this resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Series 2021 Bonds in the form of bond certificates and the method of payment of principal of and interest on such Series 2021 Bonds in the form of bond certificates.

Section 3. Security Provisions.

3.01 Debt Service Account. There is hereby created a special account to be designated as the "Debt Service Account" (the "Debt Service Account"), to be held and administered by the

City Finance Director separate and apart from all other funds of the City, to be used solely to pay principal of and interest on the Series 2021 Bonds. There is hereby created a special costs of issuance subaccount within the Debt Service Account, to be used to pay costs of issuance of the Series 2021 Bonds and costs of the refunding. The City irrevocably appropriates to the Debt Service Account: (a) any proceeds of the Series 2021 Bonds in excess of their principal amount payable to the City (except to the extent such proceeds are deposited in the escrow account established by the escrow agreement described in Section 4.01) or, to the costs of issuance subaccount in the Debt Service Account, any proceeds of the Series 2021 Bonds to pay costs of issuance and of the refunding; (b) the remaining payment of the Foundation Gift; (c) all taxes levied in accordance with this resolution; (d) all income derived from the investment of amounts on hand in the Debt Service Account; (e) excess amounts in the escrow account described in Section 4.01; and (f) such other money as shall be received and appropriated to the Debt Service Account from time to time.

3.02 Tax Levies. The full faith and credit and taxing powers of the City shall be and are hereby irrevocably pledged to the payment of the Series 2021 Bonds and interest due thereon, and the City shall cause taxes to be levied annually on all taxable property in the City sufficient to pay the interest on the Series 2021 Bonds when it falls due and to pay and discharge the principal at maturity of each and all of the Series 2021 Bonds as they respectively become due.

On or before September 30 of each year and so long as any of the Series 2021 Bonds are outstanding and any principal thereof or interest thereon unpaid, the City Finance Director shall calculate and certify to this Council the total amount of cash on hand in the Debt Service Account and the amount required for the payment of principal and interest on the outstanding Series 2021 Bonds on or before the next succeeding July 1. This Council shall forthwith cause to be levied for collection in the fiscal year a tax sufficient to pay such principal and interest on the Series 2021 Bonds, taking into account the total amount of cash on hand in the Debt Service Account.

Section 4. Escrow; Redemption of Refunded Bonds.

4.01 Escrow Agreement. Simultaneously with the delivery of the Series 2021 Bonds, the City Finance Director shall cause proceeds of the Series 2021 Bonds in the amount of $8,215,000, together with funds the City has on hand in the debt service account for the Refunded Bonds in the amount of $149,950, to be deposited in the Escrow Account established with U.S. Bank National Association, as escrow agent (the "Escrow Agent") under an Escrow Agreement between the City and the Escrow Agent (the "Escrow Agreement"). The amount deposited in the Escrow Account will be sufficient to refund and redeem the Refunded Bonds on July 1, 2021, as set forth in the Escrow Agreement. The Escrow Account shall be held in safekeeping by the Escrow Agent, and the Escrow Account and all income therefrom are irrevocably appropriated for the purposes stated in this Section 4.01. The Mayor, the City Finance Director, and the City Clerk are hereby authorized to enter into the Escrow Agreement with the Escrow Agent, substantially in the form attached hereto as Exhibit B, with such additions thereto or deletions therefrom as are necessary or appropriate. Upon the establishment and funding of the Escrow Account pursuant to this Section 4.01, the Refunded Bonds shall be defeased and shall no longer be considered outstanding for purposes of Montana Code Annotated, Section 7-7-4201 or any other debt limitation.

4.02 Redemption. The Refunded Bonds are hereby called for redemption on July 1, 2021, at a redemption price equal to par plus interest accrued thereon through the date of redemption, without premium. The Escrow Agent is directed to mail notice to registered owners of the Refunded Bonds in accordance with the provisions of the Escrow Agreement.

Section 5. Tax Matters.

5.01 Use of Project. The Project is and will continue to be owned and operated by the City and available for use by the general public on a substantially equal basis. The City shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the Project or security for the payment of the Series 2021 Bonds which might cause the Series 2021 Bonds to be considered "private activity bonds" or "private loan bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986 (the "Code").

5.02 General Covenant. The City covenants and agrees with the registered owners from time to time of the Series 2021 Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2021 Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the interest on the Series 2021 Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

5.03 Arbitrage Certification. The City Finance Director is authorized and directed to execute and deliver to the Original Purchaser a certificate in accordance with the provisions of Section 148 of the Code and the Treasury Regulations, Section 1.148-2(b), stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2021 Bonds, as such facts, estimates and circumstances are set forth in the certificate, it is reasonably expected that the proceeds of the Series 2021 Bonds will be used in a manner that would not cause the Series 2021 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Treasury Regulations applicable thereto.

5.04 Arbitrage Rebate. The City acknowledges that the Series 2021 Bonds are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Treasury Regulations to preserve the exclusion of interest on the Series 2021 Bonds from gross income for federal income tax purposes, unless the Series 2021 Bonds qualify for the exception from the rebate requirement under Section 148(f)(4)(B) of the Code and no "gross proceeds" of the Series 2021 Bonds (other than amounts constituting a "bona fide debt service fund") arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the City Finance Director is hereby authorized and directed to execute a Rebate Certificate, substantially in the form to be prepared by Bond Counsel, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

5.05 Information Reporting. The City shall file with the Secretary of the Treasury, not later than August 15, 2021, a statement concerning the Series 2021 Bonds containing the information required by Section 149(e) of the Code.

5.06 "Qualified Tax-Exempt Obligations." Pursuant to Section 265(b)(3)(B)(i) of the Code, the Series 2021 Bonds are designated by the City as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. The City has not designated any obligations in 2021 other than the Series 2021 Bonds under Section 265(b)(3). The City hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265(b)(3) of the Code and including "qualified 501(c)(3) bonds" but excluding other "private activity bonds," as defined in Sections 141(a) and 145(a) of the Code) will be issued by or on behalf of the City and all "subordinate entities" of the City in 2021 in an amount greater than $10,000,000.

Section 6. Defeasance.

6.01 General. When the liability of the City on all Series 2021 Bonds issued under and secured by this Resolution and all interest thereon has been discharged as provided in this Section 6, all pledges, covenants and other rights granted by this Resolution to the holders of the Series 2021 Bonds shall cease.

6.02 Maturity. The City may discharge its liability with respect to all Series 2021 Bonds and interest thereon which are due on any date by depositing with the Registrar for the Series 2021 Bonds on or before the date a sum sufficient for the payment thereof in full; or, if any Series 2021 Bond or interest thereon shall not be paid when due, the City may nevertheless discharge its liability with respect thereto by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

6.03 Redemption. The City may also discharge its liability with reference to any prepayable Series 2021 Bonds which are called for redemption on any date in accordance with their terms, by depositing with the Registrar on or before that date an amount equal to the principal, interest and redemption premium, if any, which are then due thereon, provided that notice of such redemption has been duly given as provided in this resolution.

6.04 Escrow. The City may also at any time discharge its liability in its entirety with reference to any Series 2021 Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or securities which are general obligations of the United States or securities of United States agencies which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without reinvestment, to provide funds sufficient to pay all principal, interest and redemption premiums, if any, to become due on such Series 2021 Bonds at their stated maturities or, if such Series 2021 Bonds are prepayable and notice of redemption thereof has been given or irrevocably provided for, to such earlier redemption date.

Section 7. Continuing Disclosure. The Council hereby approves the Continuing Disclosure Undertaking of the City substantially in the form of the attached Exhibit C and authorizes the Mayor and the City Finance Director, or in the absence or unavailability of either, the City Administrator, to execute and deliver on behalf of the City contemporaneously with the date of issuance and delivery of the Series 2021 Bonds the Continuing Disclosure Undertaking, with such changes as may be necessary or appropriate. The execution and delivery by two appropriate officers of the City of the Continuing Disclosure Undertaking are adequate to cause the Continuing Disclosure Undertaking to be binding and enforceable on the City.

Section 8. Certification of Proceedings. The officers of the City are hereby authorized and directed to prepare and furnish to the Original Purchaser and to Dorsey & Whitney LLP, Bond Counsel, certified copies of all proceedings and records of the City, and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Series 2021 Bonds as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

Section 9. Repeals and Effective Date.

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

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

Passed and adopted this 26th day of April, 2021.

_____
Mayor

Attest: _____
City Clerk

(SEAL)

EXHIBIT A

[FORM OF THE BONDS]

UNITED STATES OF AMERICA
STATE OF MONTANA
YELLOWSTONE COUNTY

CITY OF BILLINGS, MONTANA

GENERAL OBLIGATION REFUNDING BOND, SERIES 2021

No. _____ $_____

Rate	Maturity Date	Date of Original Issue	CUSIP
%	July 1,	May 11, 2021	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS AND NO/100

FOR VALUE RECEIVED, CITY OF BILLINGS, MONTANA (the "City"), acknowledges itself to be indebted and hereby promises to pay to the registered owner named above, or registered assigns, the principal amount specified above on the maturity date specified above or, if this Bond is prepayable as stated herein, on any date prior thereto on which this Bond shall have been duly called for redemption, and to pay interest on said principal amount to the registered owner hereof from May 11, 2021 or from such later date to which interest has been paid or duly provided for until this Bond is paid or, if this Bond is prepayable, until it has been duly called for redemption, at the rate specified above. Principal of this Bond is payable upon presentation and surrender hereof to U.S. Bank National Association, of Salt Lake City, Utah, as bond registrar, transfer agent and paying agent, or its successor designated under the Resolution described herein (collectively, the "Registrar"), at its operations center in St. Paul, Minnesota. Interest on this Bond is payable semiannually on each January 1 and July 1, commencing January 1, 2022, by check or draft issued by the Registrar to the person in whose name this Bond is registered as of the close of business on the fifteenth day of the immediately preceding month (whether or not a Business Day), at its address as it appears on the bond register maintained by the Registrar. "Business Day" means any day other than a Saturday, Sunday or legal holiday of the State of Montana. Interest is calculated on the basis of a 360-day year composed of twelve 30-day months.

The principal of and interest on this Bond are payable in lawful money of the United States of America. For the prompt and full payment of such principal and interest as the same respectively become due, the full faith and credit and taxing powers of the City have been and are hereby irrevocably pledged.

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

This Bond is one of an issue in the total principal amount of $7,310,000 (the "Series 2021 Bonds"), all of like date of original issue and tenor except as to serial number, denomination, maturity date, interest rate and redemption privilege. The Series 2021 Bonds were issued for the purpose of refunding certain valid outstanding general obligation bonds of the City, all pursuant to Montana Code Annotated, Title 7, Chapter 7, Parts 42 and 43, and resolutions duly adopted by the City Council, including a bond resolution adopted on April 26, 2021 (the "Resolution"), and in full conformity with the Constitution and laws of the State of Montana thereunto enabling. The Series 2021 Bonds are issuable only as fully registered bonds of single maturities, in denominations of $5,000 or any integral multiple thereof.

The Series 2021 Bonds with stated maturities in the years 2022 through 2029 are not subject to redemption prior to their stated maturities. The Series 2021 Bonds with stated maturities on or after July 1, 2030 will be subject to redemption on July 1, 2029, and any date thereafter, at the option of the City, in whole or in part, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date, without premium. If less than all of the Series 2021 Bonds are to be redeemed, the Series 2021 Bonds to be redeemed shall be from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a maturity in $5,000 principal amounts selected by the Registrar by lot or other manner as directed by the City). The date of redemption and the principal amount of the Series 2021 Bonds to be redeemed shall be fixed by the City Finance Director who shall give notice thereof to the Registrar at least forty-five days prior to the date of redemption. The Registrar shall, at least thirty days prior to the designated redemption date, cause notice of redemption to be provided, by first class mail, or by other means required by the securities depository, to the registered owners of each Series 2021 Bond to be redeemed at their addresses as they appear on the bond register, but no defect in or failure to give such notice shall affect the validity of proceedings for the redemption of any Series 2021 Bond not affected by such defect or failure. The notice of redemption shall specify the redemption date, redemption price, the numbers, interest rates and CUSIP numbers of the Series 2021 Bonds to be redeemed and the place at which the Bonds are to be surrendered for payment, which is the operations center of the Registrar. Official notice of redemption having been given as aforesaid, the Series 2021 Bonds or portions thereof so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified and from and after such date (unless the City shall default in the payment of the redemption price) such Series 2021 Bonds or portions thereof shall cease to bear interest.

As provided in the Resolution and subject to certain limitations set forth therein, this Series 2021 Bond is transferable upon the books of the City in the operations center of the Registrar, by the registered owner hereof in person or by his attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Series 2021

Bonds of other authorized denominations. Upon any such transfer or exchange, the City will cause a new Series 2021 Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

This Bond has been designated by the Borrower as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of Montana to be done, to exist, to happen and to be performed precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the City according to its terms, have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; that the City Council will annually levy an ad valorem tax on all of the taxable property in the City sufficient to pay the interest hereon when it falls due and also to pay and discharge the principal of this Bond at maturity; and that this Bond, together with all other indebtedness of the City outstanding on the date of original issue hereof and on the date of the delivery of the Series 2021 Bonds of this issue to the original purchaser thereof, does not exceed any constitutional or statutory limitation of indebtedness.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon shall have been executed by the Registrar by the manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, City of Billings, Montana, by its City Council, has caused this Bond to be executed by the facsimile signatures of the Mayor, the City Finance Director and the City Clerk and by a facsimile of the official seal of the City.

(Facsimile Signature)
Mayor

(Facsimile Seal)

(Facsimile Signature)
City Finance Director

(Facsimile Signature)
City Clerk

Date of Authentication: _____, 20__

CERTIFICATE OF AUTHENTICATION

This is one of the Series 2021 Bonds delivered pursuant to the Resolution mentioned within.

U.S. BANK NATIONAL ASSOCIATION,
as Bond Registrar, Transfer Agent,
and Paying Agent

By _____
Authorized Representative

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

TEN COM	–	as tenants in common	UTMA. . . . . .Custodian. . . . . (Cust) (Minor)
TEN ENT	–	as tenants by the entireties	under Uniform Transfers to Minors Act. . . . . (State)
JT TEN	–	as joint tenants with right of survivorship and not as tenants in common	

Other abbreviations may also be used.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE:

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

SIGNATURE GUARANTEE:

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

EXHIBIT B

[FORM OF ESCROW AGREEMENT]

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Agreement") is made and executed between the City of Billings, Montana (the "City"), and U.S. Bank National Association, in Salt Lake City, Utah (the "Agent"). The parties hereto recite and, in consideration of the mutual covenants and payments referred to and contained herein, covenant and agree as follows:

1. The City, in accordance with Resolution No. _____ adopted by the City Council of the City on April 26, 2021, sold its General Obligation Refunding Bonds, Series 2021, dated, as originally issued, as of the date hereof, in the aggregate principal amount of $7,310,000 (the "Series 2021 Bonds"), which are issued for the purpose of providing funds to refund and redeem the City's General Obligation Bonds, Series 2012 dated, as originally issued, as of August 1, 2012 (the "Series 2012 Bonds"), with stated maturities in 2022 and thereafter, and outstanding in the aggregate principal amount of $8,215,000 (the "Refunded Bonds"), and paying costs of issuance and of the refunding. The City has directed that net proceeds of the Series 2021 Bonds in the amount of $8,293,084.27 (reflecting a reoffering premium of $1,020,177.05 and underwriter's discount of $37,092.78) be applied as follows: (i) $8,215,000.00 to be deposited in the Escrow Account, and (ii) $78,084.27 to be deposited in the costs of issuance subaccount within the Debt Service Account held by the City to pay costs of issuance and of the refunding. In addition, the City has appropriated $149,950 of funds on hand in the debt service account for the Refunded Bonds to be deposited in the Escrow Account.

2. The Agent acknowledges receipt of the cash in the aggregate amount of $8,364,950 and agrees that it will hold such cash in a special segregated escrow account in the name of the City (the "Escrow Account"), and that it will remit from the Escrow Account to the paying agent of the Series 2012 Bonds the funds required for the payment of the redemption price of the Refunded Bonds on July 1, 2021 as shown on the attached Exhibit A (which is hereby incorporated herein and made a part hereof). Amounts deposited in the Escrow Account will be invested in eligible investment funds as described on Exhibit B. The Escrow Agent shall promptly transfer to the City all amounts remaining in the Escrow Account after paying the redemption price of the Refunded Bonds on July 1, 2021. The City will deposit investment earnings received from investment of amounts in the Escrow Account into the Debt Service Account for the Series 2021 Bonds.

The Agent shall:

(i) within 10 days of the date hereof, provide notice of the defeasance of the Refunded Bonds (in the form of Exhibit C-1 hereto (which is incorporated herein and made a part hereof)) by telecopy, overnight delivery, mail or other means, as appropriate, to the Municipal Securities Rulemaking Board (the "MSRB") through its Electronic Municipal Market Access system website ("EMMA"); and

(ii) not less than 30 days prior to July 1, 2021, provide notice of the redemption of the Refunded Bonds in the form of Exhibit C-2 hereto (which is incorporated herein and made a part hereof), by first class mail or by other means required by The Depository Trust Company, to the registered owners of the Refunded Bonds at their addresses as they appear on the Bond Register, as required by Section 2.06

of the resolution of the City Council of the City adopted July 23, 2012, authorizing the issuance of the Series 2012 Bonds, and by telecopy, overnight delivery, mail or other means, as appropriate, to the MSRB through EMMA.

After provision for payment of all Refunded Bonds with interest accrued thereon, the Agent will remit any remaining funds in the Escrow Account to the City, which will hold said cash in the Debt Service Account for the Series 2021 Bonds for application toward the payment of the interest to become due on the Series 2021 Bonds on January 1, 2022.

3. The City represents, based on information provided to it by Baker Tilly Municipal Advisors, LLC, the City's municipal advisor, that the amount to be deposited by the City pursuant to this Agreement into the Escrow Account (i.e., $8,364,950), is sufficient, without regard to investment income thereon, to pay the redemption price of the Refunded Bonds on July 1, 2021, as described in Exhibit A hereto, including all interest accrued thereon.

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

5. In order to ensure continuing compliance with Section 148 of the Internal Revenue Code of 1986 and applicable Treasury Regulations, the Agent agrees that it will not reinvest any cash held in the Escrow Account. Said prohibition on reinvestment shall continue unless and until an opinion is received from nationally recognized bond counsel that reinvestments in general obligations of the United States or obligations the principal of and interest on which are guaranteed as to payment by the United States, as specified in said opinion, may be made in a manner consistent with said Section 148 and then existing Treasury Regulations.

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

7. If at any time it shall appear to the Agent that the money in the Escrow Account will not be sufficient to make any payment due to the owners of any of the Refunded Bonds, the Agent shall immediately notify the City. Upon receipt of such notice, the City shall forthwith transmit to the Agent for deposit in the Escrow Account from moneys on hand and legally available therefor, such additional moneys as may be required to make any such payment.

8. On or before July 15, 2021, the Agent shall submit to the City a report covering all money it shall have received and all payments it shall have made or caused to be made hereunder. Such report shall also state the amount of money existing in the Escrow Account, if any, on such date.

9. It is recognized that title to the moneys held in the Escrow Account from time to time shall remain vested in the City but subject always to the prior charge and lien thereon of this

Agreement and the use thereof required to be made by the provisions of this Agreement. The Agent shall hold all such money in the Escrow Account as a special trust fund and account separate and wholly segregated from all other funds of the Agent on deposit therein and shall never commingle such money with other money. It is understood and agreed that the responsibility of the Agent under this Agreement is limited to the safekeeping and segregation of the funds deposited with it in the Escrow Account and the collection of and accounting for any interest payable with respect thereto.

10. This Agreement is made by the City for the benefit of the owners of the Refunded Bonds and is not revocable by the City, and the funds deposited in the Escrow Account have been irrevocably appropriated for the payment and redemption of the Refunded Bonds and interest thereon, in accordance with this Agreement.

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

12. This Agreement may not be amended except to sever any clause herein deemed to be illegal or cure any ambiguity or correct or supplement any provision herein which may be inconsistent with any other provision; provided that the Agent shall determine that any such amendment shall not adversely affect the owners of the Refunded Bonds.

IN WITNESS WHEREOF the parties hereto have caused this Escrow Agreement to be duly executed by their duly authorized officers, as of the 11th day of May, 2021.

CITY OF BILLINGS, MONTANA

_____
Mayor

_____
Finance Director

_____
City Clerk

U.S. BANK NATIONAL ASSOCIATION,
as Escrow Agent

By_____
Its Vice President

(Signature page to Escrow Agreement, dated May 11, 2021,
with the City of Billings, Montana)

EXHIBIT A

DEBT SERVICE SCHEDULE FOR
REFUNDED BONDS

Date	Principal	Interest	Total
07/01/2021	$8,215,000.00	$149,950.00	$8,364,950.00

EXHIBIT B

[First American Funds Treasury Obligation Fund Class D

Maturity Date	Principal Amount	Interest Rate
07/01/2021	$8,364,950.00	Variable]

EXHIBIT C-1

NOTICE OF DEFEASANCE

GENERAL OBLIGATION BONDS, SERIES 2012
CITY OF BILLINGS, MONTANA

NOTICE IS HEREBY GIVEN that pursuant to and under the authority of the resolution of the City of Billings, Montana, authorizing the issuance thereof, the outstanding General Obligation Bonds, Series 2012, dated, as originally issued, as of August 1, 2012, which mature on July 1 in the years and amounts and bear interest and CUSIP numbers as set forth below (the "Defeased Bonds"), are now payable from an escrow account established with U.S. Bank National Association, as escrow agent:

Maturity (July 1)	Principal Amount	Interest Rate	CUSIP Number
2022	$ 870,000	4.000%	090095 6H8
2023[a]	400,000	2.375%	090095 6J4
2023[a]	220,000	4.000%	090095 6K1
2024	640,000	4.000%	090095 6L9
2025	665,000	4.000%	090095 6M7
2026	690,000	4.000%	090095 6N5
2027	720,000	4.000%	090095 6P0
2028	750,000	4.000%	090095 6Q8
2030[b]	1,575,000	3.000%	090095 6R6
2031	825,000	4.000%	090095 6S4
2032	860,000	3.250%	090095 6T2

(a) Bifurcated maturities.
(b) Term bonds.

The escrow account has been established with the escrow agent to redeem all Defeased Bonds on July 1, 2021, at a redemption price equal to the principal amount thereof with interest accrued to the date of redemption, without premium. The Defeased Bonds are deemed to have been paid in accordance with the resolution authorizing their issuance, and are secured by and payable from the escrow account. Interest on the Defeased Bonds shall cease to accrue on July 1, 2021, and the Holders thereof shall have no further rights with respect thereto except to receive the redemption price so deposited. A further notice of redemption will be given in accordance with the requirements of the resolution authorizing the Defeased Bonds. As of the date hereof, the continuing disclosure requirements set forth in the resolution authorizing the Defeased Bonds shall terminate.

Dated: May 11, 2021.

U.S. BANK NATIONAL ASSOCIATION

EXHIBIT C-2

NOTICE OF REDEMPTION
GENERAL OBLIGATION BONDS, SERIES 2012
CITY OF BILLINGS, MONTANA

NOTICE IS HEREBY GIVEN that the City of Billings, Montana (the "City"), has called for redemption its General Obligation Bonds, Series 2012, dated, as originally issued, as of August 1, 2012, maturing on July 1 in the years and amounts and bearing interest and CUSIP numbers as set forth below:

Maturity (July 1)	Principal Amount	Interest Rate	CUSIP Number
2022	$ 870,000	4.000%	090095 6H8
2023[a]	400,000	2.375%	090095 6J4
2023[a]	220,000	4.000%	090095 6K1
2024	640,000	4.000%	090095 6L9
2025	665,000	4.000%	090095 6M7
2026	690,000	4.000%	090095 6N5
2027	720,000	4.000%	090095 6P0
2028	750,000	4.000%	090095 6Q8
2030[b]	1,575,000	3.000%	090095 6R6
2031	825,000	4.000%	090095 6S4
2032	860,000	3.250%	090095 6T2

(c) Bifurcated maturities.
(d) Term bonds.

Such bonds have been called for redemption on July 1, 2021, and interest thereon will cease to accrue from and after said date. The redemption price is equal to the principal amount of the bonds plus interest accrued to the redemption date, without premium.

Holders of such bonds maturing in said years should surrender their bonds for payment to U.S. Bank National Association, as paying agent, for payment on July 1, 2021 at its operations center at 60 Livingston Avenue - Bond Drop Window, St. Paul, Minnesota 55107 or if by mail to P.O. Box 64111, St. Paul, Minnesota 55164-0111.

Important Notice:

We are required by law to withhold an applicable portion of the principal amount of your holdings redeemed unless we are provided with your social security number or federal employer identification number, properly certified. Accordingly, you are instructed to submit at the time of surrender of your bonds a W-9 Form which may be obtained at a bank or other financial institution.

Under the Jobs and Growth Tax Relief Reconciliation Act of 2003, federal backup withholding tax will be withheld at the applicable backup withholding rate in effect at the time the payment is made if the tax identification number is not properly certified.

The paying agent shall not be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its correctness indicated in the Redemption Notice. It is included solely for the convenience of the holders.

Interest on the bonds shall cease to accrue on July 1, 2021 and the holders thereof shall have no further rights with respect thereto except to receive the redemption price so deposited.

Dated: June 1, 2021.

U.S. BANK NATIONAL ASSOCIATION

EXHIBIT C

FORM OF CONTINUING DISCLOSURE UNDERTAKING

$7,310,000
General Obligation Refunding Bonds, Series 2021
City of Billings , Montana

CONTINUING DISCLOSURE UNDERTAKING

This CONTINUING DISCLOSURE UNDERTAKING is made by the City of Billings, Montana (the "City') in connection with the issuance and delivery by the City of its $7,310,000 General Obligation Refunding Bonds, Series 2021 (the "Bonds"), as of this 11th day of May, 2021.

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

If the City fails to comply with this Continuing Disclosure Undertaking, any person aggrieved thereby, including the Owners of any outstanding Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of this Continuing Disclosure Undertaking, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Continuing Disclosure Undertaking constitute a default under the Bonds or under any other provision of the resolution adopted by the City Council on April 26, 2021 relating to the Bonds (the "Bond Resolution").

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

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

(1) on or before 365 days after the end of each fiscal year of the City, commencing with the fiscal year ending June 30, 2021, the following financial information and operating data in respect of the City (the "Disclosure Information"):

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

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

(1) updated information for the City for such fiscal year to include principal amount of general obligation bonds outstanding, assessed/market valuation, taxable valuation, and debt capacity;

(2) tax levy and collection figures for such fiscal year in a format similar to the table in the Official Statement relating to the Bonds (the "Official Statement") under the heading "Property Tax Levies and Collections;" and

(3) a list of the major taxpayers in the City for such fiscal year in a format similar to the table in the Official Statement under the heading "Ten of the Largest Taxpayers in the City."

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

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

If any part of the Disclosure Information can no longer be generated because the operations of the City have materially changed or been discontinued, such Disclosure

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

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

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

(A) principal and interest payment delinquencies;

(B) non-payment related defaults, if material;

(C) unscheduled draws on debt service reserves reflecting financial difficulties;

(D) unscheduled draws on credit enhancements reflecting financial difficulties;

(E) substitution of credit or liquidity providers, or their failure to perform;

(F) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds or other material events affecting the tax status of the Bonds;

(G) modifications to rights of holders of the Bonds, if material;

(H) bond calls, if material, and tender offers;

(I) defeasances;

(J) release, substitution or sale of property securing repayment of the Bonds, if material;

(K) rating changes;

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

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

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

(O) incurrence of a financial obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City, any of which affect security holders, if material; and

(P) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the financial obligation of the City, any of which reflect financial difficulties.

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

For purposes of paragraphs (O) and (P) above, the term "financial obligation" means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of either (i) or (ii). A "financial obligation" does not include municipal securities for which a final official statement has been provided to the MSRB consistent with the Rule.

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

(A) the failure of the City to provide the Disclosure Information described above under paragraph (b)(1) above at the time specified thereunder;

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

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

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

(d) Term; Amendments; Interpretation.

(1) This Continuing Disclosure Undertaking shall remain in effect so long as any Bonds are outstanding.

(2) This Continuing Disclosure Undertaking (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph (b)(3) hereof) or the consent of the Owners of any Bonds, by a resolution of the City Council filed in the office of the recording officer of the City accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that the Continuing Disclosure Undertaking (and the form and requirements of the Disclosure Information), as so amended or supplemented, will comply with the provisions of paragraph (b)(5) of the Rule, assuming that such provisions apply to the Bonds.

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

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

Dated: May 11, 2021.

CITY OF BILLINGS, MONTANA

By _____
Mayor

By _____
City Finance Director

City Council Regular

Date: 04/26/2021

Title: TDS Metrocom, LLC Cable System Franchise

Presented by: Stacy Tenney

Department: Legal

Presentation: No

RECOMMENDATION

City Administration recommends approval of the proposed ordinance granting TDS Metrocom, LLC, a nonexclusive cable system franchise.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

TDS Metrocom, LLC (TDS), is a Madison, Wisconsin based broadband services provider which has made application to the City for a nonexclusive cable system franchise with intent to invest $60 million dollars to lay hundreds of miles of fiber optic cable to form a brand-new network throughout the City. TDS is part of TDS Telecommunications Corp., the nation's seventh largest wireline communications company offering broadband, video, and digital voice services to over 900 communities in 34 states. TDS is currently constructing a new network in Coeur D'Alene, Idaho, and Spokane, Washington. Billings' residents would be its first Montana customers.

TDS offers to build an all-fiber cable service offering a minimum of 120 channels. TDS would compete with Charter/Spectrum, the City's only nonexclusive cable franchise provider. It is the policy of the City to promote competition in the provision of cable services.

Under the federal Communications Act, a cable system must obtain a franchise from a local government granting it permission to use the public right of way to provide area cable services. Should City Council approve granting applicant TDS a non-exclusive cable system franchise, the federal Communications Act allows the City to receive payment of up to a maximum five percent (5%) of the gross revenues from its Billings operations on cable services. This is called a "franchise fee". Only cable operators are required to have franchises to provide cable services; no other multichannel video programming distributor (MVPD) is required to obtain a franchise to offer video programming except those whose programming is distributed over a cable system.

This negotiated and proposed non-exclusive cable system franchise with applicant TDS provides for a 10-year franchise (with extension provision up to 15 years), payment of the maximum 5% of gross revenues from its Billings operations (franchise fee), initial coverage area to a minimum of 70% of the City within four years of the start of construction and further build out terms to 95%, and provision of two Public, Educational, and Governmental (PEG) channels. Should City Council approve and grant a cable system franchise to applicant TDS franchise, the company intends to begin construction late spring or early summer this year.

If the City finds that it is in the public interest to issue a cable franchise to applicant TDS, considering the factors described above, the City shall tender applicant TDS a cable franchise, and applicant TDS shall be entitled to exercise the franchise rights provided therein upon its acceptance of the terms and conditions of such franchise.

STAKEHOLDERS

TDS Metrocom, LLC

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve; City is required to issue a written decision explaining its denial pursuant Sec. 7-1619 (f), BMCC.

FISCAL EFFECTS

City would receive an annual 5% (maximum allowed under federal law) franchise fee from TDS Metrocom, LLC, gross revenues from its Billings' cable system operations.

City would receive $0.25 (and up to $0.85) per cable subscriber for PEG capital support for Community Seven, the City's PEG access provider.

SUMMARY

If the City finds that it is in the public interest to issue a nonexclusive cable system franchise to applicant TDS Metrocom, LLC, based on the following criteria:

1) The completeness of TDS responses to questions regarding its application (See attached).
2) Whether TDS has the financial, technical, and legal qualifications to hold a cable franchise;
3) Whether TDS satisfies minimum requirements established by the City to meet the community's future cable-related needs and interests, taking into account the cost of meeting such needs and interests;
4) Whether TDS is able and willing to provide adequate public, educational, and governmental use capacity, facilities, or financial support;
5) Whether granting the franchise will result in redlining, discrimination in the provision of services, or grant TDS an unfair competitive advantage;
6) Whether the schedule for building out is reasonable; and
7) Whether approving the franchise would eliminate or reduce competition in the delivery of cable service.
the City should tender a cable system franchise entitling TDS Metrocom, LLC to exercise the franchise rights provided therein upon its acceptance of the terms and conditions of such franchise.

Attachments

TDS Metrocom, LLC franchise

ORDINANCE NO. 21-____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING A NEW ARTICLE 7-1800, SECTIONS 7-1801 THROUGH 7-1809, ESTABLISHING A NONEXCLUSIVE CABLE SYSTEM FRANCHISE AGREEMENT INCLUDING ALL TERMS AND CONDITIONS WITH TDS METROCOM, LLC

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That the Billings, Montana, City Code be amended by adding a new Article 7-1800, to read as follows:

ARTICLE 7-1800. CABLE SYSTEM FRANCHISE

Sec. 7-1801. Definition of terms.

For the purpose of this Article, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. Any word or phrase not defined in this Section shall have the same meaning as in 47 U.S.C § 521 et seq. ("Cable Act") and associated Federal Communications Commission ("FCC") rules and regulations. Otherwise, words shall have their ordinary meaning.

A. "Basic Cable Service" means the most highly penetrated, separately-priced Service Tier that is available without the purchase of any other Service Tier and which includes the retransmission of local broadcast signals.

B. "Cable Act" means Title VI of the Communications Act of 1934, as amended.

C. "Cable Ordinance" means the Model Cable System Franchise set forth in Article 7-1600, Billings, Montana City Code.

D. "Cable Service" shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

E. "Cable System" shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Service Area, but such term does not include:

(1) a facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) a facility that serves Subscribers without using any public right-of-way;

(3) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§ 201 et seq., except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. § 541 (c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) an open video system that complies with 47 U.S.C. § 653;

(5) any facilities of any electric utility used solely for operating its electric utility systems.

The term "Cable System" includes wires, cables, conductors, ducts, poles, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary to the operation of the Cable System.

F. "Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the Cable System.

G. "FCC" means the Federal Communications Commission, or successor governmental entity thereto.

H. "Franchise" means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to 47 U.S.C. § 546) issued by the Grantor, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System.

I. "GAAP" means Generally Accepted Accounting Principles.

J. "Grantor" means the City of Billings, Montana or any lawful successor or assign.

K. "Grantee" means TDS Metrocom, LLC, or the lawful successor, transferee, or assignee thereof.

L. "Gross Revenues" means all amounts derived by the Grantee and/or affiliate from the operation of the Grantee's Cable System to provide Cable Services within the Service Area.

(1) "Gross Revenues" include, by way of illustration and not limitation:

(i) Fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, audio channels and video-on-demand Cable Services);

(ii) Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;

(iii) Fees paid to the Grantee for channels designated for commercial/leased access use, which shall be allocated on a pro rata basis using total Cable Service Subscribers with the Service Area;

(iv) Converter, remote control, and other Cable Service equipment rentals, leases, or sales (but not revenues from equipment used exclusively for the provision of services that are not Cable Service);

(v) Advertising Revenues as defined herein;

(vi) Fees including, but not limited to: a) late fees, convenience fees and administrative fees which shall be allocated in accordance with GAAP; and 2) Franchise fees;

(vii) Commission from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Services Subscribers within the Service Area;

(viii) "Advertising Revenue" shall mean amounts derived from sales of advertising on any Cable Service made available the Grantee's Cable System Subscribers within the Service Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising.

(2) "Gross Revenues" shall not include:

(i) actual Cable Services bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Service Area; and

(ii) any taxes and/or fees of general applicability imposed upon Grantee or Subscribers by any municipality, state or other governmental unit and required to be collected by Grantee and remitted to the taxing entity, provided that Franchise Fees, Public, Educational and Governmental (PEG) Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;

(iii) launch fees and marketing co-op fees to the extent consistent with GAAP; and,

(iv) unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues to the extent consistent with GAAP.

(3) To the extent revenues are received by Grantee, or any affiliate of Grantee, for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published undiscounted rates for the components. This calculation shall be applied to every bundled service package containing Cable Service from which the Grantee derives revenues in the Service Area and shall be modified whenever a rate change occurs on any part of the bundled services. The Grantor reserves the right to review and to challenge the Grantee's calculations.

M. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

N. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses held by the Grantor in the Service Area and which by their nature entitle the Grantor and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining a Cable System.

O. "Service Area" means the present boundaries of the Grantor, and shall include any additions thereto by annexation or other legal means.

P. "Service Tier" means a specific set of Cable Services which are made available as a group for purchase by Subscribers at a separate rate for the group.

Q. "Standard Installation" is defined as any service installation that can be completed using a Drop of one hundred twenty five (125) feet or less.

R. "Subscriber" means any Person who lawfully receives Cable Service of the Cable System and does not further retransmit it.

S. "Video Programming" means any programming provided by, or generally considered comparable to programming provided by a television broadcast station.

Sec. 7-1802. Grant of franchise.

(a) *Grant.* The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct, maintain, extend and operate a Cable System to provide Cable Services in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way a Cable System for the purpose of providing Cable Service. The Cable System shall be a Fiber-to-the-Premise (FTTP) network capable of delivering high-quality digital video signals meeting or exceeding FCC technical quality standards.

(b) *Other Ordinances.* This Franchise is subject to the laws and regulations of the Grantor as now existing or as may hereafter be adopted. Provided that, neither party may unilaterally alter the express material rights and obligations set forth in this Franchise. In the event of a conflict between the express material rights of Grantee set forth in this Franchise and any ordinance adopted after the date hereof and this Franchise, the Franchise shall control, provided however that the Grantee agrees that it is subject to the lawful exercise of the police power of the Grantor. Provided further, the right to use the Public Ways is subject to the continuing regulation by the Grantor, the grant of this Franchise is not in lieu of any permits or zoning approvals that may be required, or fees associated with the same; and the grant of the Franchise does not give Grantee the right to maintain its facilities at any particular location in the Public Ways, and instead the Grantee shall have the duty to relocate or remove the same from time to time, as provided in this Franchise or under laws or regulations now existing or hereafter adopted.

(c) *Public Hearing.* Before issuing any other Franchise or other authorization to provide multichannel video programming services, the Grantor shall conduct a public hearing to determine whether an applicant's proposal for such Franchise or other authorization meets the future cable-related needs and interests of the community and any impact on the existing provision of Cable Service, except where such a hearing would be inconsistent with applicable laws and regulations. Grantee shall be notified of that hearing, and shall be given an opportunity to appear at the hearing and address issues relevant to the issuance of the Franchise or other authorization, except that nothing in this paragraph requires the Grantor to take any action

that would result in a violation of applicable laws and regulations, or that prevent it from acting prior the expiration of any deadline.

(d) *Competitive Equity.* In the event that the Grantor issues, or has issued, a Franchise or other authorization to any other entity to provide multichannel video programming services in the City comparable to the Cable Service provided by Franchisee, the Grantor agrees to engage in good faith discussions with Grantee regarding any modifications to this Franchise proposed by Grantee to ensure that the terms and conditions imposed on Grantee by this Agreement will be neither less favorable nor more burdensome than those governing any other such entity or otherwise give such other entity an unfair competitive advantage over Grantee.

(e) *Term.* The Franchise granted hereunder shall be for an initial term of ten (10) years commencing on the effective date of the Franchise as set forth in Section 2, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

(f) *Renewal.* This Franchise will be automatically extended for an additional term of five (5) years, unless either party notifies the other in writing of its desire to not exercise this automatic extension at least three (3) years before the expiration of this Franchise. If such a notice is given, the parties will then proceed under the federal Cable Act renewal procedures.

Sec. 7-1803. Standards of Service.

(a) *General.* This Section sets forth minimum standards for service. All acts a Grantee is required to perform are at its expense, and at no expense to the Grantor except as otherwise stated herein.

(b) *Conditions of occupancy.* The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

(c) *Restoration of public ways.* If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way to a condition better than, or equal to, the condition of the Public Way existing immediately prior to such disturbance.

(d) *Relocation for the Grantor.* Upon its receipt of reasonable advance written notice, to be not less than ten (10) business days, the Grantee at its expense shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when required by the Grantor or any government entity by reason of traffic

conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of public structures or improvements. The Grantee shall in all cases have the right of abandonment of its property, provided that, if property is abandoned, Grantee upon request must provide Grantor title to the property, free and clear of encumbrances.

(e) *Relocation for a third party.* The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation, and as promptly as possible for a permanent relocation, considering the work to be performed in connection with that relocation.

(f) *Relocation for a Person Authorized to Place Facilities in Rights of Way.* Grantee shall promptly protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee as required to enable another person authorized to place facilities in the rights of way (other than a person described in Sections 7-1803(d)-(e) to construct, modify, repair or maintain such facilities, with the cost therefore to be borne in accordance with applicable law. If applicable law requires such other person to pay for the cost of relocation, Grantee may require such payment in advance.

(g) *Trimming of Trees and Shrubbery.* The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Cable System, subject to the supervision of the Grantor. Nothing in this section relieves Grantee of any liability it may have to persons for damage caused to public or private property.

(h) *Safety Requirements.* Construction, operation, repair, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable federal, state, and local regulations and the National Electric Safety Code and the National Electrical Code. The Cable System shall not endanger or unreasonably interfere with the safety of Persons or property in the Service Area.

(i) *Underground Construction.* In those areas of the Service Area where all of the distribution facilities of the incumbent local exchange carrier and distribution lines of public utilities providing electric services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground.

(j) *Initial Build-Out of Cable System; Required Extensions of the Cable System.* Grantor acknowledges that because Grantee is entering a market where potential Subscribers already have access to two or more terrestrial or satellite providers of multichannel video programming service, requiring Grantee to initially buildout all of the Service Area as a condition of receiving a cable franchise may be economically prohibitive and construed as a barrier to entry for competitive cable service in the Service Area. Accordingly, the parties agree to implement the following procedure for the initial construction and subsequent extension of the Grantee's Cable System within the Service Area.

(1) Within sixty (60) days following the effective date of this Franchise, the Grantor and Grantee shall establish a mutually agreeable construction start date that takes account such time as is reasonably necessary for Grantee to issue Requests for Proposals relating to the construction of the Cable System. No later than four (4) years from the agreed upon construction start date, Grantee's Cable System shall be capable of providing Cable Service to all of the Dwelling Units in the Initial Coverage Area, provided however that Grantee may request, and the Grantor shall not unreasonably withhold its approval of, extensions of this deadline based on construction delays caused or contributed to by unforeseen events outside Grantee's control.

(2) Within thirty (30) days following completion of the Initial Coverage Area construction required under paragraph (1), Grantee shall send written notification to Grantor of completion of Initial Coverage Area construction and Grantor may require grantee to expand its Cable System's coverage in accordance with the terms of this paragraph. No more than once a year, after receipt of a written request from Grantor, Grantee shall provide a report showing the current Penetration Level in Grantee's Service Area. If the Penetration Level is thirty-five percent (35%) or greater, the City may require Grantee to expand its Cable System to cover an additional seven percent (7%) of the Unserved Area by delivering written notice to Grantee. Upon receipt of such notice, Grantee shall have twenty-four (24) months to meet such expansion requirement. Grantee shall determine which portion of the Unserved Area it will serve to meet its obligation under this paragraph.

(3) Once Grantee has extended its Cable System to cover ninety-five percent (95%) of the Service Area in accordance with paragraph (2), the

Grantee shall make available Cable Service distributed over the Cable System when Dwelling Units can be served by extension of the cable system past Dwelling Units equivalent to a density of seven (7) Dwelling Units per one-quarter (1/4) mile of cable contiguous to the Cable System. Grantee may petition the Grantor for a waiver of this requirement, such waiver to be granted for good cause shown.

(4) Extensions of the Cable System pursuant to paragraphs (2) and (3) shall be at the Grantee's cost.

(5) In areas not meeting the requirements of seven (7) or more Dwelling Units per one-quarter (1/4) mile of cable contiguous to the Cable System, Grantee shall provide, upon request of any potential Subscribers desiring Cable Service from Grantee, an estimate of the costs required to extend the Cable System to such Subscribers. Grantee shall then extend the Cable System upon request and upon payment of any amount equal to the reasonable value of actual time and materials to be incurred by Grantee for such extension. If the Dwelling Unit is located within one hundred twenty-five (125) feet of Grantee's feeder cable, the installation cost for the Subscriber will be the Grantee's published rate for Standard Installations.

(6) Definitions. For purposes of this Section 7-1803(j), the following terms shall have the meanings ascribed to them below:

(A) "Coverage Area" means any portion of the Service Area where Dwelling Units are passed by Grantee's Cable System activated plant.
(B) "Dwelling Units" means all residential single family or multi-family homes or units in the Service Area.
(C) "Initial Coverage Area" means an area comprised of seventy percent (70%) of the Dwelling Units in the Service Area.
(D) "Penetration Level" means the percentage obtained by dividing (x) the number of Grantee's Subscribers, by (y) the total number of Dwelling Units in Franchisee's Service Territory (e.g., x/y = Penetration Level percentage).
(E) "Unserved Area" means any portion of the Service Area where the Dwelling Units are not in Grantee's Coverage Area.

(k) *Emergency Use.* If the Grantee provides an Emergency Alert System ("EAS"), then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System.

(l) *Non-Discrimination*. All Grantee's rates and charges shall be publicly-available and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall provide a minimum of thirty (30) days' written notice to Grantor and each Subscriber before increasing any rates and charges. Grantee shall make its services available on a non-discriminatory basis, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military, or economic status, or physical or mental disability or geographic location within the Service Area. Nothing herein shall be construed to prohibit:

(1) The temporary reduction or waiving of rates or charges in conjunction with promotional campaigns; or,

(2) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens.

Sec. 7-1804. Regulation by the Grantor

(a) *Franchise Fee.* The Grantee shall pay to the Grantor an annual franchise fee of five percent (5%) of annual Gross Revenues (as defined in this Franchise) computed in accordance with Generally Accepted Accounting Principles.

(1) Each annual payment shall be due forty-five (45) days following the end of the previous calendar year and shall be accompanied by a report prepared by a representative of Grantee showing the amount of the franchise fee due for each month covered by the annual payment. Upon written request, and subject to Section 7-1805(a), the Grantee shall provide such information as the Grantor may require to determine whether fees are being paid as required, attested to as accurate by an officer of the Grantee.

(2) Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due.

(3) No acceptance of any payment by the Grantor shall be construed as a release or an accord and satisfaction of any claim the Grantor may have for further or additional sums payable as a franchise fee or for the performance of any other obligation of Grantee.

(b) *Rates and Charges.* The Grantor may regulate rates and charges except to the extent preempted from doing so by federal or state law.

(c) *Transfer of Franchise.* The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other

than to an entity controlling, controlled by, or under common control with the Grantee as of the Effective Date, without the prior consent of the Grantor, such consent not to be unreasonably withheld. A change of control of Grantee or entities controlling Grantee shall be treated as a transfer. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness, provided that no such instrument permits any person to succeed to the ownership or control of the system without the approval of the Grantor. Without limiting the other provisions of this Franchise, Grantor and Grantee shall comply with any federal regulations governing transfer of cable systems. In deciding whether to grant or deny a request for transfer, the Grantor may consider any factors it may consider under applicable law, including the financial, technical and legal qualifications of the transferee.

Sec. 7-1805. Books and Records

(a) The Grantee agrees that the Grantor, upon thirty (30) days written notice to the Grantee, may review and copy such of its books and records at a mutually agreed upon time and place, as is reasonably necessary to ensure compliance with the terms of this Franchise, or applicable law, or to carry out any of the Grantor's obligations under the same. Such notice shall reference the Section of the Franchise or applicable law giving rise to the request, so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Grantor agrees that it will not disclose information provided to it which is marked as confidential or proprietary, except as required to do so by Montana public records statutes or by court order. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act and shall redact any such information.

(1) Upon request, Grantee shall provide the Grantor with maps of its system as built, in hard copy or, if the Grantor requests it, in an electronic format compatible with the Grantor's mapping systems.

(2) Grantor may require Grantee to produce reports reasonably necessary to ensure compliance with the terms of this Franchise, or applicable law, or to carry out any of the Grantor's obligations under the same.

Sec. 7-1806. Insurance and Indemnification

(a) *Insurance Requirements.* The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of one million five hundred thousand dollars ($1,500,000) combined single limit for bodily

injury and property damage. The Grantor shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Grantor. The Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

(b) *Indemnification.* Grantee shall indemnify, save harmless and defend the Grantor, its mayor and council, appointed boards and commissions, officers and employees, (collectively "Grantor and its agents") individually and collectively from all fines, liens, suits, claims, demands, actions, costs of litigation, attorneys' fees, judgments or liability of any kind ("Losses") (including but not limited to libel, slander, invasion of privacy, unauthorized use of any trademark, trade name or service mark, copyright infringement, injury, death or damage to person or property) arising out of or in any way connected with the installation, construction, operation, maintenance or condition of the Cable System. The Grantor shall give Grantee timely written notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the indemnity of this section, where Grantee is not a party thereto.

Sec. 7-1807. Enforcement and Termination of Franchise

(a) *Violation.* In the event that the Grantor believes that the Grantee has not complied with the terms of the Franchise, or applicable law, the Grantor may commence a proceeding in any court or agency of competent jurisdiction, and take such other actions as are permitted under this section, or other applicable law.

(b) *Liquidated Damages*. Grantee and Grantor agree to the following liquidated damages for the following violations. Grantee and Grantor agree that the liquidated damages amounts are in 2021 dollars and, upon notice from Grantor, may be increased once every three (3) years by the increase in the U.S. city average of the consumer price index. Damages accrue in accordance with subsection (c); provided that, nothing herein prevents Grantee from raising a defense to the imposition of liquidated damages from the date of the violation based upon laches, waiver, statute of limitations, or any other similar defense.

(1) For transferring this Franchise without required approval: One thousand dollars ($1,000.00) per day for each violation for each day the violation continues.

(2) For failure to comply with requirements for PEG use of the system for which damages to Grantor are not readily ascertainable: Two hundred fifty dollars ($250.00) per day for each violation for each day the violation continues.

(3) For violation of customer service standards: One hundred dollars ($100.00) per violation, except that violations of customer service standards, such as telephone answering standards, where the operator's compliance is not measured in terms of its response to individual customers, one thousand five hundred dollars ($1,500.00) a month for any period during which the Franchise fails to meet applicable performance standards, provided that, for purposes of this applying the telephone answering time standard, Grantee shall be deemed to have satisfied said standard whenever a Subscriber call is connected to an automated answering system within thirty (30) seconds after the call first rings and the Subscriber is transferred to a customer service representative within thirty (30) seconds after the Subscriber makes an automated or voice request to be so transferred; and

(4) For all other material violations of this Franchise for which actual damages may not be ascertainable: Two hundred fifty dollars ($250.00) per day for each violation for each day the violation continues.

(c) *Procedures for Imposition of Liquidated Damages*. Grantor may impose liquidated damages in accordance with procedures in this section, provided that Grantee will not be liable for liquidated damages for violations of the customer service standards until ninety (90) days after it began serving its first Subscriber in the Service Area. Grantor shall provide Grantee written notice describing with reasonable specificity the alleged noncompliance, and provide Grantee with an opportunity to be heard at a public hearing, to show either that a violation has not occurred or that damages should not be imposed. The written notice shall be provided at least sixty (60) days prior to any hearing on the alleged noncompliance. Liquidated damages shall accrue from the date of the alleged violation.

(d) *Nature of Liquidated Damages.* These sums are agreed upon as reasonable liquidated damages, developed in accordance with state law, and are not penalties.

(e) *Revocation of Franchise.* The Grantor shall have the right to terminate, revoke or shorten the term of this Franchise for the reasons specified in the Cable Ordinance as of the effective date of this Franchise, pursuant to the procedures specified in the Cable Ordinance. Provided that, any amendments to the Cable Ordinance shall provide the same level of due process as is provided under the procedures provided for under the Cable Ordinance as the same existed on the effective date of this Franchise.

(f) *Force Majeure.* Grantee shall not be deemed in default with provisions of this Franchise where performance was rendered impossible by war or riots,

civil disturbances, floods, natural catastrophes, or other events beyond Grantee's control, provided that Grantee takes immediate and diligent steps to comply as soon as possible under the circumstances with this Franchise without unduly endangering the health, safety and integrity of Grantee's employees or property, or the health, safety and integrity of the public, public rights-of-way, public property, or private property.

Sec. 7-1808. Public, Educational and Governmental Use

(a) *Definitions:*

(1) "Access, Public, Educational or Government, or PEG" refers to the availability of the System for Public, Education or Government ("PEG") use by various agencies, institutions, organizations, groups, and individuals, including the Grantor and its designated Access providers, to acquire, create, and distribute video and non-video communications not under Grantee's editorial control.

(2) "High definition" refers to television signals with a resolution of 1080i or 720p.

(b) *Provision of Channel Capacity for PEG Use.* At such time as Grantee first provides Cable Service to its first Subscriber in the Service Area, the Basic Cable Service provided by Grantee shall include two channels designated for PEG use. The PEG channels shall not be used for any purpose inconsistent with applicable law.

(c) *Management of Channel.* The Grantor shall designate who is responsible for managing the PEG channels provided under this Franchise.

(d) *Availability.* The PEG channels provided under this Franchise shall be viewable by any Subscriber without the need for obtaining any equipment other than the equipment required to receive High Definition broadcast channels; and shall be provided as part of Basic Cable Service.

(e) *Electronic Program Guide.* To the extent technically feasible, Grantee will identify the PEG channels on the same interactive, on-screen electronic program guide ("EPG") on which the Grantee lists other channels. If the entity that is responsible for managing a PEG channel wants the EPG to display specific program-related information (e.g., title, date, and time of program, closed captioning availability, etc.), it shall be the sole responsibility of such entity both to timely provide the information that it wishes to have displayed to the entity that is responsible for programming the EPG and to bear any expenses associated with arranging for such display.

(f) *Format.* PEG links and channels must be designed so that there is no noticeable deterioration in signal quality or programming as received from the PEG programmer and should be of a quality equivalent to other local broadcast affiliate station channels carried on the Basic Cable Service. Grantee shall cablecast in High Definition format any PEG programming provided in high definition format. If, at any time during the term of this Franchise, Grantee carries fifty (50%) percent of all commercial channels on the Basic Cable Service in an advanced format other than High Definition, Grantee shall also carry the PEG channels in such format if so provided to Grantee and upon a schedule to be mutually agreed with the Grantor which may include carriage in more than one format for a transition period. Grantor will be responsible for the cost of upgrading its PEG facilities as needed to deliver the advanced format to Grantee; Grantee will be responsible for the cost of upgrading its facilities as needed to deliver the advanced format to Subscribers.

(g) *Grantee's Responsibilities.* Grantee will provide and maintain a dedicated two-way activated fiber link between the Community Seven Television Playback Center at the Lincoln Center (the "Playback Center") and the Grantee's headend for cablecasting to Subscribers so that the transmission of any PEG channel emanating from the Playback Center can be monitored by Grantor. Grantee also will provide and maintain equipment to encode signals for transport from the Playback Center to the TDS headend. Grantee shall be responsible for ensuring that no material degradation occurs to signals emanating from said Playback Center during their transmission from Grantee's headend to Subscribers. The Grantee will provide and maintain dedicated activated fiber links between the Playback Center and the following locations so that each location may transmit signals without degradation to the Playback Center:

(1) City Hall (Council Chambers/Municipal Court), located at 220 North 27th Street

(2) Either (but not both) the Stillwater Building at 316 North 26th Street, or the Miller Building at 301 North 29th Street, with the decision as to which one of these buildings Grantee is obligated to provide connections shall be made by Grantor and communicated to Grantee in writing at least thirty (30) days prior to the date on which Grantee commences downtown construction of the Cable System.

If Grantee makes changes to its Cable System that necessitate modifications to PEG facilities and equipment, including but not limited to the links, Grantee shall provide any additional facilities or equipment necessary to implement such modifications within thirty (30) days of the date that the System changes are made, so that PEG facilities and equipment may be used and operated as intended.

(h) *Other Capital Support for PEG.*

(1) Grantee shall pay twenty-five cents ($0.25) per Subscriber per month for capital support for PEG. Grantor may increase this fee to up to eighty-five cents ($0.85) per subscriber per month and Grantee shall pay the increased fee beginning sixty (60) days after adoption of a resolution by the Grantor after at a public meeting, provided that such fee, as increased, is not greater than the PEG capital support fee required to be paid by any other Cable System serving the City. This charge for PEG capital support may be categorized, itemized and passed through to subscribers as a PEG fee on Subscriber's bills, at Grantee's option, as permitted by applicable law. Grantee shall remit the PEG capital support fee, separately itemized by month, to Grantor annually at the same time as Grantee remits the franchise fee payment due under Section 7-1804(a)(1).

(2) Grantee shall not be responsible for paying the PEG capital support fee with respect to gratis or bad debt accounts. Upon Grantee's written request and due as agreed upon by both parties, the Grantor shall provide the Grantee with documentation showing expenditures for PEG capital use of the previous fiscal years' PEG capital support fee and showing the budgeted use of the current year's PEG funding. In the event the Grantor cannot demonstrate that PEG capital funding was used or budgeted for PEG capital needs, Grantee's PEG funding obligations going forward shall be reduced by an equivalent amount.

(i) *Channel Location.* Grantee agrees to use reasonable efforts to place the PEG channels on channel locations that are grouped with the local national network affiliated broadcast stations (e.g. ABC, CBS and NBC) in the Basic Cable Service. Grantee shall not change the channel position for the PEG channels without the Grantor's consent unless the change is required by federal law. The Grantor's consent will not be unreasonably withheld or delayed. Grantee shall pay reasonable, documented capital expenses associated with any change in the PEG channel positions, up to three thousand dollars ($3,000.00) per change. Grantee shall give Subscribers advance notice, consistent with the federal customer service standards, of any change in the channel position of a PEG channel.

(j) *No Charge for Use.* The facilities, equipment and channel capacity provided for PEG use shall be available at no charge from Grantee to users, to the Grantor or to any entity responsible for managing a PEG channel.

(k) *Support not a franchise fee.* PEG capital support fee is not intended to represent part of the Franchise Fee and is intended to fall within one (1) or more of the exceptions in 47 U.S.C. § 542. So long as the PEG capital support fee is used by Grantor as permitted by applicable federal law, and

this Franchise, Grantee agrees that it will not offset or reduce its payment of past, present or future Franchise Fees required as a result of its obligation to remit the PEG capital support fee, unless otherwise mandated by applicable law.

Sec. 7-1809. Miscellaneous Provisions

(a) *Actions of Parties.* In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

(b) *Entire Agreement.* This Franchise constitutes the entire agreement between the Grantee and the Grantor. Amendments to this Franchise shall be mutually agreed to in writing by the parties.

(c) *Governing Law.* This Agreement shall be governed by the laws of the State of Montana unless expressly preempted by federal law. Venue for any litigation shall be in Yellowstone County, Montana.

(d) *Notice.* Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Grantor or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, or c) within five (5) business days after having been posted in the regular mail.

The notices or responses to the Grantor shall be addressed as follows:

City of Billings
City Administrator
P.O. Box 1178
Billings, MT 59103

The notices or responses to the Grantee shall be addressed as follows:

TDS Metrocom, LLC
525 Junction Road
Madison, WI 53717
ATTN: Legal Department

The Grantor and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

(e) *Descriptive Headings*. The captions to Sections and subsections contained herein are *intended* solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

(f) *Severability*. If any non-material Section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

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

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

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

PASSED by the City Council on first reading this ___ day of _____, 2021.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2021.

CITY OF BILLINGS:

BY:_____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

ACCEPTED this ____ day of _____, 2021, subject to applicable federal and state law.

TDS, Metrocom, LLC
By:
_____
Name: _____
Title: _____

City Council Regular

Date:	04/26/2021
Title:	Massage Therapy Business License Ordinance - Second Reading
Presented by:	Gina Dahl
Department:	Legal
Presentation:	No

RECOMMENDATION

Staff recommends Council approve the proposed ordinance regulating massage and spa facilities through business licensing criteria on second reading.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On April 12, 2021, Council held a public hearing on the First Reading of An Ordinance of the City of Billings, Montana, Regulating Massage and Spa Facilities Through Business License Criteria, Providing Exemptions, Authorizing the City Administrator or Designee to Administratively Deny, Suspend, or Revoke Business Licenses and Allowing an Appeal From Such Action and Providing for Criminal and Civil Penalties Upon Conviction of a Violation in Order to Combat Human Trafficking and to Promote the Health and Welfare of the Billings Community. This Ordinance was passed on first reading following a public hearing.

Billings has a significant problem with illicit businesses operating under the guise of being massage or spa facilities. Federal Bureau of Investigations (FBI) data from 2017 tracked commercial sex ads in Montana. Bozeman and Missoula had nearly 5,000 ads, while other MT cities had between 2,000 and 3,000 and Billings had nearly 20,000. These illicit businesses are considered to be a primary source of these ads. Over the past five years, there have been between 15 and 27 illicit businesses disguised as massage facilities operating within our City on any given night.

This illegal activity is contributing to the City's crime problems. Criminal investigations of human trafficking are expensive and time-consuming. The proposed ordinance requires a massage or spa facility to submit an application for a business license. The proposed ordinance contains requirements for operation of the facility and any violation of the terms and conditions of the ordinance may result in fines or suspension/revocation of the business license. This ordinance is a low cost, yet effective, tool to chase these illegal businesses out of our community. There is no simple solution or approach that will eradicate this from our community. However, with proper implementation and enforcement, this ordinance will result in a significant reduction of these illegal businesses in our community.

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve

FISCAL EFFECTS

SUMMARY

If properly implemented and enforced, this ordinance will reduce human trafficking by making it more difficult for illicit businesses to operate under the guise of being massage or spa facilities. Additionally, it will save resources for law enforcement by providing the City an alternative process to shut down these illicit businesses, and it will drive away criminal enterprises masquerading as legitimate businesses in exchange for low cost, nominal regulation.

Attachments

Massage and Spa Facility Licensing Ordinance

ORDINANCE NO. 21-_____

AN ORDINANCE OF THE CITY OF BILLINGS, MONTANA, REGULATING MASSAGE AND SPA FACILITIES THROUGH BUSINESS LICENSING CRITERIA, PROVIDING EXEMPTIONS, AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO ADMINISTRATIVELY DENY, SUSPEND OR REVOKE BUSINESS LICENSES AND ALLOWING AN APPEAL FROM SUCH ACTION AND PROVIDING FOR CRIMINAL AND CIVIL PENALTIES UPON CONVICTION OF A VIOLATION IN ORDER TO COMBAT HUMAN TRAFFICKING AND TO PROMOTE THE HEALTH AND WELFARE OF THE BILLINGS COMMUNITY.

WHEREAS, the City of Billings is a municipality with self-governing powers as provided by the Montana Constitution, Article XI, Section 6 and MCA sections 7-1-101, -102.

WHEREAS, the powers and authority of a local government unit with self-governing powers shall be liberally construed and every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority. MCA 7-1-106; see also Montana Constitution, Article XI, Section 4(2).

WHEREAS, the City of Billings is specifically empowered through MCA 7-21-4101 to license all industries, pursuits, professions, and occupations and to impose penalties for failure to comply with such license requirements; and to fix the amount, terms, and manner of issuing and revoking licenses. Further, the City Council may refuse to issue licenses when it may deem it best for the public interests.

WHEREAS, licensed massage therapy is a professional pursuit which can offer the public valuable, useful and efficacious health and therapeutic services;

WHEREAS, the City Council finds the purpose and intent of this article is to combat human trafficking, regulate and protect massage therapy businesses, and safeguard and promote the public health, safety and welfare of the citizens of Billings, while recognizing that massage therapy is a valuable health care profession that provides benefits to the residents of the City;

WHEREAS, the City Council further recognizes that, unless properly regulated, illicit businesses may operate under the false and misleading pretense of being massage therapy businesses, promote human trafficking and other unlawful activity, and pose a threat to massage therapy businesses and the quality of life in our community;

WHEREAS, the reputation and success of massage therapy businesses are denigrated and undermined by businesses that mask unlawful sexual activities and human trafficking by falsely posing as massage therapy businesses;

WHEREAS the presence of such illicit businesses has an adverse impact on the reputation of Billings and surrounding properties and can result in blight, cultivate further illegal activities, and generally become a public nuisance;

WHEREAS, MCA 37-33-405 of the Massage Therapy Licensing Act requires that the Board of Massage Therapy adopt rules to regulate the profession of massage therapy in order to fulfill its purpose to ensure the health, safety, and welfare of the people of this state as set forth in Montana Administrative Rule 24.1.101(4)(a)(iv)(L); and

WHEREAS, neither the Massage Therapy Licensing Act nor rules adopted by the Board of Massage Therapy prevent the City from regulating massage therapy businesses, and the City wishes to exercise its regulatory powers as a self-governing unit of local government for the reasons stated above.

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

Section 1. That Article 7-1900 of the Billings, Montana City Code be created and added to read as follows:

Sec. 7-1901 Purpose and intent.

It is the purpose and intent of this article to regulate businesses that purport to be massage or spa facilities in order to safeguard and promote the public health, safety and welfare of the residents of the city, while recognizing that massage is a valuable health care professional activity that provides benefits to the residents of the city.

Sec. 7-1902 Definitions.

For purposes of this article, and consistent with the definitions set forth in any applicable sections of the Montana Code Annotated, unless the context clearly requires a different meaning, the words, terms and phrases set forth in this article shall have the following meanings:

a. “Applicant” means an individual acting on behalf of a massage or spa facility to apply for a license.
b. “Board" means the board of massage therapy provided for in MCA 2-15-1782.
c. “Client” means an individual who enters into an agreement for massage therapy or spa services to be provided within the city for a fee, income, or compensation of any kind.
d. “Control” means the legal power to direct or materially influence the direction of the management and policies of an applicant, licensee or controlling person, in any way.
e. “Controlling person” means a person directly or indirectly exercising control or having the potential to exercise control of an applicant, licensee, or other controlling person.
f. “DOLI” means the Montana Department of Labor and Industry provided for in MCA 2-15-1701.
g. “Dormitory” means a location, other than a residence, where individuals working for a massage or spa facility live or engage in communal sleeping, as potentially

evidenced by, but not limited to, witness statements or the presence of beds, bedding material, mattresses or cots.

h. "Employee" means any person who performs any service at a massage or spa facility on a full-time, part-time, or contract basis, whether or not the person is designated an employee, independent contractor or otherwise. Employee does not include a person exclusively engaged in the repair or maintenance of the facility or the delivery goods to the licensee.
i. "Erotic parlor" means a business or facility, other than sexually oriented businesses as defined in Sec. 27-1803 A., that entices clients through advertising or other business practices directed toward sexual desires, lust or passions.
j. "For compensation" means the exchange of massage or spa services directly or indirectly for money, goods, services or other valuable consideration. Massage or spa services are provided "for compensation" even if offered nominally free but in conjunction with other services or goods provided for compensation.
k. "License" means a license issued by the City of Billings authorizing the holder to operate a massage or spa facility in accordance with this ordinance.
l. "Licensee" means the person holding a city massage or spa facility license.
m. "License administrator" is the City Administrator or his/her designee, including but not limited to code enforcement officers.
n. "Manager" is an individual authorized by the licensee to exercise overall operational control of the massage or spa facility, to supervise employees, or to fulfill any of the functions required of a manager by this article.
o. "Massage or spa facility" means any business where any massage, massage therapy or spa services are practiced, administered, or advertised in exchange for compensation. The term "massage or spa facility" shall not include:
    1. A place of business where only one licensed massage therapist practices as a solo practitioner who is in compliance with all other applicable city code provisions as well as sections 7-1910 and 7-1911 of this article, and;
        a) Does not use a business name or assumed name; or
        b) Uses a business name or an assumed name and provides the massage therapist's full legal name or license number in each advertisement and each time the business name or assumed name appears in writing; and
        c) Does not maintain or operate a table shower as defined in this section.
    2. A place of business that limits its business to the following practices performed by persons who:
        a) Do not claim expressly or implicitly to be massage therapists; and
        b) Limit their work to one or more of the practices listed in MCA 37-33-404(4) or (5); and
        c) Is recognized by or meets the established requirements of either a professional organization or credentialing agency that represents or certifies the respective practice based on a minimum level of training, demonstration of competence, and adherence to ethical standards.

3. Training rooms of public and private schools accredited by the state board of education or approved by the state regulatory body charged with the responsibility of approving private occupational schools.
4. Training rooms of recognized professional or amateur athletic teams.
5. Offices, clinics, and other facilities at which medical professionals in any of the practices listed in MCA 37-33-404(1) licensed by the state of Montana, or any other state, provide massage services to the public in the ordinary course of their medical profession.
6. Medical facilities licensed by the state.
7. Barber shops, beauty salons, and other facilities at which barbers, cosmetologists, and aestheticians licensed by the state that provide massage services to the public only in the ordinary course of those other licensed professions.
8. Bona fide athletic clubs not engaged in the practice of providing massage services to their members or to the public for substantial compensation; for purposes of this definition, if an athletic club does not receive more than 10 percent of its gross income providing massages to its members or to the public such shall be prima facie evidence that it does not receive substantial compensation for such services.
9. A place of business where a person offers to perform or performs massage therapy:
    a) For not more than 72 hours in any six-month period; and
    b) As part of a public or charity event, the primary purpose of which is not to provide massage therapy.
10. Any other business specifically exempted under MCA 37-33-404.
11. In accordance with section 7-1914, the license administrator may promulgate additional rules related to these exemptions, including rules that may result in a finding that a practice is no longer exempt.

p. "Massage therapy" means massage therapy as defined in MCA 37-33-403(4).
q. "Massage therapist" means a person who has fulfilled the requirements to obtain a valid license issued by the Board of Massage Therapy as defined in MCA 37-33-403(3).
r. "Nudity" shall have the meaning defined by Billings Code Sec. 27-1803 A.
s. "Operator" means any person who operates and is responsible for the day-to-day activities of a massage or spa facility.
t. "Owner" means any person who has any direct or indirect ownership interest in a massage or spa facility.
u. "Person" means an individual, partnership, corporation, association, limited partnership, limited liability company, governmental subdivision, agency, or public or private organization of any character.
v. "Sexual Act" means sexual contact, sexual intrusion, or sexual penetration as defined in MCA 45-2-101(67) and (68).
w. "Spa" means a business that offers or engages in personal services for compensation that call for the patron to fully or partially disrobe, such as, but not limited to, massage, body wraps, hydro mineral wraps, body polish, body scrub, body wash, baths and hydro tub soak.

x. “Table Shower” means an apparatus for the bathing or massaging of a person on a table or in a tub.

Sec. 7-1903 Other licenses, taxes, and laws generally.

The license and fee required by this article for massage or spa facilities replaces the regular business, occupation and profession tax normally assessed under Billings Code Sec. 13-423, but are in addition to any other applicable licenses, permits, or fees required by the city, county or state. A massage or spa facility licensed under this article shall comply with all other applicable ordinances and laws, including city zoning ordinances.

Sec. 7-1904 Massage or spa facility license required.

a. It is unlawful for any person to operate a massage or spa facility in the City of Billings without a valid massage or spa facility license issued by the city as required by this article.
b. It is unlawful for any individual to practice massage therapy for compensation in the City of Billings without first obtaining and maintaining a valid massage therapy license as required under MCA 37-33-501.
c. Students and instructors who meet the requirements of MCA 37-33-404(2) and (3) are exempted from the requirements of this section.

Sec. 7-1905 Application for massage or spa facility license.

a. Any person desiring to obtain a massage or spa facility license shall make written application to the city finance department.
b. The application shall be verified and accompanied by the application fee.
c. Confidential information, as defined by MCA 2-6-1002, provided in the massage or spa facility license application that is specifically requested to be kept confidential by the applicant shall not be made publicly available except to the extent required by applicable law.
d. All applicants shall provide the following information under oath:

    1. The full name and any aliases currently or formerly used by the applicant;
    2. The name, date of birth, place of birth, race (optional), sex (optional), address of physical residence, mailing address (if different), telephone numbers, and email address of the applicant;
    3. If the applicant has resided at the current address for less than two years, two previous residential addresses immediately prior to the current residential address of the applicant and the dates of residence at each;
    4. Business, occupation or employment history of the applicant for the five years immediately preceding the date of application;
    5. The name, physical address, mailing address, email address, and telephone numbers of the proposed licensee and type of business organization (individual, partnership, corporation, limited liability company, etc.). If the proposed licensee is a partnership, corporation, or limited liability company, the

same information required of an individual applicant in subsections (1), (2), (3), (14), (15), (16) and (17) is required of all partners, officers, directors, managers, members, or persons owning or beneficially owning more than five percent of the common or preferred stock, real or personal property, or other indicia of ownership of the proposed licensee or the licensee's property;

6. The proposed address and name or names of the premises upon which the massage or spa facility for which a license is sought will be located and any name under which the licensee plans to conduct business ("dba" name);
7. The hours that the massage or spa facility will be open to the public and such times that the exterior door or doors may be locked as allowed under section 7-1911, if applicable;
8. A list of services to be provided at the facility;
9. The name, physical address, email address, and telephone numbers of the owner of the premises that the massage or spa facility is to be located and satisfactory proof of the right to possession of such premises;
10. A certificate of good standing from Montana, or other state of incorporation or registration, if the proposed licensee is a corporation, partnership or limited liability company;
11. Information as to whether the applicant, licensee, or any partner, officer, director, manager, member, or person owning or beneficially owning more than five percent of the common or preferred stock, real or personal property, or other indicia of ownership of the proposed licensee or licensee's property has, within five years preceding the date of application, been convicted of, or placed on diversion or deferred judgment for any felony, financial crime, or sexual offense and an explanation of all such convictions, diversions, or deferred judgments (a conviction or other criminal sanction is not an automatic bar to obtaining a massage or spa facility license);
12. Information as to whether the applicant, proposed licensee, or any partner, officer, director, manager, member or person owning or beneficially owning more than five percent of the common or preferred stock, real or personal property, or other indicia of ownership of the licensee or licensee's property is currently under indictment, charge or information for any felony, financial crime, or sexual offense and an explanation of all such allegations (an indictment, charge or information is not an automatic bar to obtaining a massage or spa facility license);
13. A statement as to whether the applicant, proposed licensee, or any partner, officer, director, manager, member or person owning or beneficially owning more than five percent of the common or preferred stock, real or personal property, or other indicia of ownership of the proposed licensee or licensee's property is a registered sex offender;
14. Information as to whether the applicant, proposed licensee, or any partner, officer, director, manager, member or person owning or beneficially owning more than five percent of the common or preferred stock, real or personal property, or other indicia of ownership of the proposed licensee has ever been refused any similar license or permit, or has had any similar license or permit

issued to such individual or business in the city or elsewhere revoked or suspended, and the reason for the refusal, revocation, or suspension;

15. A state fingerprint background check in accordance with requirements described by the Montana Department of Justice website at https://dojmt.gov/enforcement/background-checks/ (license renewals under section 7-1916 do not require another background check if the applicant certifies that all information contained in the background check remains unchanged from the previous year);
16. A statement by the applicant that he or she is familiar with the provisions of this article, all statements made in the application are true and correct, and the applicant is in compliance and will remain in compliance with all requirements of this article while the license is in effect; and
17. Any applicant intending to practice massage therapy must provide a copy of the massage therapy license issued by the DOLI pursuant to MCA 37-33-501.

Sec. 7-1906 Requirements to obtain massage or spa facility license.

a. To receive and retain a license to operate a massage or spa facility, all applicants and licensees must meet the following requirements:

    1. The required fees as established by the city council must be paid;
    2. The application must be complete and provide all information required by section 7-1905;
    3. The applicant must not have knowingly made a false or misleading statement of a material fact in the application;
    4. The applicant must be at least eighteen years of age;
    5. The operation of the massage or spa facility as proposed, if licensed, must comply with all applicable building, fire, health, zoning and other city, county, and state laws. Any massage or spa facility operating out of a residence must meet all home occupation requirements of the Billings, Montana City Code.
    6. The applicant must provide a copy of the license issued by the DOLI pursuant to MCA 37-33-501 for any massage therapist who will be working as a massage therapist at the massage or spa facility.

b. For applicants and licensees who fall into any of the categories listed below, the license administrator may conduct an investigation to determine whether a massage and spa facility license should or should not be issued or retained in the reasonable discretion of the license administrator. In exercising his or her discretion the license administrator shall consider the purpose and intent of this article; the extent to which the applicant or licensee has or has not complied with the requirements of this article; and any other factors reasonably relevant to the health, safety and welfare of the city and its citizens.

    1. The applicant or licensee has been convicted in any jurisdiction of a felony, financial crimes, or sexual offenses within five years immediately preceding

the date of the application (for purposes of this section the term "conviction" shall include entering into pretrial diversion or a deferred prosecution agreement, being placed on a deferred judgment, or being adjudged guilty upon entering a plea of no contest);

2. The applicant or licensee is currently under indictment, charge, or information for any felony, financial crimes, or sexual offenses;
3. The applicant or licensee is a registered sex offender with any federal, state or local government;
4. The applicant, licensee, or any business associated with the applicant or licensee had a similar type of license in any jurisdiction previously suspended or revoked for good cause within five years immediately preceding the date of the filing of the application;
5. The applicant is applying for a license to locate a massage or spa facility in a location where the license for a previous massage or spa facility has been revoked or suspended for cause within the last 24 months; or
6. The character, record, or reputation of the applicant or his or her agent or principal or of the licensee is such that a potential violation of this article may occur if a license is issued.

c. If the proposed or existing licensee is a partnership, corporation, limited liability company or other type of organization, all persons having financial interest in the applicant shall meet the requirements described in subsections (a) through (b) above. Financial interest includes any board member, manager, member, officer, director, or officer of the subject organization and any stockholder or other owner holding or having a beneficial interest in more than five percent of the stock, real or personal property, or other indicia of ownership of property of the organization.
d. The license administrator shall be empowered to place reasonable conditions and restrictions upon any massage or spa facility license. The licensee shall have the right to appeal any such conditions or restrictions in accordance with the provisions of section 7-1913(b).

Sec. 7-1907 Review by other departments.

Prior to the issuance of any massage or spa facility license, the corresponding application may be submitted to other departments, including the Police Department, for review. The Police Department shall provide information as to whether the applicant and each of the individuals required to be listed in the application meet the requirements of section 7-1906 and any other requirements of this article. For this section 7-1907 the Police Department shall only provide information and shall not approve or disapprove of any application.

Sec. 7-1908 Issuance.

a. If after any necessary investigation, the license administrator finds that the applicant, licensee, and each of the persons required to be listed in the corresponding license application meet the requirements of this article and any

other requirements of the Billings, Montana City Code, then the license application shall be approved within 30 days following receipt of the completed massage or spa facility license application. In the event of a denial, the license administrator shall explain in writing the reason for the denial.

b. The license administrator may place reasonable conditions or restrictions upon any massage or spa facility on a case by case basis. The licensee shall have the right to appeal any such conditions or restrictions in accordance with the provisions of section 7-1913(b).

Sec. 7-1909 Temporary license.

The license administrator may issue a temporary massage or spa facility license upon receipt of a complete license application involving the sale or change in ownership of a business. Such license shall be issued for 30 days, and renewed every 30 days until approval or denial of the massage or spa facility license.

Sec. 7-1910 Prohibitions during operation.

It shall be unlawful for any licensee, owner, operator, manager, or employee to:

a. Operate the facility in violation of any provision of this article or without a valid massage and spa facility license or with such a license that has been suspended, revoked, or expired.
b. Be open for business for the practice of massage therapy without a massage therapist on the premises who is licensed in accordance with MCA 37-33-501 and -502.
c. Except as provided herein, permit a licensed massage or spa facility to be used as a dormitory or for housing, sheltering, or harboring any person(s), or as living or sleeping quarters for any person(s). The owner and family members of a massage or spa facility operated as a home occupation, as defined by Article 13 of Billings, Montana City Code, are exempt from this prohibition.
d. Massage any other person, or give or administer any spa, bath or baths, including table showers, in a manner intended to arouse, appeal to, or gratify the sexual response or desire of either party. In no case shall the employee intentionally touch, offer to touch, or agree to touch genitalia of the client.
e. Allow any employee to provide massage therapy or other massage service without being fully clothed. For purposes of this subsection, clothing shall be of a fully opaque, nontransparent material that shall not expose the employee's genitalia or substantially expose the employee's undergarments.
f. Require client nudity as part of any massage service without the client's prior consent nor permit any client nudity without draping and treatment in a way that ensures the safety, comfort, and privacy of the client.
g. Place, publish or distribute, or cause to be placed, published or distributed any misleading or false advertising that would reasonably suggest to prospective clients that any service is available other than those services described in this article, nor employ language in the text of any advertising that would reasonably

suggest to a prospective client that any service is available other than those permitted under this article, nor advertise in a manner that is inaccurate, deceptive, or sexually suggestive, either explicitly or implicitly.

h. Use or possess for massage or spa services provided for compensation, adult-oriented merchandise of a sexual nature, including sex toys, sexual aids, vaginal or anal lubricant, or any contraceptive item, in any part of a massage or spa facility, provided that nothing in this subsection shall restrict use or possession of such items for non-commercial purposes in a private residence, including one used for a home occupation in accordance with Article 13 of Billings, Montana City Code.
i. Permit any individual, including a client, student, contractor, or employee, to engage in or solicit any sexual contact or sexual intercourse, as those terms are defined in 45-2-101, MCA, with a client, when such act or solicitation is related to the practice of massage therapy or spa services in the massage or spa facility.
j. Permit any person to make an agreement with an employee to engage in any sexual conduct for compensation, whether consensual or otherwise, in the massage or spa facility or at a different location, in violation of Billings, Montana City Code or state law.
k. Refuse to provide access to government inspectors or law enforcement personnel who provide proof of identity, conceal persons in the facility, refuse to provide identification to inspectors or law enforcement, remain behind locked doors in the facility during an inspection, or elude or attempt to elude inspectors or law enforcement by exiting side or back doors.
l. Provide massage therapy or permit anyone to perform massage therapy without a valid massage therapist license issued under Billings city code and/or state law.
m. Operate an erotic parlor within the City as defined in this article.

Sec. 7-1911 Requirements during operation.

Every massage or spa facility licensee shall:

a. Maintain a current list of employees and independent contractors on site with start dates of employment or contracted service, full legal name, nationality, date of birth, place of birth, home address and telephone number, employment position, passport number (if a foreign national), date first began service, and the date when services were terminated, if applicable.
b. Maintain a copy of each massage therapist's Montana license issued pursuant to the Massage Therapy and Licensing Act.
c. Shall keep a complete set of books and records for the business on site at the facility. The records shall also include a log of all massage therapy administered at the facility. The log shall contain the following information: date, time and type of each massage therapy administered, and name of employee administering the massage therapy. The log shall be retained for a minimum of one year following any massage therapy. The log and other books and records shall be subject to inspection upon request by the inspector during normal business hours. Any protected health information may be redacted from the log and books and records provided subject to this article.

d. Operate or conduct business under only the designation specified in the license.
e. Keep all interior and exterior doors unlocked while the massage or spa facility is open for business except as follows:
    1. Restroom doors may be locked.
    2. Exterior doors may remain locked if permitted by applicable fire, building and zoning codes and if the facility is occupied by a single employee or independent contractor.
    3. Internal doors may be locked to protect confidential client or business information.
    4. A variance from the requirements of this subsection may be granted in the discretion of the license administrator upon written request of the licensee and evidence demonstrating that a variance is necessary for the security of employees, contractors, or property of the licensee and would not be inconsistent with the purpose and intent of this article.
f. Immediately open any locked door, including any exterior door, upon request by an inspector or law enforcement officer who provides proof of identity. However, an inspector or law enforcement officer may not interrupt a treatment session that is in progress, except that a treatment session lasting 2 hours or more may be interrupted.
g. On all massage and spa facilities with windows or other glass adjacent to an entrance, be required to have and maintain a sufficient portion of clear glass that is not painted over, darkened, or blocked by any cloth or obstruction at the entrance to such establishment so that the front area where patrons are greeted is visible from the outside. A variance from the requirements of this subsection may be granted in the discretion of the license administrator upon written request of the licensee and evidence demonstrating that the variance is reasonable in light of the cost of compliance or other factors and would not be inconsistent with the purposes and intent of this article.
h. List the physical address of the facility in any advertisement.
i. Provide a written list of prices for all services (through signage or written materials) of the massage or spa facility available to all prospective customers.
j. Operate only between the hours of 6:00 a.m. and 10:00 p.m.
k. Upon the sale or transfer of any ownership interest in the stock, membership interest, assets, or other indicia of ownership of a massage or spa facility, the license issued pursuant to this article shall be null and void, and a new application and license shall be required.

Sec. 7-1912 Inspections.

a. Any person operating a business within the City of Billings is subject to reasonable inspection provided in section 13-432 to determine compliance with all laws and ordinances, including with this article.
b. Each massage or spa facility shall conspicuously display on the premises the license of each massage therapist working at the business or, for a mobile practice, make the license readily available as required by MCA 37-33-406(1), or as amended.

c. The license administrator, a designee of the Board of Massage Therapy, or a law enforcement officer may enter a massage therapy business at any time during business hours to determine compliance with any law under that person's jurisdiction, including but not limited to this article or provisions of the Massage Therapy and Licensing Act.
d. All rooms, cabinets, and storage areas shall be subject to inspection and any locked rooms, cabinets, or storage areas shall be promptly opened for inspection.
e. Each massage or spa facility shall make the complete set of books and records and log of all massage therapy administered at the facility as required by this article available for inspection without unreasonable delay. Any protected health information may be redacted from the log and books and records provided subject to this article.
f. Upon request, all owners, managers, massage therapists, employees, contractors or persons occupying the facility other than clients shall present identification and shall not elude identification.

Sec. 7-1913 Denial, suspension or revocation of license.

a. The license administrator may immediately suspend a massage or spa facility license with a hearing to be scheduled within thirty (30) days when the director finds that:
    1. The licensee has violated any of the provisions of this article; or
    2. That the information set forth in the application utilized to obtain a massage or spa facility license was materially inaccurate or incomplete or likely obtained through fraud, deceit or misrepresentation; or
    3. The state has revoked the massage therapy license of the licensee, the applicant, the manager, or substantially all of the employees or contractors of the facility providing massage or spa services; or
    4. The licensee willfully failed to disclose any information as required in section 7-1905; or
    5. The licensee knowingly permitted a person to perform massage therapy when licensee should reasonably know that such person is not licensed in accordance with section 7-1904 and MCA 37-33-501 of the Massage Therapy Licensing Act when such license is required; or
    6. A pattern of credible facts emerges that the facility is attempting to operate an erotic parlor to engage in a prostitution enterprise or to commit other crimes whether or not there is a violation of any other specific law, rule, or code; or
    7. The licensee failed to permit an inspection in accordance with section 7-1912 any time the facility is occupied or open for business.

b. Any person aggrieved by any decision of the license administrator concerning the issuance, refusal to issue, suspension or revocation of a massage or spa facility license may appeal that action by filing a written notice of appeal with the city clerk within twenty (20) days of personal service or mailing of the written notice of the

license administrator's decision, with the manner of service to be determined in the discretion of the clerk.

All appeals will be informally heard by an administrative hearing officer appointed by the city. Upon receipt of an appeal, the administrative hearing officer will schedule a time and place for hearing such appeal.

The city clerk will give written notice to the appellant of the time and place of hearing by causing the notice to be personally served or deposited in the United States mail at Billings, Montana, postage prepaid, addressed to the appellant at the address provided on the written notice of appeal. The administrative hearing officer will have authority to make an initial determination of all questions raised on appeal**.**

The appeal shall clearly state the applicable basis for the appeal. The scope of the appeal hearing pursuant to this section shall be limited to those issues raised by the appellant in the written appeal, as submitted. The rules of evidence and civil procedure shall not apply to such a hearing. The original decision of the license administrator shall remain in effect during the period of appeal.

After a decision by the hearing officer, an aggrieved person or licensee may appeal to the City Administrator who shall review the written decision of the hearing officer. No additional hearing shall be permitted. The City Administrator may affirm or reverse the hearing officer decision. The decision of the City Administrator is final.

Any massage or spa facility license issued under this article is subject to suspension or revocation by the license administrator or his/her designee for violation of any provision of this article, violations of city, state or federal law, or for any grounds that would warrant the denial of the issuance of the license in the first instance.

When any massage or spa facility license has been revoked for violation of this article, no massage or spa facility license shall be granted to the following persons for a period of one year for the operation of a massage or spa facility in the premises described in the revoked license: the person who held the revoked license; the licensee's spouse; any person who held or holds more than a five percent ownership interest in any corporation, partnership, limited liability company or other organization that holds or held the revoked license; and any corporation, partnership, limited liability company or other organization in which any person who holds or formerly held the revoked license has more than a five percent ownership interest. Any additional massage or spa facility license for any other massage or spa facility may be revoked or suspended in the discretion of the City Administrator for up to one year if held by the person whose license was revoked for violation of this article or by a corporation, partnership, limited liability company, or other organization in which that person holds a controlling interest.

Sec. 7-1914 Supplemental provisions.

The license administrator, at his or her discretion, may promulgate rules for:

a. Approving professional organizations or credentialing agencies pursuant to section 7-1902(o);
b. Verifying the exempt status of a business or facility in accordance with section 7-1902(o) and the intent of this article;
c. Exempting additional practices from the requirements of this article; and
d. Determining that a practice is no longer exempt under section 7-1902(o) or any other provision of this article if there is a continued pattern of criminal behavior, including sexual misconduct, or criminal intent that is related to human trafficking disguised as a legitimate exemption.

Sec. 7-1915 Effective date.

The requirements of this article shall be effective immediately upon the effective date of this ordinance. Any facility subject to the requirements of section 7-1904(a) shall submit an application pursuant to section 7-1905 within thirty (30) days of the effective date of this ordinance.

Sec. 7-1916 Renewal application.

Every holder of a massage or spa facility license required by this article shall apply to renew his or her license every year. The renewal application shall include an update on any and all information set forth on the initial application and the renewal fee as established by the City Council. The licensee shall submit the application at least 45 days before the license expiration date. If the licensee fails to timely submit a complete application (including updated information and renewal fee), the current license shall be null and void on the expiration date stated on the license.

Sec. 7-1917 Land use and zoning requirements.

The premises and the property on which the premises occupied by a massage or spa facility are located shall conform to all applicable land use and zoning requirements.

Sec. 7-1918 Massage facility owner and operator responsibility for employee acts.

For the purpose of determining compliance with this article, any owner, operator, or licensee of a massage or spa facility shall be responsible for the conduct of all employees, independent contractors, unpaid volunteers and other persons who provide massage therapy or spa services on the premises or through arrangements with the massage or spa facility. All persons working in or for the massage or spa facility shall be deemed to be under the control of the owner, operator and licensee, and any act or omission of such persons constituting a violation of this article shall be deemed to be the act or omission of the owner, operator, and licensee for purposes of enforcing this article.

Sec. 7-1919 Violation and penalty, affirmative defense, and remedies.

a) Any person who violates any requirement of section 7-1904 and 7-1910 shall upon conviction be guilty of a misdemeanor and may be punished by a fine of up to $500.00 and/or incarceration for a term of up to six (6) months. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued or permitted by any such person.

   It shall be an affirmative defense under this article for an employee that such employee was under duress or coerced into violating a provision of this article. This affirmative defense is not available to any person who created or materially participated in creating the duress or coercion of another person that resulted in a violation of section 7-1904 or 7-1910.

b) A victim of human trafficking as provided in state or federal law shall not be criminally liable for any violation of this ordinance committed as a direct result of or incident to being trafficked.

c) Any other violation of this article shall be a municipal infraction and persons found to have committed a violation shall be subject to civil penalties as set forth in section 18-1304 of this Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued or permitted by any such person.

d) Any massage or spa facility that fails to comply with the requirements of this article shall be deemed to be creating a public nuisance and shall be subject to penalties as provided in section 18-1304 and shall further be subject to civil action to restrain or abate the nuisance as authorized in sections 18-301 et seq. as the city deems appropriate. Such ability of the city to prosecute and/or enjoin or abate is in addition to any other remedies available to the city at law or in equity.

Sec. 7-1920 Remedies cumulative.

The remedies provided in this article are cumulative and do not preclude any other available remedy at law or in equity.

Sec. 7-1921 Changes in law.

When reference is made in this article to any local law or regulation or to any state or federal statute, regulation or other law, the reference includes any subsequent amendment or superseding provision.

***Section 2. Severability*.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance that may be given effect without the invalid provisions or application, and, to this end, the provisions of these ordinances are declared to be severable.

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

***Section 4. Effective Date*.** This ordinance shall be effective sixty (60) days after second reading and final adoption as provided by law.

APPROVED on first reading this ___ day of _____, 2021.

ADOPTED and APPROVED on second reading this ___ day of _____, 2021.

CITY OF BILLINGS

BY:_____
William A. Cole, Mayor

Attest:

BY:_____
Denise R. Bohlman, City Clerk

City Council Regular

Date:	04/26/2021
Title:	Payment of Claims for week of March 22, 2021
Presented by:	Andy Zoeller, Finance Director
Department:	Finance
Presentation:	No

RECOMMENDATION

Staff recommends Council approve the Payment of Claims

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Claims in the amount of $1,924,642.29 have been reviewed and are presented for City Council payment approval. A complete listing of the claims for the week are available in the Finance Department.

Payment Approval Process

Every invoice for payment in entered into the City's accounting system and the backup documentation is scanned in and attached (physical invoices, additional e-mails explaining payments, bids, contracts, etc.) Each invoice goes through a multi-step approval process depending upon the amount of the payment.

First, invoices are entered by the department requesting the payment and the department director or designee must perform an initial review and approval of the purchase. The number of approvals within the department can vary based upon the size of the department, but no less than one approver within each department must verify the payment.

Second, all payments, regardless of size, must be approved by the Purchasing Agent or designee. The Purchasing Agent will review the payment to ensure purchasing procedures are followed and appropriate documentation is attached.

If the payment is greater than $1,000, then it must be approved by the Finance Director or designee.
If that payment is greater than $10,000, then it must be approved by the City Administrator or Assistant City Administrator.

Once all approvals are completed, the payment is able to be made and the Accounts Payable Clerk can print the check. After all checks are printed, a list of all checks in excess of $2,500 is generated and placed on the next City Council meeting for review.

ALTERNATIVES

- No other alternatives were analyzed

FISCAL EFFECTS

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.

Attachments

Councilmemo wk of 03222021

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/22/2021	841412	360 Office	Water	$ 417.00	JAMES R NEW DESK PER MARTY
03/22/2021	841412	361 Office	P.W. Admin	$ 66.98	Ink for Jenn's printer
03/22/2021	841412	362 Office	P.W. Admin	$ 21,068.56	New furniture for admin
03/22/2021	841412	363 Office	P.W. Admin	$ 144.18	CHAIR MATS FOR FRONT COUNTER
03/22/2021	841412	364 Office	P.W. Admin	$ 1,399.44	FOR JENNIFERS NEW OFFICE
03/22/2021	841412	365 Office	P.W. Admin	$ 47.98	Jennifer's printer cartridges
03/22/2021	841412	366 Office	Wastewater	$ 102.59	SC TONER FOR PRINTER
03/22/2021	841412	367 Office	Water	$ 102.60	SC TONER FOR PRINTER
03/22/2021	841413	A & I Distributors	Airport	$ 278.85	Invoice #3589882. 3 Drums of DEF
03/22/2021	841413	A & I Distributors	Fleet	$ 1,476.44	3586975 PO NUM 311667
03/22/2021	841413	A & I Distributors	Fleet	$ 574.31	3590233 PO NUM 311667
03/22/2021	841413	A & I Distributors	Fleet	$ 1,421.39	3590233 PO NUM 311667
03/22/2021	841413	A & I Distributors	Solid Waste	$ 96.30	Antifreeze
03/22/2021	841413	A & I Distributors	Solid Waste	$ 412.50	DEF
03/22/2021	841413	A & I Distributors	Solid Waste	$ 412.50	DEF
03/22/2021	841413	A & I Distributors	Solid Waste	$ 412.50	DEF
03/22/2021	841413	A & I Distributors	Solid Waste	$ 622.50	DEF and Pump
03/22/2021	841413	A & I Distributors	Solid Waste	$ 93.93	Lithoplex
03/22/2021	841413	A & I Distributors	Street/Traffic	$ 412.50	def tote and deposit
03/22/2021	841413	A & I Distributors	Transit	$ 433.95	3589812 PO NUM 311667. Purus Red Elc Coolant 5050
03/22/2021	841413	A & I Distributors	Transit	$ 433.95	3594252 PO NUM 311667. 220 qts. Purus Red Elc Coolant
03/22/2021	841413	A & I Distributors	Transit	$ 737.78	3596315 PO NUM 311667. 880 qts. 15W40
03/22/2021	841413	A & I Distributors	Transit	$ 92.95	Invoice #3589814. 55 Gal Def
03/22/2021	841414	A-1 Landscape & Nursery	CDBG	$ 340.00	February Snow Removal - Invoice #3658
03/22/2021	841414	A-1 Landscape & Nursery	Urban Renewal Prop	$ 3,000.00	February Snow Removal - Invoice #3658
03/22/2021	841415	Ace Electric Inc	Water	$ 34,895.60	WO 20-20 Walter Pump Station Pump Addition
03/22/2021	841427	Armscor Cartridge	Public Safety	$ 7,560.00	Armscor 13250 9mm 124gr UHP ammo
03/22/2021	841430	AVI Systems Inc	Library	$ 4,602.76	1041533 Final change order for Library Community Room upgrade
03/22/2021	841433	Billings Tourism	Tourism BID #2	$ 11,369.53	Paid February Distributed March 2021
03/22/2021	841435	Brenntag Pacific	Wastewater	$ 4,572.15	CHEMCIAL SUPPLIES
03/22/2021	841435	Brenntag Pacific	Wastewater	$ 6,732.51	CHEMICAL SUPPLIES
03/22/2021	841438	Burns & McDonnell Eng	Water	$ 115,977.66	WO 19-42 West End Water Treatment Plant Project
03/22/2021	841440	C&B Operations	Capital Replace	$ 15,845.00	work utility truck for the Cemetery
03/22/2021	841440	C&B Operations	General	$ 2,000.00	2007 john deere 6x4 utility vehicle
03/22/2021	841440	C&B Operations	General	$ 1,868.77	install parts
03/22/2021	841440	C&B Operations	General	$ 2,040.00	work utility truck for the Cemetery

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/22/2021	841440	C&B Operations	Street/Traffic	$ 672.60	inv#11084196broom bristles for john deere tractor #1321
03/22/2021	841440	C&B Operations	Wastewater	$ 43.27	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841440	C&B Operations	Water	$ (125.00)	CORE CREDIT FOR PURCHASE ON INVOICE 1086237
03/23/2021	841580	CPSM	General	$ 11,160.00	Consultant Agreement
03/22/2021	841450	Crescent Electric	Street/Traffic	$ 80.67	parts to run outlet at airport property
03/22/2021	841450	Crescent Electric	Street/Traffic	$ 1,586.99	S508814394.002 PO NUM 312178
03/22/2021	841450	Crescent Electric	Street/Traffic	$ 10.27	S508868314.001 PO NUM 312181
03/22/2021	841450	Crescent Electric	Street/Traffic	$ 47.23	S508875709.001
03/22/2021	841450	Crescent Electric	Street/Traffic	$ 311.34	S508875709.001 PO NUM 312179
03/22/2021	841450	Crescent Electric	Street/Traffic	$ 14.26	S508875709.003 PO NUM 312180
03/22/2021	841450	Crescent Electric	Street/Traffic	$ 628.69	S508888358.001 PO NUM 312177
03/22/2021	841450	Crescent Electric	Street/Traffic	$ 379.06	S508891422.001 PO NUM 312176
03/22/2021	841450	Crescent Electric	Wastewater	$ 31.63	COVER FOR FITTINGS FOR HEADWORKS
03/22/2021	841450	Crescent Electric	Wastewater	$ 130.00	HOLE SAW KIT
03/22/2021	841450	Crescent Electric	Water	$ 130.00	HOLE SAW KIT
03/22/2021	841450	Crescent Electric	Water	$ 61.67	SHOP ITEMS
03/22/2021	841455	DeNio	Public Safety	$ 3,630.23	purchase of airbnb for trip to Jacksonville, FL
03/22/2021	841456	Desert Mt Corp	Street/Traffic	$ 5,358.28	ice slicer used to melt snow on streets
03/22/2021	841456	Desert Mt Corp	Street/Traffic	$ 4,321.69	ice slicer used to melt snow on streets
03/22/2021	841456	Desert Mt Corp	Street/Traffic	$ 5,313.32	ice slicer used to melt snow on streets
03/22/2021	841456	Desert Mt Corp	Street/Traffic	$ 5,313.32	ice slicer used to melt snow on streets
03/22/2021	841457	Donnes Inc	Water	$ 4,750.00	MOBILIZATION , 320 LONG REACH
03/22/2021	841458	DOWL	Arterial Streets	$ 3,554.00	24th St W/Central Ave Signal Improvements
03/22/2021	841458	DOWL	Arterial Streets	$ 29,229.31	WO 20-12 S 32nd St W (King Ave W to Gabel)
03/22/2021	841463	EBMS	City Ins Fund	$ 1,025.00	April 2021 Statement
03/22/2021	841463	EBMS	City Ins Fund	$ 1,543.50	April 2021 Statement
03/22/2021	841463	EBMS	City Ins Fund	$ 1,200.50	April 2021 Statement
03/22/2021	841463	EBMS	City Ins Fund	$ 28,244.60	April 2021 Statement
03/22/2021	841463	EBMS	City Ins Fund	$ 4,822.10	April 2021 Statement
03/22/2021	841463	EBMS	City Ins Fund	$ 58,280.32	April 2021 Statement
03/22/2021	841463	EBMS	Payroll Clearing	$ 10,779.09	April 2021 Statement
03/22/2021	841466	Environmental Express	Water	$ 4,279.42	Hot Block Controller and parts
03/22/2021	841470	Galles Filter Service	Fleet	$ 16.78	P1-02816.01 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Fleet	$ 69.88	P1-02912.01 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Fleet	$ 142.45	P1-02986.01 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Fleet	$ 117.10	P1-03085.01 PO NUM 311670

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/22/2021	841470	Galles Filter Service	Fleet	$ 81.32	P1-03086.01 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Fleet	$ 311.80	P1-03158.01 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Fleet	$ 70.20	P1-03251.01 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Fleet	$ 95.76	P1-03326.01 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Fleet	$ 310.36	P1-03434.01 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Fleet	$ 100.68	P1-03507.01 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Fleet	$ (6.19)	T-94479 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Fleet	$ 17.89	T-94659 PO NUM 311670
03/22/2021	841470	Galles Filter Service	Solid Waste	$ 359.22	Filters
03/22/2021	841470	Galles Filter Service	Solid Waste	$ 116.27	filters
03/22/2021	841470	Galles Filter Service	Solid Waste	$ 408.54	Filters for the landfill
03/22/2021	841470	Galles Filter Service	Solid Waste	$ 410.62	Landfill filters
03/22/2021	841470	Galles Filter Service	Wastewater	$ 30.53	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Wastewater	$ 15.25	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Wastewater	$ 2.91	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Wastewater	$ 5.60	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 58.35	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 14.30	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 4.92	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 20.93	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 13.85	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 5.60	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 6.12	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 2.91	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 9.98	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 91.00	NONSTOCKING ITEMS-P.U.D.
03/22/2021	841470	Galles Filter Service	Water	$ 73.22	WATER PARTS AND SUPPLIES PO NUM 311866
03/22/2021	841470	Galles Filter Service	Water	$ 18.00	WIPER BLADES
03/22/2021	841471	GE Grid Solutions	Water	$ 3,146.22	15KV SWITCHGEAR CAPACITOR TRIP UNIT REPLACEMENT
03/22/2021	841472	Gillig Corporation	Transit	$ 4,030.04	40785262 PO NUM 312198. Power Steering Pumps
03/22/2021	841472	Gillig Corporation	Transit	$ 372.63	Axle Stops, Rubber Bumpers, & Leveling Valve Unit 1818
03/22/2021	841472	Gillig Corporation	Transit	$ 32.54	Fitting & O-Rings Unit 1816. W/O 197923, Job #2
03/22/2021	841472	Gillig Corporation	Transit	$ 793.80	I/O Module Unit 1817. W/O 198798
03/22/2021	841480	HDR, Inc.	Solid Waste	$ 43,121.37	WO 17-12 Landfill Drop-off Facility
03/22/2021	841480	HDR, Inc.	Wastewater	$ 4,341.54	WO 19-21 WRF Influent Lift Station
03/22/2021	841480	HDR, Inc.	Wastewater	$ 4,540.44	WO 20-11 Lloyd Mangrum & Lake Hills Lift Station Rehab

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03/22/2021	841480	HDR, Inc.	Wastewater	$ 8,695.87	WO 20-44 WRF Nutrient Recovery Improvements Project
03/22/2021	841480	HDR, Inc.	Water	$ 4,981.38	W.O. 21-24 Zone 3 12 inch Water Main Replacement
03/22/2021	841480	HDR, Inc.	Water	$ 1,268.24	WO 18-22 Leavens Reservoir Expansion & Zone 1 Improvements
03/22/2021	841480	HDR, Inc.	Water	$ -	WO 18-22 Water Treatment Facility High Service Pump
03/22/2021	841480	HDR, Inc.	Water	$ 44,270.94	WO 19-12 West End Reservoir
03/22/2021	841480	HDR, Inc.	Water	$ 1,632.13	WO 19-37 High Service Pump Replacement H2-2
03/22/2021	841488	InfoSend Inc	P.W. Admin	$ 2,702.35	Billing Service
03/22/2021	841488	InfoSend Inc	P.W. Admin	$ 668.34	Billing Service
03/22/2021	841488	InfoSend Inc	P.W. Admin	$ 12,667.91	Billing Services
03/22/2021	841488	InfoSend Inc	P.W. Admin	$ 3,133.29	Billing Services
03/22/2021	841488	InfoSend Inc	P.W. Admin	$ 9,392.13	Billings Services
03/22/2021	841488	InfoSend Inc	P.W. Admin	$ 2,408.56	Billings Services
03/22/2021	841491	Insituform Technologies	Wastewater	$ 112,347.07	WO 20-01 60" Sewer Interceptor Trenchless Rehabilitation Project
03/22/2021	841494	Invoice Cloud Inc	Building	$ 0.49	For Service Period of 02/01/2021 through 2/28/2021
03/22/2021	841494	Invoice Cloud Inc	City Ins Fund	$ 24.01	For Service Period of 02/01/2021 through 2/28/2021
03/22/2021	841494	Invoice Cloud Inc	Parking	$ 46.96	For Service Period of 02/01/2021 through 2/28/2021
03/22/2021	841494	Invoice Cloud Inc	Solid Waste	$ 7,021.78	For Service Period of 02/01/2021 through 2/28/2021
03/22/2021	841494	Invoice Cloud Inc	Wastewater	$ 9,005.62	For Service Period of 02/01/2021 through 2/28/2021
03/22/2021	841494	Invoice Cloud Inc	Water	$ 10,594.85	For Service Period of 02/01/2021 through 2/28/2021
03/22/2021	841496	Jims Electric Service	Water	$ 3,561.18	WA100 P-11 MOTOR - WALDO
03/22/2021	841503	Knife River	Street/Traffic	$ 70.80	1 1/2" crushed base
03/22/2021	841503	Knife River	Street/Traffic	$ 545.16	1 1/2" crushed base
03/22/2021	841503	Knife River	Street/Traffic	$ 1,389.90	1 1/2" crushed base
03/22/2021	841503	Knife River	Street/Traffic	$ 1,059.78	1 1.2" crushed base
03/22/2021	841503	Knife River	Street/Traffic	$ 68.22	1 1/2" crushed base
03/22/2021	841503	Knife River	Street/Traffic	$ 64.08	1 1/2" crushed base
03/22/2021	841503	Knife River	Street/Traffic	$ 241.50	1 1/2" crushed base
03/22/2021	841504	KTVQ	General	$ 1,375.00	February 2021 Advertising for jobs
03/22/2021	841504	KTVQ	General	$ 200.00	February 2021 job advertising on CW
03/22/2021	841504	KTVQ	P.W. Admin	$ 4,470.00	All-inclusive strategic planning, creative & production
03/22/2021	841504	KTVQ	P.W. Admin	$ 500.00	All-inclusive strategic planning, creative & production
03/22/2021	841504	KTVQ	P.W. Admin	$ 5,000.00	All-inclusive strategic planning, creative & production
03/22/2021	841507	L N Curtis & Sons	Public Safety	$ 1,940.00	BOOTS: SUPRALITE, ZAHN, KING, L. JOHNSON, HALLEY
03/22/2021	841507	L N Curtis & Sons	Public Safety	$ 39.00	Helmet parts, cairns, headband assy w/ratchet & front liners
03/22/2021	841507	L N Curtis & Sons	Public Safety	$ 848.50	HURST CUTTER REPAIR: REPLACED BROKEN BLADE
03/22/2021	841508	L P Anderson Tire	Public Safety	$ 65.00	1918496

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03/22/2021	841508	L P Anderson Tire	Public Safety	$ 3,073.80	1918508
03/22/2021	841508	L P Anderson Tire	Street/Traffic	$ 62.50	1915833
03/22/2021	841508	L P Anderson Tire	Street/Traffic	$ 67.50	1916777
03/22/2021	841508	L P Anderson Tire	Street/Traffic	$ 341.00	1917899
03/22/2021	841517	MT Dept Of Enviro Quality	Solid Waste	$ 562.50	MT Outfall landfill562.5
03/22/2021	841517	MT Dept Of Enviro Quality	Storm Sewer	$ 3,750.00	Mt Outfall for MS4
03/22/2021	841521	MT Waterworks	Water	$ 179.74	3/4" METER LOOPS AKA YOKE
03/22/2021	841521	MT Waterworks	Water	$ 9,408.00	3/4" METER LOOPS AKA YOKE
03/22/2021	841523	Napa Auto Parts	Fleet	$ 77.49	165039
03/22/2021	841523	Napa Auto Parts	Fleet	$ 27.99	277605
03/22/2021	841523	Napa Auto Parts	Fleet	$ 13.49	277656
03/22/2021	841523	Napa Auto Parts	Fleet	$ 31.92	277217 PO NUM 312175
03/22/2021	841523	Napa Auto Parts	Fleet	$ 53.88	277407 PO NUM 312175
03/22/2021	841523	Napa Auto Parts	Fleet	$ 14.37	277530 PO NUM 312175
03/22/2021	841523	Napa Auto Parts	Fleet	$ 287.28	277760 PO NUM 312175
03/22/2021	841523	Napa Auto Parts	Fleet	$ 14.37	278182 PO NUM 312175
03/22/2021	841523	Napa Auto Parts	Public Safety	$ 75.51	277326
03/22/2021	841523	Napa Auto Parts	Public Safety	$ 67.44	277403
03/22/2021	841523	Napa Auto Parts	Public Safety	$ (41.79)	277461
03/22/2021	841523	Napa Auto Parts	Public Safety	$ 19.92	277534
03/22/2021	841523	Napa Auto Parts	Public Safety	$ 73.00	277588
03/22/2021	841523	Napa Auto Parts	Public Safety	$ 33.72	277965
03/22/2021	841523	Napa Auto Parts	Public Safety	$ 19.50	278201
03/22/2021	841523	Napa Auto Parts	Solid Waste	$ 7.78	277414
03/22/2021	841523	Napa Auto Parts	Street/Traffic	$ 26.31	277420
03/22/2021	841523	Napa Auto Parts	Street/Traffic	$ 29.76	278368
03/22/2021	841523	Napa Auto Parts	Transit	$ 9.10	279323 PO NUM 312169. Muffler Clamps
03/22/2021	841523	Napa Auto Parts	Transit	$ 195.27	279330 PO312169. Whl/Nuts, Coolant Filters, Lmp Boxed Capsules
03/22/2021	841523	Napa Auto Parts	Transit	$ 44.56	279330. Dispenser/Wipes, Electrical Tape
03/22/2021	841523	Napa Auto Parts	Transit	$ 401.09	279542 PO NUM 312169. Disc Brake Pads, Rotors, Wiper Blades
03/22/2021	841523	Napa Auto Parts	Transit	$ 77.40	279542. Brake Cleaner
03/22/2021	841523	Napa Auto Parts	Transit	$ 36.90	279559. Red-Tacky Grease
03/22/2021	841523	Napa Auto Parts	Transit	$ 42.00	279598. Black Paint Unit 1818. W/O 198906
03/22/2021	841523	Napa Auto Parts	Transit	$ (12.58)	279703. Credit Electrical Tape
03/22/2021	841523	Napa Auto Parts	Transit	$ 293.70	279859. Battery Unit 1803. W/O 198958
03/22/2021	841523	Napa Auto Parts	Transit	$ (144.00)	279977. Battery Cores Unit 1803. W/O198958

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03/22/2021	841523	Napa Auto Parts	Transit	$ 15.67	280248. Undercoat Unit 1822. W/O 198882
03/22/2021	841523	Napa Auto Parts	Transit	$ 143.77	280432 PO NUM 312201. Spring Brake
03/22/2021	841523	Napa Auto Parts	Transit	$ 62.33	281394 Air Filters, Nuts, Lamp Boxed, Lamp Sealed Beams
03/22/2021	841523	Napa Auto Parts	Transit	$ 31.65	3977-00-280269. Heater Hose Unit 1819. W/O 198966
03/22/2021	841523	Napa Auto Parts	Transit	$ 27.32	3977-00-280533 PO NUM 312201. Air Filters
03/22/2021	841523	Napa Auto Parts	Transit	$ 73.74	3977-00-280535 PO NUM 312201. Brass Fittings
03/22/2021	841523	Napa Auto Parts	Transit	$ 587.40	3977-00-280537. Batteries Unit 1806. W/O 199000
03/22/2021	841523	Napa Auto Parts	Transit	$ (308.80)	3977-00-280583. Battery Warranty Unit 1806. W/O 199000
03/22/2021	841523	Napa Auto Parts	Transit	$ 17.07	3977-00-280647 PO NUM 312201. Fuse Holders
03/22/2021	841523	Napa Auto Parts	Transit	$ 47.97	3977-00-281394. Paper Towels
03/22/2021	841523	Napa Auto Parts	Transit	$ 26.00	3977-00-281534. Primary Wire Unit 1817. W/O 198798
03/22/2021	841523	Napa Auto Parts	Transit	$ 14.25	3977-00-281569. Thread Cutting Screws Unit 1817. W/O 198798
03/22/2021	841523	Napa Auto Parts	Water	$ 85.20	278188
03/22/2021	841523	Napa Auto Parts	Water	$ 729.50	278207
03/22/2021	841523	Napa Auto Parts	Water	$ 349.20	278330
03/22/2021	841523	Napa Auto Parts	Water	$ (359.54)	278369
03/22/2021	841527	NorthWestern Energy	Airport	$ 2,701.98	0100483-7. Runway Lights. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 1,959.52	0100484-5. ARFF Facility. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 125.98	1138926-9. Aero Interiors. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 141.25	1647695-4. De Icer. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 448.78	1669567-8. TSA. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 965.09	1993430-6. Car Wash. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 376.21	2001846-1. Mud Wash. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 441.86	2001848-7. Detail Bay 1 Hertz. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 187.53	2001855-2. Detail Bay 2 National/Alamo. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 168.72	2001862-8. Detail Bay 3 Enterprise. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 246.33	2001865-1. Detail Bay 4 Avis/Budget. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 131.79	2001867-7. Detail Bay 5 Thrifty/Dollar. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 101.02	3085107-5. New Employee Parking. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 186.86	3446396-8. USDA. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 1,165.43	3477231-9. Parking Zone. March 2021
03/22/2021	841527	NorthWestern Energy	Airport	$ 41.57	3733186-5. Airport Warehouse. March 2021
03/22/2021	841527	NorthWestern Energy	Building	$ 17.06	1569631-3
03/22/2021	841527	NorthWestern Energy	Facilities	$ 790.64	1160802-3
03/22/2021	841527	NorthWestern Energy	Facilities	$ 2,329.62	1160804-9
03/22/2021	841527	NorthWestern Energy	Facilities	$ 2,843.86	1269391-7

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03/22/2021	841527	NorthWestern Energy	General	$ 47.78	0712387-0
03/22/2021	841527	NorthWestern Energy	General	$ 175.37	0712536-2
03/22/2021	841527	NorthWestern Energy	General	$ 144.66	0712538-8
03/22/2021	841527	NorthWestern Energy	General	$ 50.54	0720818-4
03/22/2021	841527	NorthWestern Energy	General	$ 226.29	0720821-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,086.73	SILMD 10 Acct# 0712546-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,976.48	SILMD 100 Acct# 0712559-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,678.66	SILMD 107 Acct# 0712560-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 4,209.99	SILMD 109 Acct# 0712561-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 194.73	SILMD 113 Acct# 0712562-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 905.95	SILMD 114 Acct# 0712563-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 213.17	SILMD 115 Acct# 0712564-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 559.55	SILMD 116 Acct# 0712565-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 3,043.05	SILMD 117 Acct# 0712566-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 194.87	SILMD 118 Acct# 0712567-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 118.50	SILMD 119 Acct# 0712568-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 2,398.10	SILMD 121 Acct# 0712570-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 179.72	SILMD 122 Acct# 0712571-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 319.74	SILMD 123 Acct# 0712572-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 932.60	SILMD 124 Acct# 0712573-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 373.04	SILMD 125 Acct# 0712574-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 186.53	SILMD 126 Acct# 0712575-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 673.91	SILMD 127 Acct# 0712576-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 471.74	SILMD 128 Acct# 0712577-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 319.74	SILMD 129 Acct# 0712578-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 4,492.98	SILMD 13 Acct# 0721276-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 114.15	SILMD 130 Acct# 0712579-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 826.00	SILMD 131 Acct# 0712580-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 211.96	SILMD 133 Acct# 0712581-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 489.15	SILMD 134 Acct# 0712582-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 494.19	SILMD 135 Acct# 0712583-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 452.96	SILMD 136 Acct# 0712584-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 354.46	SILMD 137 Acct# 0712585-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 719.42	SILMD 138 Acct# 0712586-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 239.80	SILMD 139 Acct# 0712587-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 2,177.78	SILMD 14 Acct# 0721277-2

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03/22/2021	841528	NorthWestern Energy	Light Maint	$ 559.55	SILMD 143 Acct# 0712588-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 26.61	SILMD 144 Acct# 0712589-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 449.28	SILMD 145 Acct# 0712590-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 346.37	SILMD 146 Acct# 0712591-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 420.12	SILMD 147 Acct# 0712592-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,506.22	SILMD 149 Acct# 0712593-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 718.84	SILMD 150 Acct# 0712594-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 612.82	SILMD 151 Acct# 0712595-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 4,135.69	SILMD 152 Acct# 0712596-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 516.65	SILMD 153 Acct# 0712597-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,168.15	SILMD 154 Acct# 0712598-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 479.62	SILMD 155 Acct# 0712599-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 876.09	SILMD 157 Acct# 0712600-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 772.72	SILMD 158 Acct# 0712601-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 925.94	SILMD 159 Acct# 0712602-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 692.80	SILMD 160 Acct# 0712603-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,010.89	SILMD 161 Acct# 0712604-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 45.22	SILMD 162 Acct# 0712605-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 724.00	SILMD 163 Acct# 0712606-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 359.42	SILMD 164 Acct# 0712607-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 852.65	SILMD 165 Acct# 0712608-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 224.65	SILMD 167 Acct# 0712609-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,104.72	SILMD 17 Acct# 0712553-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 539.14	SILMD 171 Acct# 0712610-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 489.16	SILMD 172 Acct# 0712611-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,123.21	SILMD 173 Acct# 0712612-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 943.49	SILMD 174 Acct# 0712613-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 314.50	SILMD 175 Acct# 0712614-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 32.30	SILMD 176 Acct# 0712615-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 247.11	SILMD 178 Acct# 0712616-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 494.19	SILMD 179 Acct# 0712617-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 95.08	SILMD 18 Acct# 0712554-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 336.99	SILMD 180 Acct# 0712618-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,625.39	SILMD 181 Acct# 0712619-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 561.60	SILMD 182 Acct# 0712620-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,123.22	SILMD 183 Acct# 0712621-2

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03/22/2021	841528	NorthWestern Energy	Light Maint	$ 359.42	SILMD 184 Acct# 0712622-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 134.80	SILMD 185 Acct# 0712623-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 657.01	SILMD 186 Acct# 0712624-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 224.65	SILMD 187 Acct# 0712625-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 269.56	SILMD 188 Acct# 0712626-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 224.65	SILMD 189 Acct# 0712627-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,168.15	SILMD 190 Acct# 0712628-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 400.94	SILMD 191 Acct# 0712629-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 292.01	SILMD 192 Acct# 0712630-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 718.84	SILMD 193 Acct# 0712631-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 288.16	SILMD 194 Acct# 0712632-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 230.56	SILMD 195 Acct# 0712633-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 73.63	SILMD 196 Acct# 0712634-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 73.63	SILMD 197 Acct# 0712635-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 112.33	SILMD 198 Acct# 0712636-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 95.52	SILMD 200 Acct# 0712637-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 471.74	SILMD 201 Acct# 0712638-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 611.98	SILMD 202 Acct# 0712639-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 19.65	SILMD 203 Acct# 0712640-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 410.52	SILMD 204 Acct# 0712641-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 25.83	SILMD 205 Acct# 0712642-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 314.50	SILMD 206 Acct# 0712643-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 359.42	SILMD 207 Acct# 0712644-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 253.81	SILMD 208 Acct# 0712645-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 516.65	SILMD 209 Acct# 0712646-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 88.38	SILMD 210 Acct# 0712647-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 49.08	SILMD 211 Acct# 0712648-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 49.08	SILMD 212 Acct# 0712649-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 29.47	SILMD 213 Acct# 0712650-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 362.21	SILMD 214 Acct# 0712651-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 134.80	SILMD 216 Acct# 0712652-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 374.28	SILMD 217 Acct# 0712653-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 269.57	SILMD 220 Acct# 0712654-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 6.45	SILMD 221 Acct# 0712655-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 77.85	SILMD 222 Acct# 0712656-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 117.85	SILMD 223 Acct# 0712657-6

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,367.49	SILMD 224 Acct# 0712658-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 407.13	SILMD 225 Acct# 0712659-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 243.28	SILMD 226 Acct# 0712660-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 643.50	SILMD 227 Acct# 0712661-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 772.72	SILMD 228 Acct# 0712662-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 399.71	SILMD 229 Acct# 0712663-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 932.59	SILMD 230 Acct# 0712664-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 559.55	SILMD 231 Acct# 0712665-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 2,424.74	SILMD 232 Acct# 0712666-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 868.21	SILMD 233 Acct# 0712667-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 486.55	SILMD 234 Acct# 0712668-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 544.22	SILMD 235 Acct# 0712669-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 172.90	SILMD 236 Acct# 0712670-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 381.90	SILMD 237 Acct# 0712671-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 12.30	SILMD 238 Acct# 0712672-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 89.85	SILMD 239 Acct# 0712673-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 414.95	SILMD 240 Acct# 0712674-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 559.74	SILMD 241 Acct# 0712675-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 79.93	SILMD 242 Acct# 0712676-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 106.58	SILMD 244 Acct# 0712677-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 70.87	SILMD 245 Acct# 0712678-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 319.74	SILMD 246 Acct# 0712679-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 940.05	SILMD 247 Acct# 0712680-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 2,637.91	SILMD 249 Acct# 0718734-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 207.46	SILMD 250 Acct# 0719001-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 3,734.59	SILMD 251 Acct# 0718801-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 532.91	SILMD 252 Acct# 0719162-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,750.64	SILMD 253 Acct# 0719644-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 155.69	SILMD 254 Acct# 0719763-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 167.60	SILMD 255 Acct# 0720813-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 925.75	SILMD 257 Acct# 0720360-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 2,513.26	SILMD 258 Acct# 0720606-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,430.93	SILMD 259 Acct# 0720810-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 479.62	SILMD 261 Acct# 0720705-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 2,980.30	SILMD 262 Acct# 0720937-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,010.54	SILMD 263 Acct# 0720716-0

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 169.85	SILMD 264 Acct# 0721427-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 349.95	SILMD 265 Acct# 0721556-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 57.24	SILMD 266 Acct# 0721684-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 453.19	SILMD 270 Acct# 0906944-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 919.43	SILMD 271 Acct# 0995095-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 2,730.08	SILMD 272 Acct# 0905005-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 198.07	SILMD 273 Acct# 0926386-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 493.87	SILMD 276 Acct# 0961926-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 822.41	SILMD 277 Acct# 1058710-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 218.98	SILMD 278 Acct# 1087619-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 57.12	SILMD 279 Acct# 1124127-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 749.88	SILMD 280 Acct# 1045653-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 471.86	SILMD 283 Acct# 1172743-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 314.20	SILMD 285 Acct# 1206985-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 235.70	SILMD 286 Acct# 1296582-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,790.71	SILMD 288 Acct# 1303978-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 231.34	SILMD 289 Acct# 1685375-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 146.92	SILMD 290 Acct# 1433921-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 586.18	SILMD 292 Acct# 1481532-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 224.65	SILMD 293 Acct# 1481534-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 449.28	SILMD 294 Acct# 1481535-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 106.58	SILMD 295 Acct# 1481536-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,190.58	SILMD 296 Acct# 1481537-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 202.17	SILMD 297 Acct# 1481539-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 179.72	SILMD 298 Acct# 1481540-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 394.27	SILMD 300 Acct# 1662840-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 5,337.20	SILMD 301 Acct# 1687005-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 301.87	SILMD 302 Acct# 1607534-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 992.63	SILMD 305 Acct# 1695873-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 204.09	SILMD 306 Acct# 1740353-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 3,305.73	SILMD 307 Acct# 2049005-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 260.15	SILMD 308 Acct# 2072459-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 399.13	SILMD 309 Acct# 2001311-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 271.42	SILMD 310 Acct# 2060519-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 323.92	SILMD 311 Acct# 3014475-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 334.28	SILMD 312 Acct# 3146127-0

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 446.55	SILMD 315 Acct# 3305804-1
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,169.97	SILMD 316 Acct# 3291842-7
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 101.13	SILMD 317 Acct# 3253826-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 788.51	SILMD 318 Acct# 3372018-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 56.67	SILMD 320 Acct# 0712569-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 539.65	SILMD 321 Acct# 3338917-2
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 96.40	SILMD 322 Acct# 3402033-9
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 858.86	SILMD 323 Acct# 3597170-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 366.84	SILMD 324 Acct# 1246537-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 280.71	SILMD 325 Acct# 3587598-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 125.69	SILMD 326 Acct# 3840455-4
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 178.55	SILMD 327 Acct# 3810801-5
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 195.34	SILMD 8 Acct# 0712544-6
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 343.04	SILMD 9 Acct# 0712545-3
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 502.28	SILMD 95 Acct# 0712556-0
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 9,358.86	SILMD 97 Acct# 0712557-8
03/22/2021	841528	NorthWestern Energy	Light Maint	$ 1,062.49	SILMD 99 Acct# 0712558-6
03/22/2021	841527	NorthWestern Energy	Park Dist 1	$ 10.75	0723045-1
03/22/2021	841527	NorthWestern Energy	Park Dist 1	$ 24.24	0813489-2
03/22/2021	841527	NorthWestern Energy	Park Dist 1	$ 169.44	0925496-2
03/22/2021	841527	NorthWestern Energy	Park Dist 1	$ -	1191404-1
03/22/2021	841527	NorthWestern Energy	Park Dist 1	$ 22.74	1836666-6
03/22/2021	841527	NorthWestern Energy	Park Dist 1	$ 43.54	1849408-8
03/22/2021	841527	NorthWestern Energy	Park Dist 1	$ 48.94	1904944-4
03/22/2021	841527	NorthWestern Energy	Park Dist 1	$ 23.73	3241436-9
03/22/2021	841527	NorthWestern Energy	Parks Maint	$ 6.47	0881455-0
03/22/2021	841527	NorthWestern Energy	Parks Maint	$ -	1029192-0
03/22/2021	841527	NorthWestern Energy	Parks Maint	$ -	1045813-1
03/22/2021	841527	NorthWestern Energy	Parks Maint	$ 1.19	1265177-4
03/22/2021	841527	NorthWestern Energy	Parks Maint	$ 1.07	1948667-9
03/22/2021	841527	NorthWestern Energy	Parks Maint	$ 4.99	2055817-7
03/22/2021	841527	NorthWestern Energy	Public Safety	$ 356.70	0720817-6
03/22/2021	841527	NorthWestern Energy	Public Safety	$ 654.73	0871546-8
03/22/2021	841527	NorthWestern Energy	Street/Traffic	$ 0.25	1740357-7
03/22/2021	841527	NorthWestern Energy	Street/Traffic	$ 0.47	1748896-6
03/22/2021	841527	NorthWestern Energy	Street/Traffic	$ -	3088038-9

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/22/2021	841528	NorthWestern Energy	Street/Traffic	$ 12,728.01	Signal Bills 3.11.21
03/22/2021	841527	NorthWestern Energy	Transit	$ 493.50	0719225-5
03/22/2021	841527	NorthWestern Energy	Wastewater	$ 59,523.42	0100591-7
03/22/2021	841527	NorthWestern Energy	Wastewater	$ 883.16	0100606-3
03/22/2021	841527	NorthWestern Energy	Water	$ 489.51	0100485-2
03/22/2021	841527	NorthWestern Energy	Water	$ 2,649.47	0100606-3
03/22/2021	841527	NorthWestern Energy	Water	$ 67,119.75	0100606-3
03/22/2021	841527	NorthWestern Energy	Water	$ 2,261.00	0722264-9
03/22/2021	841527	NorthWestern Energy	Water	$ 2,314.97	0723040-2
03/22/2021	841527	NorthWestern Energy	Water	$ 55.93	0723059-2
03/22/2021	841527	NorthWestern Energy	Water	$ 904.34	1116452-2
03/22/2021	841527	NorthWestern Energy	Water	$ 199.17	1142253-2
03/22/2021	841532	PeopleReady	Solid Waste	$ 5,722.47	Contract labor for landfill
03/22/2021	841543	Rexel USA	Wastewater	$ 2,829.75	BENDER FOR WRF
03/22/2021	841549	Simply Family Magazine	General	$ 3,800.00	insert into Simply Family Magazine - 2021-7805
03/22/2021	841549	Simply Family Magazine	Library	$ 333.00	2021ci-743 Simply Local monthly ad
03/22/2021	841551	Solid Waste Systems	Solid Waste	$ 2,033.44	130896
03/22/2021	841551	Solid Waste Systems	Solid Waste	$ 626.64	130955
03/22/2021	841555	St V's Occupation Health	Airport	$ 285.00	Drug test, On-site nursing, DOT Physicals
03/22/2021	841555	St V's Occupation Health	City Ins Fund	$ 700.00	Drug test, On-site nursing, DOT Physicals
03/22/2021	841555	St V's Occupation Health	City Ins Fund	$ 630.00	Drug test, On-site nursing, DOT Physicals
03/22/2021	841555	St V's Occupation Health	General	$ 2,085.00	Drug test, On-site nursing, DOT Physicals
03/22/2021	841555	St V's Occupation Health	Public Safety	$ 352.75	Drug test, On-site nursing, DOT Physicals
03/22/2021	841555	St V's Occupation Health	Public Safety	$ 40.00	Drug test, On-site nursing, DOT Physicals
03/22/2021	841555	St V's Occupation Health	Solid Waste	$ 95.00	Drug test, On-site nursing, DOT Physicals
03/22/2021	841555	St V's Occupation Health	Street/Traffic	$ 95.00	Drug test, On-site nursing, DOT Physicals
03/22/2021	841555	St V's Occupation Health	Transit	$ 190.00	Drug test, On-site nursing, DOT Physicals
03/22/2021	841555	St V's Occupation Health	Wastewater	$ 58.00	Drug test, On-site nursing, DOT Physicals
03/22/2021	841555	St V's Occupation Health	Water	$ 87.00	Drug test, On-site nursing, DOT Physicals
03/23/2021	841582	Swank Enterprises	Solid Waste	$ 125,211.02	WO 17-12 Landfill Reconfiguration
03/23/2021	841582	Swank Enterprises	Solid Waste	$ 568,104.06	WO 17-12 Landfill Reconfiguration
03/22/2021	841559	Tel Net Systems	IT Resources	$ 172.80	Fiber testing at CCSIU
03/22/2021	841559	Tel Net Systems	Public Safety	$ 1,785.92	CCTV Security System.
03/22/2021	841559	Tel Net Systems	Public Safety	$ 169.60	Labor and supplies to install new laptop on network at evidence
03/22/2021	841559	Tel Net Systems	Tax Incrmnt S	$ 25,868.00	Evidence expansion project - Network cabling.
03/22/2021	841562	Tire-Rama	Solid Waste	$ 740.00	Landfill pick up tires

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/22/2021	841562	Tire-Rama	Solid Waste	$ 1,020.52	Landfill tires 1050013554
03/22/2021	841562	Tire-Rama	Solid Waste	$ 4,548.50	Landfill tires and repair
03/22/2021	841562	Tire-Rama	Solid Waste	$ 3,719.50	Tires 1050012982
03/22/2021	841562	Tire-Rama	Solid Waste	$ 4,061.00	Tires 1050013421
03/22/2021	841562	Tire-Rama	Solid Waste	$ 1,698.81	Tires 1050014702
03/22/2021	841562	Tire-Rama	Solid Waste	$ 4,479.20	Tires and repair
03/22/2021	841562	Tire-Rama	Solid Waste	$ 4,538.50	Tires landfill
03/22/2021	841562	Tire-Rama	Solid Waste	$ 1,020.52	Tires landfill
03/22/2021	841562	Tire-Rama	Street/Traffic	$ 2,081.50	105 0013502
03/22/2021	841562	Tire-Rama	Street/Traffic	$ 104.78	105 0013779
03/22/2021	841562	Tire-Rama	Transit	$ 278.00	101 0007621. Tires Unit 1866. W/O 197815
03/22/2021	841563	Titan Machinery Inc	Street/Traffic	$ 2,820.28	brooms for sweepers
03/22/2021	841563	Titan Machinery Inc	Wastewater	$ 5,475.05	NONSTOCKING ITEMS-P.U.D.
03/23/2021	841583	Town & Country Supply	Fleet	$ 21,159.58	415753 PO NUM 312215
03/22/2021	841564	Town & Country Supply	Transit	$ 4,699.60	414835 PO NUM 312182. 2000 Gallons Unleaded
03/22/2021	841565	Tractor & Equipment	Solid Waste	$ 81.40	Hose, seal o ring
03/22/2021	841565	Tractor & Equipment	Street/Traffic	$ 3,759.66	BLCS0750733
03/22/2021	841568	Tyler Technologies	IT Resources	$ 4,350.00	Replace Existing Message Switch
03/22/2021	841569	United Tactical Systems	Public Safety	$ 4,315.00	PepperBall less lethal projectiles.
03/22/2021	841573	Western Water Consultant	Tax Incrmnt S	$ 26,632.38	WO 20-30 Hallowell Lane Improvements

City Council Regular

Date:	04/26/2021
Title:	Payment of Claims for week of March 29, 2021
Presented by:	Andy Zoeller, Finance Director
Department:	Finance
Presentation:	No

RECOMMENDATION

Staff recommends Council approve the Payment of Claims

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Claims in the amount of $1,097,971.01 have been reviewed and are presented for City Council payment approval. A complete listing of the claims for the week are available in the Finance Department.

Payment Approval Process

Every invoice for payment in entered into the City's accounting system and the backup documentation is scanned in and attached (physical invoices, additional e-mails explaining payments, bids, contracts, etc.) Each invoice goes through a multi-step approval process depending upon the amount of the payment.

First, invoices are entered by the department requesting the payment and the department director or designee must perform an initial review and approval of the purchase. The number of approvals within the department can vary based upon the size of the department, but no less than one approver within each department must verify the payment.

Second, all payments, regardless of size, must be approved by the Purchasing Agent or designee. The Purchasing Agent will review the payment to ensure purchasing procedures are followed and appropriate documentation is attached.

If the payment is greater than $1,000, then it must be approved by the Finance Director or designee.
If that payment is greater than $10,000, then it must be approved by the City Administrator or Assistant City Administrator.

Once all approvals are completed, the payment is able to be made and the Accounts Payable Clerk can print the check. After all checks are printed, a list of all checks in excess of $2,500 is generated and placed on the next City Council meeting for review.

ALTERNATIVES

- No other alternatives were analyzed

FISCAL EFFECTS

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.

Attachments

Councilmemo wk of 03292021

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/29/2021	841586	Ace Electric Inc	Water	$ 233,254.58	WO 19-37 WTP High Service Pump Station H2-2 Pump Replacement
03/29/2021	841592	AT & T Corp	Wastewater	$ 861.31	PWBLNP-WWTRMNT1 Wastewater Treatment Plant
03/29/2021	841592	AT & T Corp	Facilities	$ 45.21	Facilities -Jessica and John
03/29/2021	841592	AT & T Corp	Wastewater	$ 303.29	PWBELKNAP-DIST COLL 60/40
03/29/2021	841592	AT & T Corp	Engineering	$ 157.05	PW-Engineering Cell Phones and MiFi
03/29/2021	841592	AT & T Corp	Engineering	$ 104.52	Engineering Tablets
03/29/2021	841592	AT & T Corp	Transit	$ 642.24	MET Transit Tablets
03/29/2021	841592	AT & T Corp	General	$ 17.52	-PLANNING DAVE GREEN PLANNING MONICA PLECKER
03/29/2021	841592	AT & T Corp	Parking	$ 274.79	Parking Phones
03/29/2021	841592	AT & T Corp	Building	$ 45.21	-BUILDING, BECKY KLEIN, Russ
03/29/2021	841592	AT & T Corp	General	$ 321.51	PRPL - Recreation Division
03/29/2021	841592	AT & T Corp	P.W. Admin	$ 29.19	PWBLKNP OFFICE -60/40
03/29/2021	841592	AT & T Corp	Facilities	$ 45.21	Facilities -Jessica and John
03/29/2021	841592	AT & T Corp	Park Dist 1	$ 164.20	PRPL Parks Tablets
03/29/2021	841592	AT & T Corp	Court Grants	$ 212.25	Muni Court DC
03/29/2021	841592	AT & T Corp	Water	$ 454.94	PWBELKNAP-DIST COLL 60/40
03/29/2021	841592	AT & T Corp	Water	$ 237.88	PWBLKNP MTRSHOP
03/29/2021	841592	AT & T Corp	Wastewater	$ 445.07	PW-Distribution Collection Tablets 60/40
03/29/2021	841592	AT & T Corp	General	$ 104.52	REC Tablets
03/29/2021	841592	AT & T Corp	General	$ 47.56	Municipal Court
03/29/2021	841592	AT & T Corp	Water	$ 1,047.57	PWBELKNAP-WT Water Treatment
03/29/2021	841592	AT & T Corp	General	$ 31.41	Code Enforcement +Trina Arnold
03/29/2021	841592	AT & T Corp	Park Dist 1	$ 636.35	Parks Dept.
03/29/2021	841592	AT & T Corp	General	$ 97.81	City Attorney -Legal
03/29/2021	841592	AT & T Corp	Facilities	$ 122.24	Facilities BOC Plus 70% of 406-672-3027
03/29/2021	841592	AT & T Corp	Phone System	$ 17.52	Donation Center phone YCT. 406.208.8154
03/29/2021	841592	AT & T Corp	Engineering	$ 119.81	PW-Engineering Cell Phones and MiFi
03/29/2021	841592	AT & T Corp	Water	$ 609.89	PWBLKNP COMM-METER CityWorks/Neptune
03/29/2021	841592	AT & T Corp	CDBG	$ 145.71	Comm Dev Dina Harmon, Carly Collings and Tam Rodier
03/29/2021	841592	AT & T Corp	Phone System	$ 37.16	TeleComm Manager Doug and Brenda
03/29/2021	841592	AT & T Corp	Library	$ 214.90	Library
03/29/2021	841592	AT & T Corp	Transit	$ 17.52	MET Transit On Call
03/29/2021	841592	AT & T Corp	Water	$ 667.60	PW-Distribution Collection Tablets 60/40
03/29/2021	841592	AT & T Corp	Wastewater	$ 476.29	PWBLKNP Electricians -Phones
03/29/2021	841592	AT & T Corp	P.W. Admin	$ 43.79	PWBLKNP OFFICE -60/40
03/29/2021	841592	AT & T Corp	Street/Traffic	$ 273.24	Street Traffic iPads

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03/29/2021	841592	AT & T Corp	Facilities	$ 103.81	Facilities City Hall Plus 30% of 406-672-3027
03/29/2021	841592	AT & T Corp	Planning	$ 45.21	-PLANNING DAVE GREEN PLANNING MONICA PLECKER
03/29/2021	841592	AT & T Corp	Phone System	$ -	Parks Seasonal
03/29/2021	841592	AT & T Corp	Building	$ 11.55	-BUILDING, BECKY KLEIN, Russ
03/29/2021	841592	AT & T Corp	General	$ 285.50	Code Enforcement +Trina Arnold
03/29/2021	841592	AT & T Corp	Water	$ 87.80	PWBLKNP STORES -75/25
03/29/2021	841592	AT & T Corp	Wastewater	$ 29.27	PWBLKNP STORES -75/25
03/29/2021	841592	AT & T Corp	Library	$ 107.34	Library Out Reach
03/29/2021	841592	AT & T Corp	Public Safety	$ 50.25	Fire Department Cell Phones
03/29/2021	841592	AT & T Corp	Public Safety	$ 3,059.66	Police Department Cell Phone
03/29/2021	841592	AT & T Corp	Parking	$ 87.63	Parking Division Meter Maintenance
03/29/2021	841592	AT & T Corp	PD Program	$ 80.28	CCSIU Toughbook
03/29/2021	841592	AT & T Corp	Public Safety	$ 1,238.74	MDT Fire
03/29/2021	841592	AT & T Corp	Public Safety	$ 240.84	Animal Control -MDT
03/29/2021	841592	AT & T Corp	Airport	$ 541.38	Airport
03/29/2021	841592	AT & T Corp	PD Program	$ 47.56	Domestic Violence -Katie Nash
03/29/2021	841592	AT & T Corp	Public Safety	$ 401.40	Police MDT Toughbooks and Loaner MDT's
03/29/2021	841592	AT & T Corp	General	$ 47.56	Legal Dept -Domestic Violence
03/29/2021	841592	AT & T Corp	Public Safety	$ 1,208.48	Fire Department Cell Phones
03/29/2021	841592	AT & T Corp	Public Safety	$ 3,692.88	Police MDT Toughbooks and Loaner MDT's
03/29/2021	841592	AT & T Corp	Public Safety	$ 283.05	Police -Resource Officers
03/29/2021	841592	AT & T Corp	IT Resources	$ 50.25	IT Department -On call Phone -added hotspot
03/29/2021	841592	AT & T Corp	Public Safety	$ 87.70	ICAC -Campbell and Spare
03/29/2021	841592	AT & T Corp	Transit	$ 306.30	MET Transit Tablets
03/29/2021	841592	AT & T Corp	Wastewater	$ 90.42	PW Environmental
03/29/2021	841592	AT & T Corp	Public Safety	$ 40.14	Detective Chartier -Toughbook
03/29/2021	841592	AT & T Corp	Building	$ 361.26	PW-Building Tablets (Planning)
03/29/2021	841592	AT & T Corp	Transit	$ 1,003.50	MET Transit Max Transit
03/29/2021	841592	AT & T Corp	Public Safety	$ 200.70	Yellowstone County Cellular Charges -Three cradlepoints
03/29/2021	841592	AT & T Corp	Public Safety	$ 285.40	Animal Control Cell Phones
03/29/2021	841592	AT & T Corp	Public Safety	$ 288.78	Comm. Center 9-1-1
03/29/2021	841592	AT & T Corp	Street/Traffic	$ 313.46	Verizon School Flashers
03/29/2021	841592	AT & T Corp	Building	$ 524.12	PW-Building Cell Phones
03/29/2021	841599	Blgs Industrial Revital Dist	Tax Incrmnt E	$ 34,987.00	TIF Management FY2021 3rd Quarter
03/29/2021	841604	Border States Electric	Water	$ 30.90	LOW SOURCE HEATER FUSES
03/29/2021	841604	Border States Electric	Water	$ (68.81)	CREDIT FOR RETURN BIBS

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03/29/2021	841604	Border States Electric	Wastewater	$ (68.81)	CREDIT FOR RETURN BIBS
03/29/2021	841604	Border States Electric	Water	$ 935.36	APRISA RADIO UPGRADE
03/29/2021	841604	Border States Electric	Wastewater	$ 149.35	SSP OVERLOADS FOR SUMP
03/29/2021	841604	Border States Electric	Water	$ 6,951.75	Water plant techconnect process control renewal- 2021-2024
03/29/2021	841604	Border States Electric	Wastewater	$ 6,951.75	Water plant techconnect process control renewal- 2021-2025
03/29/2021	841604	Border States Electric	Water	$ 554.50	POWER SUPPLY
03/29/2021	841604	Border States Electric	Wastewater	$ 41.06	FIBER JAB IN SECCOND TUNNEL
03/29/2021	841604	Border States Electric	Water	$ 238.17	WTP STAPLES APRISA POWER SUPPLY
03/29/2021	841604	Border States Electric	Water	$ 124.92	STOCK SUPPLIES
03/29/2021	841604	Border States Electric	Wastewater	$ 124.91	STOCK SUPPLIES
03/29/2021	841604	Border States Electric	Wastewater	$ 14.51	HEADWORKS
03/29/2021	841604	Border States Electric	Water	$ 57.50	CONDUIT RUN
03/29/2021	841604	Border States Electric	Wastewater	$ 49.64	FIBER RACK
03/29/2021	841604	Border States Electric	Wastewater	$ 53.41	FR SHIRTS - COLE
03/29/2021	841604	Border States Electric	Wastewater	$ 195.89	FIBER RACK
03/29/2021	841604	Border States Electric	Water	$ 53.41	FR SHIRTS - COLE
03/29/2021	841604	Border States Electric	Wastewater	$ 34.52	FIBER RACK
03/29/2021	841604	Border States Electric	Water	$ 170.06	LED DRIVER FOR U.V. OUTSIDE GARGE DOOR
03/29/2021	841604	Border States Electric	Wastewater	$ 64.69	FITTINGS FOR STOCK
03/29/2021	841606	Business Tax Section	Wastewater	$ 9.41	WO 20-01 60 Sewer Interceptor Trenchless Rehabilitation Project
03/29/2021	841606	Business Tax Section	Water	$ 1,267.00	W.O. 21-21 Water Treatment Plant Sediment Hauling
03/29/2021	841606	Business Tax Section	Water	$ 2,356.11	WO 19-37 WTP High Service Pump Station H2-2 Pump Replacement
03/29/2021	841606	Business Tax Section	Public Safety	$ 122.50	CGR-2 FIRE1: WATER HEATER REPLACED
03/29/2021	841606	Business Tax Section	Water	$ 1,787.91	WO 20-40 Walter Pump Station Generator
03/29/2021	841606	Business Tax Section	Water	$ 443.50	WO 18-22 Leavens Reservoir Waterline and Improvements
03/29/2021	841606	Business Tax Section	CDBG	$ 10.50	Construction Agreement / 817 N 22nd Street
03/29/2021	841608	Cascade Rescue/Harken	Public Safety	$ 336.60	PMI-RLA-PE42020 PMI TRANTULA WEB LITTER SPIDER ON INOLN RING
03/29/2021	841608	Cascade Rescue/Harken	Public Safety	$ 330.00	ESTIMATED SHIPPING/FREIGHT
03/29/2021	841608	Cascade Rescue/Harken	Public Safety	$ 504.90	PMI-RLA-PE42059 PMI FAST PATIENT RESTRAINT SYSTEM
03/29/2021	841608	Cascade Rescue/Harken	Public Safety	$ 297.50	CRC-RLA-PLST PROFESSIONAL SERIES LITTER SKIN RECTANGULAR
03/29/2021	841608	Cascade Rescue/Harken	Public Safety	$ 330.00	RETURN FREIGHT, EXCHANGED TAPERED LITTERS FOR RECTANGULAR
03/29/2021	841608	Cascade Rescue/Harken	Public Safety	$ 1,657.50	CRC-RSL-PSS1 PRO STAINLESS ONE PIECE
03/29/2021	841610	Century Link	Phone System	$ 44.66	South Park 406.247.8575
03/29/2021	841610	Century Link	Phone System	$ 113.19	406-247-8641 PRPL -Fax and 406-657-3052 Senior center fax
03/29/2021	841610	Century Link	Airport	$ 66.20	406-252-0721 Airport 1FB Line
03/29/2021	841610	Century Link	Parking	$ 55.03	406-252-2041 Park 2 Elevator Phone

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03/29/2021	841610	Century Link	Phone System	$ 180.51	Water Department Alarm 406-247-8511
03/29/2021	841610	Century Link	Phone System	$ 134.48	BOC Alarms 406.247.1276, 406.247.1277, 406.247.1278
03/29/2021	841610	Century Link	EOC 911	$ 6,425.31	406-245-8527 New 9-1-1 Center
03/29/2021	841610	Century Link	Phone System	$ 137.76	WWTP Conference Room 406.247.8564
03/29/2021	841610	Century Link	Park Dist 1	$ 61.70	406-652-5507 Parks
03/29/2021	841610	Century Link	Street/Traffic	$ 45.92	406-652-8104 PW Traffic Signal 24 Central
03/29/2021	841610	Century Link	General	$ 55.03	406-652-0269 Cemetery FAX Line
03/29/2021	841610	Century Link	Phone System	$ 45.92	Streets Fax 406.657.8338
03/29/2021	841610	Century Link	Phone System	$ 44.66	Fire Alarm 406.657.3058
03/29/2021	841610	Century Link	Phone System	$ 45.92	406-657-8419 MET Fax and 406-247-8520 Kenco Fax
03/29/2021	841610	Century Link	Phone System	$ 44.66	Pioneer Park 406.657.8298
03/29/2021	841610	Century Link	Phone System	$ 65.67	-Miller Building -406.252.3988
03/29/2021	841610	Century Link	Phone System	$ 44.66	Four Dances 406.657.3040
03/29/2021	841610	Century Link	Parking	$ 44.66	406-657-3054 Park 1 Elevator Phone
03/29/2021	841610	Century Link	Airport	$ 110.06	406-252-9412 Airport
03/29/2021	841610	Century Link	Park Dist 1	$ 44.66	406-657-3014 Parks 3890 Stillwater
03/29/2021	841610	Century Link	Phone System	$ 2,740.80	406-657-8377 Main System Centrex
03/29/2021	841610	Century Link	Phone System	$ 98.81	406-252-3774 BOC Measured Lines 406-252-3789
03/29/2021	841610	Century Link	General	$ 51.42	406-652-8403 Stewart Park Batting Cages
03/29/2021	841610	Century Link	Phone System	$ 143.32	406-657-3009 PUD Measured Lines 406-247-8579
03/29/2021	841614	CM Tree Serve & Remove	Arterial Streets	$ 4,400.00	Right of way clearing
03/29/2021	841616	Conrad	Public Safety	$ 3,136.56	reimburse-flights to Boise for NW Alcohol Conference.
03/29/2021	841621	Dell Computer L P	Engineering	$ 208.96	Docking station -Engineering
03/29/2021	841621	Dell Computer L P	General	$ 3,157.66	Dell 7520 15" i7, 16GB RAM, 256GB SSD, Docking station
03/29/2021	841623	DOWL	Planning	$ 5,082.50	Billings ByPass Corridor Study
03/29/2021	841624	Downtown Blgs Partners	Tax Incrmnt N27	$ 23,286.75	Urban Revitalization District Operating Agreement
03/29/2021	841630	Electrical Consultants	Water	$ 3,923.37	WTP - RELAY CONFIGURATION UPDATE, Invoice 92169
03/29/2021	841631	Empire Garage Owners	Parking	$ 8,604.61	3232021 City of Billings March Assessment
03/29/2021	841635	FirstMark Const	Water	$ 125,433.00	W.O. 21-21 Water Treatment Plant Sediment Hauling
03/29/2021	841641	Graphic Imprints	General	$ 1,437.88	youth volleyball shirts - 85681
03/29/2021	841641	Graphic Imprints	General	$ 1,108.32	adult coed volleyball shirts - 85687
03/29/2021	841641	Graphic Imprints	General	$ 2,540.00	shirts with city logo - 85737
03/29/2021	841644	Hansers Auto	Public Safety	$ 75.00	299583
03/29/2021	841644	Hansers Auto	General	$ 3,225.00	5075
03/29/2021	841645	HDR, Inc.	Water	$ 4,655.00	WO 20-08 Low Service Pump Station NO. 1 Backup Generator
03/29/2021	841646	High Point Network	IT Resources	$ 14,894.24	Palo Alto Renewal 6/15/2021-6/15/2022

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03/29/2021	841648	Iaff	Payroll Clearing	$ 5,197.14	Payroll Summary
03/29/2021	841650	Ind Cmmnctn & Elctrnc	Solid Waste	$ 257.25	Radio installation parts for trucks
03/29/2021	841650	Ind Cmmnctn & Elctrnc	Solid Waste	$ 25,942.50	Radios for Solid Waste Trucks
03/29/2021	841668	Library Ideas LLC	Library	$ 15,999.00	78913 Freegal subscription 3/2021 - 3/2022
03/29/2021	841670	M.C. Wholesale Inc	Airport	$ 3,835.50	Invoice #13842. 2nd Floor LEDS
03/29/2021	841670	M.C. Wholesale Inc	Airport	$ 8,954.00	Invoice #13857. Ops LED Lights
03/29/2021	841675	Montana CSED	Payroll Clearing	$ 3,229.90	Payroll Summary
03/29/2021	841676	MT Dakota Utilities	Airport	$ 136.48	229 573 1000 0. Detail Bay 1 Hertz. March 2021
03/29/2021	841676	MT Dakota Utilities	Airport	$ 288.60	283 116 0655 3. IP-12 Alpine. March 2021
03/29/2021	841676	MT Dakota Utilities	Airport	$ 636.37	129 573 1000 1. Mud Wash. March 2021
03/29/2021	841676	MT Dakota Utilities	Airport	$ 171.48	329 573 1000 9. Detail Bay 3 Enterprise. March 2021
03/29/2021	841676	MT Dakota Utilities	Airport	$ 517.69	185 580 1000 7. TSA. March 2021
03/29/2021	841676	MT Dakota Utilities	Airport	$ 276.50	295 580 1000 4. Aero Interiors. March 2021
03/29/2021	841676	MT Dakota Utilities	Airport	$ 1,654.63	889 373 1000 6. Car Wash. March 2021
03/29/2021	841676	MT Dakota Utilities	Airport	$ 191.86	629 573 1000 6. Detail Bay 2 National/Alamo. March 2021
03/29/2021	841676	MT Dakota Utilities	Airport	$ 288.60	160 723 3573 6. USDA. March 2021
03/29/2021	841676	MT Dakota Utilities	Airport	$ 179.11	429 573 1000 8. Detail Bay 4 Avis/Budget. March 2021
03/29/2021	841676	MT Dakota Utilities	Airport	$ 76.65	529 573 1000 7. Detail Bay 5 Thrifty/Dollar. March 2021
03/29/2021	841676	MT Dakota Utilities	Wastewater	$ 4,690.35	293 780 1000 2
03/29/2021	841676	MT Dakota Utilities	Park Dist 1	$ 125.04	501 473 1000 2
03/29/2021	841676	MT Dakota Utilities	Wastewater	$ 43.86	596 733 1000 5
03/29/2021	841676	MT Dakota Utilities	Wastewater	$ 43.21	713 064 3190 0
03/29/2021	841676	MT Dakota Utilities	Public Safety	$ 33.96	062 907 9494 7
03/29/2021	841676	MT Dakota Utilities	Water	$ 42.40	076 225 9180 3
03/29/2021	841676	MT Dakota Utilities	Public Safety	$ 612.19	169 233 1000 3
03/29/2021	841676	MT Dakota Utilities	Wastewater	$ 4,690.35	293 780 1000 2
03/29/2021	841676	MT Dakota Utilities	Water	$ 98.15	373 580 1000 9
03/29/2021	841676	MT Dakota Utilities	Public Safety	$ 491.58	533 653 1000 1
03/29/2021	841676	MT Dakota Utilities	General	$ 256.64	437 780 1000 9
03/29/2021	841676	MT Dakota Utilities	Library	$ 3,828.67	219 924 4851 0
03/29/2021	841676	MT Dakota Utilities	Airport	$ 2,796.35	285 580 1000 6
03/29/2021	841676	MT Dakota Utilities	Airport	$ 7,972.96	595 580 1000 1
03/29/2021	841676	MT Dakota Utilities	Parking	$ 19.92	717 353 1000 6
03/29/2021	841676	MT Dakota Utilities	Parking	$ 114.36	799 152 1209 0
03/29/2021	841676	MT Dakota Utilities	Parking	$ 103.51	303 725 2591 2
03/29/2021	841676	MT Dakota Utilities	Wastewater	$ 44.50	843 879 2205 1

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03/29/2021	841676	MT Dakota Utilities	Water	$ 84.58	921 580 1000 6
03/29/2021	841676	MT Dakota Utilities	Wastewater	$ 9,380.68	293 780 1000 2
03/29/2021	841676	MT Dakota Utilities	Water	$ 98.16	373 580 1000 9
03/29/2021	841676	MT Dakota Utilities	P.W. Admin	$ 48.04	595 373 1000 1
03/29/2021	841676	MT Dakota Utilities	Wastewater	$ 41.11	735 453 1000 2
03/29/2021	841676	MT Dakota Utilities	Airport	$ 1,515.88	706 580 1000 7
03/29/2021	841676	MT Dakota Utilities	Facilities	$ 2,729.91	929 780 1000 4
03/29/2021	841676	MT Dakota Utilities	Engineering	$ 192.15	595 373 1000 1
03/29/2021	841676	MT Dakota Utilities	Solid Waste	$ 6.18	602 680 9335 2
03/29/2021	841676	MT Dakota Utilities	Public Safety	$ 744.27	885 880 1000 4
03/29/2021	841676	MT Dakota Utilities	Public Safety	$ 88.13	514 117 0478 9
03/29/2021	841676	MT Dakota Utilities	Water	$ 121.84	541 380 1000 1
03/29/2021	841676	MT Dakota Utilities	Transit	$ 1,800.91	962 880 1000 0
03/29/2021	841677	MT Dept Of Enviro Quality	Solid Waste	$ 33,506.90	4TH QTR MAJOR CLASS II LANDFILL LICENSE #113
03/29/2021	841678	MFPE	Payroll Clearing	$ 2,656.25	Payroll Summary
03/29/2021	841681	MT State Fireman	Payroll Clearing	$ 4,351.08	Payroll Summary
03/29/2021	841682	Moulton Bellingham	General	$ 2,927.50	Inv.#140698 Houser WWFF
03/29/2021	841682	Moulton Bellingham	General	$ 1,885.00	Inv.#140699 Abromeit et al v. COB
03/29/2021	841682	Moulton Bellingham	General	$ 96.00	Inv.#140723 Good Stuff Zoning Violations
03/29/2021	841682	Moulton Bellingham	General	$ 67.50	Inv.#140697 Stone et al v. COB
03/29/2021	841682	Moulton Bellingham	General	$ 7,898.00	Inv.#140788 Heights Water District Contract Dispute
03/29/2021	841683	MPPA	Payroll Clearing	$ 3,549.70	Payroll Summary
03/29/2021	841684	MT DEQ	Wastewater	$ 59,840.00	2020-MT0022586 ANNUAL INVOICE
03/29/2021	841685	MT Waterworks	Water	$ 6,915.84	6' FIRE HYDRANT BILLINGS SPECS - PUSH ON
03/29/2021	841685	MT Waterworks	Water	$ 347.20	48 X 48 CURB BOX L/ROD 1-1/2" TAP W/ PENTAGON LID
03/29/2021	841685	MT Waterworks	Water	$ 26.58	D & C NEW FITTINGS FOR TESTING USABILITY
03/29/2021	841685	MT Waterworks	Wastewater	$ 17.72	D & C NEW FITTINGS FOR TESTING USABILITY
03/29/2021	841685	MT Waterworks	Water	$ 180.00	MARKING PAINT GREEN - GREEN SPRAYON #3631
03/29/2021	841685	MT Waterworks	Water	$ 500.00	FILTER FOAM POLYURET - (62-055-00)
03/29/2021	841685	MT Waterworks	Water	$ 28.50	RED MARKING PAINT # 3611 - (3611)
03/29/2021	841685	MT Waterworks	Water	$ 859.72	6" X 20" CI FC CLAMP - F1-724 X 20 X SH
03/29/2021	841686	Napa Auto Parts	Fleet	$ 9.64	275824 PO NUM 312132
03/29/2021	841686	Napa Auto Parts	Fleet	$ (130.95)	276237 PO NUM 312132
03/29/2021	841686	Napa Auto Parts	Fleet	$ 67.86	275829 PO NUM 312132
03/29/2021	841686	Napa Auto Parts	Fleet	$ 21.56	276218 PO NUM 312132
03/29/2021	841686	Napa Auto Parts	Fleet	$ 130.95	275825 PO NUM 312132

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03/29/2021	841686	Napa Auto Parts	Fleet	$ 18.82	276218 PO NUM 312132
03/29/2021	841686	Napa Auto Parts	Fleet	$ 79.72	276825 PO NUM 312132
03/29/2021	841686	Napa Auto Parts	Fleet	$ 40.05	275466 PO NUM 312132
03/29/2021	841686	Napa Auto Parts	Transit	$ 288.50	3977-00-277390 PO NUM 312094.
03/29/2021	841686	Napa Auto Parts	Transit	$ 72.79	3977-00-276320 PO NUM 312094. Serpentine Belt-Inventory
03/29/2021	841686	Napa Auto Parts	Transit	$ 8.24	3977-00-277523. Pre-Filter Unit 1824. W/O 198718
03/29/2021	841686	Napa Auto Parts	Transit	$ (42.99)	3977-00-277558. Transmission Filter Kit Unit 1825. W/O 198788
03/29/2021	841686	Napa Auto Parts	Transit	$ 137.98	3977-00-277409. Transmission Filter Kit & ATF Unit 1825. W/O 198788
03/29/2021	841686	Napa Auto Parts	Fleet	$ 49.65	279693 PO NUM 312217
03/29/2021	841686	Napa Auto Parts	Transit	$ (125.18)	3977-00-277558 PO NUM 312094.
03/29/2021	841686	Napa Auto Parts	Transit	$ 19.81	3977-00-277801 PO NUM 312094. Filters-Inventory
03/29/2021	841686	Napa Auto Parts	Transit	$ 14.07	3977-00-276740. Chain Unit 1825. W/O 198699
03/29/2021	841686	Napa Auto Parts	Transit	$ (144.00)	3977-00-275598. Battery Core Unit 1809. W/O 198566
03/29/2021	841686	Napa Auto Parts	Transit	$ 4.05	3977-00-276607. Bushing Unit 1815. W/O 198687 Job #1
03/29/2021	841686	Napa Auto Parts	Transit	$ 63.03	3977-00-277390. Grease and Paper Towels
03/29/2021	841686	Napa Auto Parts	Fleet	$ 742.36	279676 PO NUM 312217
03/29/2021	841686	Napa Auto Parts	Transit	$ 552.73	3977-00-276058. DEF Pump & Heater Unit 1820. W/O 198625
03/29/2021	841686	Napa Auto Parts	General	$ 259.29	280474
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 12.71	276522
03/29/2021	841686	Napa Auto Parts	General	$ 4.51	276592
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 31.07	275378
03/29/2021	841686	Napa Auto Parts	Street/Traffic	$ 2.88	275500
03/29/2021	841686	Napa Auto Parts	Transit	$ 13.66	3977-00-277968 PO NUM 312151. Air Filter
03/29/2021	841686	Napa Auto Parts	Street/Traffic	$ 337.33	280109
03/29/2021	841686	Napa Auto Parts	Fleet	$ 47.89	276601
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 36.00	275596
03/29/2021	841686	Napa Auto Parts	Fleet	$ 39.75	279676
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 44.95	279287
03/29/2021	841686	Napa Auto Parts	Solid Waste	$ 77.31	275928
03/29/2021	841686	Napa Auto Parts	Solid Waste	$ (33.70)	277611
03/29/2021	841686	Napa Auto Parts	Transit	$ 27.30	3977-00-278349 PO NUM 312151. Exhaust Hangers
03/29/2021	841686	Napa Auto Parts	Street/Traffic	$ 8.26	276502
03/29/2021	841686	Napa Auto Parts	Solid Waste	$ 25.89	279442
03/29/2021	841686	Napa Auto Parts	Solid Waste	$ 7.72	275962
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 223.94	279732
03/29/2021	841686	Napa Auto Parts	Street/Traffic	$ 38.89	280425

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 73.20	276851
03/29/2021	841686	Napa Auto Parts	General	$ (13.88)	280514
03/29/2021	841686	Napa Auto Parts	Solid Waste	$ 33.70	276666
03/29/2021	841686	Napa Auto Parts	Transit	$ 10.08	3977-00-277859 PO NUM 312151. Brass Fittings
03/29/2021	841686	Napa Auto Parts	Street/Traffic	$ 51.06	280325
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 414.91	279381
03/29/2021	841686	Napa Auto Parts	Street/Traffic	$ 33.00	280324
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 35.88	FIRE 1/UNIT 4050, TRANSMISSION FLUID (ALLARD)
03/29/2021	841686	Napa Auto Parts	Fleet	$ 15.39	273900 PO NUM 312070
03/29/2021	841686	Napa Auto Parts	Fleet	$ 32.34	274050 PO NUM 312070
03/29/2021	841686	Napa Auto Parts	Fleet	$ 27.60	274633 PO NUM 312070
03/29/2021	841686	Napa Auto Parts	Fleet	$ 16.56	274893 PO NUM 312070
03/29/2021	841686	Napa Auto Parts	Fleet	$ 20.88	273180 PO NUM 312070
03/29/2021	841686	Napa Auto Parts	Fleet	$ 182.24	274032 PO NUM 312070
03/29/2021	841686	Napa Auto Parts	Fleet	$ 149.40	274032 PO NUM 312070
03/29/2021	841686	Napa Auto Parts	Fleet	$ 87.90	274045 PO NUM 312070
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 46.79	FIRE 5: NTH TIRE VALVE
03/29/2021	841686	Napa Auto Parts	Transit	$ 143.77	3977-00-275563 PO NUM 312046. Spring Brake
03/29/2021	841686	Napa Auto Parts	Transit	$ 252.78	3977-00-275540. Shop Supplies
03/29/2021	841686	Napa Auto Parts	Transit	$ 101.40	3977-00-275540 PO NUM 312046.
03/29/2021	841686	Napa Auto Parts	Transit	$ 18.45	3977-00-275561 PO NUM 312046. Hydraulic Filter
03/29/2021	841686	Napa Auto Parts	Transit	$ 2.98	3977-00-278214. Heater Hose Unit 1888. W/O 198831
03/29/2021	841686	Napa Auto Parts	Transit	$ 11.92	3977-00-278258. Heater Hose Unit 1888. W/O 198831
03/29/2021	841686	Napa Auto Parts	Transit	$ 14.07	3977-00-278424. Bulk Chain Unit 1822. W/O 198882
03/29/2021	841686	Napa Auto Parts	Transit	$ 186.32	3977-00-283390 PO NUM 312227.
03/29/2021	841686	Napa Auto Parts	Transit	$ 43.87	3977-00-283390. Shop Supplies.
03/29/2021	841686	Napa Auto Parts	Fleet	$ 7.41	273205
03/29/2021	841686	Napa Auto Parts	Transit	$ 22.58	3977-00-281857 PO NUM 312227. Oil Filter
03/29/2021	841686	Napa Auto Parts	Transit	$ 229.84	3977-00-283806 PO NUM 312231. Brake Rotors
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 217.11	273876
03/29/2021	841686	Napa Auto Parts	Fleet	$ 104.48	274032
03/29/2021	841686	Napa Auto Parts	Transit	$ 313.67	3977-00-283421. Air Spring Unit 1822. W/O 198882
03/29/2021	841686	Napa Auto Parts	Street/Traffic	$ 9.41	274475
03/29/2021	841686	Napa Auto Parts	Transit	$ 68.00	3977-00-283941 PO NUM 312231. Wheel Seals
03/29/2021	841686	Napa Auto Parts	Transit	$ 94.99	3977-00-283231. ATF Unit 1824. W/O199170. Job #1
03/29/2021	841686	Napa Auto Parts	Transit	$ 22.58	3977-00-281859 PO NUM 312227. Oil Filter

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/29/2021	841686	Napa Auto Parts	Transit	$ 261.76	3977-00-283766. Brake Calipers Unit 1824. W/O 199175
03/29/2021	841686	Napa Auto Parts	Fleet	$ 28.64	274849
03/29/2021	841686	Napa Auto Parts	Transit	$ 120.70	3977-00-283925. Rear Shocks Unit 1822. W/O 198882
03/29/2021	841686	Napa Auto Parts	Fleet	$ 29.40	274967
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 109.33	273873
03/29/2021	841686	Napa Auto Parts	Public Safety	$ 8.07	274526
03/29/2021	841686	Napa Auto Parts	Transit	$ 2.84	3977-00-282311. Grease Zerks Unit 1812. W/O 197985
03/29/2021	841686	Napa Auto Parts	Water	$ 71.74	274687
03/29/2021	841686	Napa Auto Parts	Fleet	$ 21.52	274810
03/29/2021	841687	NorMont Equipment	Street/Traffic	$ 1,243.40	pin rivets/bolts for sign installation
03/29/2021	841687	NorMont Equipment	Street/Traffic	$ 219.12	u channel for delineators
03/29/2021	841687	NorMont Equipment	Street/Traffic	$ 333.90	nozzle for unit 1224
03/29/2021	841687	NorMont Equipment	Street/Traffic	$ 1,671.00	broom gutter wires for sweepers
03/29/2021	841687	NorMont Equipment	Street/Traffic	$ 5,219.35	telspar post for sign installation
03/29/2021	841689	Northwest Pipe	Water	$ 477.06	0-3000 BOTTOM MOUNT GAUGE - 63-1008SL-02L
03/29/2021	841689	Northwest Pipe	Fleet	$ 88.22	7467020
03/29/2021	841689	Northwest Pipe	Water	$ 87.48	BLACK NIPPLE 1-1/4" X 7"
03/29/2021	841689	Northwest Pipe	Water	$ 31.22	2" PVC SCH 80 TEES
03/29/2021	841689	Northwest Pipe	Water	$ 9.08	1" PVC SCH 80 TEES
03/29/2021	841689	Northwest Pipe	Water	$ 1,725.00	GATEWAY REPAIR CHARGES
03/29/2021	841689	Northwest Pipe	Water	$ 687.50	3/4" dual check repair kit
03/29/2021	841689	Northwest Pipe	Water	$ 1,121.19	METER SHOP PARTS
03/29/2021	841689	Northwest Pipe	Water	$ 20,253.12	3/4" E-CODER WALL CU/FT METER W/RECPT ED2C11REF7
03/29/2021	841689	Northwest Pipe	Water	$ 112.66	INV# 7473568. PLANT HOT WATER
03/29/2021	841689	Northwest Pipe	Water	$ 96.78	INV# 7475251. SAMPLE PUMPS
03/29/2021	841689	Northwest Pipe	Water	$ 538.21	6" X 30" CI-FC REPAIR CLAMP - F1-724 X 30 -SH
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0722265-6
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0723051-9
03/29/2021	841690	NorthWestern Energy	Airport	$ 914.64	0712800-2. IP-9. March 2021
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0722261-5
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 83.61	0722257-3
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0722260-7
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0722262-3
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0723027-9
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0723038-6
03/29/2021	841690	NorthWestern Energy	Airport	$ 455.38	0712792-1. IP-7. March 2021

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0723044-4
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0723052-7
03/29/2021	841690	NorthWestern Energy	Airport	$ 496.37	0712809-3. IP-11(12) Alpine. March 2021
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0722268-0
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0723170-7
03/29/2021	841690	NorthWestern Energy	Radio	$ 154.12	0721580-9
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 7.25	0723036-0
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 45.14	0723042-8
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 34.29	0723056-8
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 5.97	0722905-7
03/29/2021	841690	NorthWestern Energy	P.W. Admin	$ 161.10	1741314-7
03/29/2021	841690	NorthWestern Energy	Engineering	$ 644.40	1741314-7
03/29/2021	841690	NorthWestern Energy	General	$ 1,602.82	0100506-5
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 112.30	0723035-2
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 7.47	0723055-0
03/29/2021	841690	NorthWestern Energy	Facilities	$ 5,861.47	0100507-3
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 5.84	0722237-5
03/29/2021	841690	NorthWestern Energy	Water	$ 4,895.35	0100540-4
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 145.12	0722266-4
03/29/2021	841690	NorthWestern Energy	Solid Waste	$ 3,095.12	3252194-0
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 10.40	0722292-0
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 78.62	0722933-9
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 20.83	0789437-1
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 163.20	0723037-8
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 20.94	0723058-4
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0722263-1
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 103.56	0722255-7
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 431.22	0722287-0
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 8.99	0723057-6
03/29/2021	841690	NorthWestern Energy	Street/Traffic	$ 5.84	0723645-8
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0722251-6
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 16.27	0722293-8
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 8.58	0723090-7
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0723050-1
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0722254-0
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0723054-3

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 5.85	0723162-4
03/29/2021	841690	NorthWestern Energy	Parking	$ 857.17	1594282-4
03/29/2021	841690	NorthWestern Energy	Transit	$ 275.41	1784756-7
03/29/2021	841690	NorthWestern Energy	Public Safety	$ 1,854.99	3448739-7
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ -	0723048-5
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 5.86	0722247-4
03/29/2021	841690	NorthWestern Energy	Park Dist 1	$ 12.29	0722269-8
03/29/2021	841690	NorthWestern Energy	Wastewater	$ 142.26	389 62ND STREET LIFT ENTRANCE
03/29/2021	841690	NorthWestern Energy	Public Safety	$ 2,247.84	0100476-1 FIRE1: ELECTRICAL SERVICE
03/29/2021	841693	Paddock Heat & Cool	Public Safety	$ 12,127.50	FIRE 1: REPLACE STATION HOT WATER HEATER. $12,250.00
03/29/2021	841694	Polydyne Inc	Wastewater	$ 49,183.20	CLARIFLOC CHEMICALS WRF
03/29/2021	841697	Public Utilities	Water	$ 5,345.00	ACCOUNT 101434 ENGINEERING PERMITS
03/29/2021	841697	Public Utilities	Wastewater	$ 3,076.57	111176
03/29/2021	841700	RDO Equipment	Solid Waste	$ 275.00	Dozer rental for landfill
03/29/2021	841700	RDO Equipment	Street/Traffic	$ 54.24	P7356312
03/29/2021	841700	RDO Equipment	Solid Waste	$ 3,201.18	Filters
03/29/2021	841700	RDO Equipment	Solid Waste	$ 7,516.22	Dozer repair
03/29/2021	841700	RDO Equipment	Water	$ (284.73)	Duplicate payment of P6956412
03/29/2021	841700	RDO Equipment	Solid Waste	$ 1,562.90	Filter element
03/29/2021	841700	RDO Equipment	Street/Traffic	$ 414.93	P7332812
03/29/2021	841700	RDO Equipment	Street/Traffic	$ 520.06	P7332912
03/29/2021	841700	RDO Equipment	Solid Waste	$ 663.97	W2942812
03/29/2021	841704	Rocky Mt Compost	Park Dist 1	$ 11,400.00	playground chips
03/29/2021	841709	Sanderson Stewart	Planning	$ 4,850.00	5th Ave N Corridor Feasibility Study
03/29/2021	841714	Solid Waste System	Street/Traffic	$ 7,784.34	130241
03/29/2021	841714	Solid Waste System	Solid Waste	$ 1,272.57	130621
03/29/2021	841714	Solid Waste System	Street/Traffic	$ 2,963.25	130554
03/29/2021	841714	Solid Waste System	Solid Waste	$ 391.99	130456
03/29/2021	841714	Solid Waste System	Fleet	$ 564.15	130239 PO NUM 312060
03/29/2021	841715	Steepworld	Public Safety	$ 261.80	AUX OPEN BRAKE FOR I'D BRAKING DECENDERS
03/29/2021	841715	Steepworld	Public Safety	$ 3,872.40	PETZL I'D L RED, SELF BRAKING DECENDER W/ANTI PANIC FUNCTION
03/29/2021	841715	Steepworld	Public Safety	$ 67.35	COEUR SS 12MM HANGER
03/29/2021	841715	Steepworld	Public Safety	$ 2,777.60	ASAP, MMOBILE FALL ARRESTER
03/29/2021	841715	Steepworld	Public Safety	$ 751.80	ASAP'sorber AXESS, ENERGY ABSORBER FOR ASAP FALL ARRESTER
03/29/2021	841720	ThyssenKrupp Elevator	Airport	$ 212.00	FY21 Elevator/Escalator Maintenance - July 2020-June 30, 2021
03/29/2021	841720	ThyssenKrupp Elevator	Airport	$ 4,116.00	FY21 Elevator/Escalator Maintenance-Terminal July 2020-June 30, 2021

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/29/2021	841720	ThyssenKrupp Elevator	Airport	$ 212.00	FY21 Elevator/Escalator Maintenance-Operations July 2020-June 30, 2021
03/29/2021	841721	Town & Country Supply	Fleet	$ 15,932.18	416001 PO NUM 312220
03/29/2021	841721	Town & Country Supply	General	$ 466.46	dyed diesel fuel for cemetery - 410278
03/29/2021	841721	Town & Country Supply	Transit	$ 14,748.54	415943 PO NUM 312223. 5999 Gallons Dyed #2
03/29/2021	841721	Town & Country Supply	Water	$ 290.00	PROPANE FOR FOX PS
03/29/2021	841721	Town & Country Supply	Public Safety	$ 915.76	416055 FIRE 5 DIESEL - DELIVERED 03/20/2021
03/29/2021	841721	Town & Country Supply	Public Safety	$ 801.29	416055 FIRE 1-DIESEL
03/29/2021	841721	Town & Country Supply	Public Safety	$ 457.88	416055 FIRE 3 DIESEL
03/29/2021	841721	Town & Country Supply	Public Safety	$ 656.10	416055 FIRE 1 UNLEADED DELIVERED 03/20/2021
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 400.00	Vision Link software renewal for 258
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 120.00	Vision Link software renewal for 265
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 400.00	Vision Link software renewal for 243
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 237.86	Coupling
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 400.00	Vision Link software renewal for 262
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 338.66	Bar
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 120.00	Vision Link software renewal for 264
03/29/2021	841722	Tractor & Equipment	Street/Traffic	$ 694.94	BLCS0750475
03/29/2021	841722	Tractor & Equipment	Water	$ 522.72	BLCS0746167
03/29/2021	841722	Tractor & Equipment	Water	$ 273.19	BLCS0747607
03/29/2021	841722	Tractor & Equipment	Street/Traffic	$ 38.32	BLCS0750476
03/29/2021	841722	Tractor & Equipment	Fleet	$ 7,710.00	B2965301 PO NUM 312071
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 629.50	Filter/element
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 120.00	Vision Link software renewal for 266
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 120.00	Vision Link software renewal for 256
03/29/2021	841722	Tractor & Equipment	General	$ 5.98	BLCS0750043
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 400.00	Vision Link software renewal for 260
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 400.00	Vision Link software maintenance #254
03/29/2021	841722	Tractor & Equipment	Solid Waste	$ 400.00	Vision Link software renewal for 261
03/29/2021	841728	Verizon Wireless	Water	$ 27.32	PWBLKNP Water Treatment Brian Risser
03/29/2021	841728	Verizon Wireless	Public Safety	$ 40.01	Police MiFi
03/29/2021	841728	Verizon Wireless	Water	$ 191.24	PWBLNP Comm-Meter CityWorks/Neptune
03/29/2021	841728	Verizon Wireless	PD Program	$ 397.25	CCSIU Cell/PTT
03/29/2021	841728	Verizon Wireless	Street/Traffic	$ 163.92	PW-Streets City Works
03/29/2021	841728	Verizon Wireless	Parking	$ 27.32	Parking
03/29/2021	841728	Verizon Wireless	Solid Waste	$ 479.90	Solid Waste Tablets -Routware
03/29/2021	841728	Verizon Wireless	Solid Waste	$ 27.32	PW Dozer Trimble Dozer

Check Date	Check#	Name	Fund Name	Amount	Item Desc
03/29/2021	841728	Verizon Wireless	General	$ 99.21	City Administrator
03/29/2021	841728	Verizon Wireless	Airport	$ 51.79	Airport
03/29/2021	841728	Verizon Wireless	Engineering	$ 136.60	PW-Engineering
03/29/2021	841728	Verizon Wireless	Solid Waste	$ 109.28	PW-Solid Waste
03/29/2021	841728	Verizon Wireless	Solid Waste	$ 259.67	PW-SW-ON CALL Solid Waste On Call
03/29/2021	841728	Verizon Wireless	PD Program	$ 80.02	CCSIU RAVEN
03/29/2021	841728	Verizon Wireless	Public Safety	$ 80.02	Police iPad St John / Lawrence
03/29/2021	841728	Verizon Wireless	Water	$ 27.32	PW Belknap Meter Shop
03/29/2021	841728	Verizon Wireless	Water	$ 49.18	PW-Distribution Collection Tablets 60/40
03/29/2021	841728	Verizon Wireless	Street/Traffic	$ 81.96	PW-Streets iPads, and Derick Millller
03/29/2021	841728	Verizon Wireless	PD Program	$ 54.64	CCSIU MDT
03/29/2021	841728	Verizon Wireless	Public Safety	$ 51.79	Police -Mike Robinson
03/29/2021	841728	Verizon Wireless	Public Safety	$ 600.50	MDT Toughbooks
03/29/2021	841728	Verizon Wireless	Wastewater	$ 32.78	PW-Distribution Collection Tablets 60/40
03/29/2021	841728	Verizon Wireless	Transit	$ 309.02	MET AVL
03/29/2021	841731	Western Municipal Const	Water	$ 43,906.50	WO 18-22 Leavens Reservoir Waterline and Improvements
03/29/2021	841732	Western Water Consult	SID Const	$ 3,795.14	SID 14-13 Winged Foot Road and Greenbriar Road
03/29/2021	841735	Yellowstone Electric	Airport	$ 3,506.44	Invoice #525. Electrical for New Police IT Room
03/29/2021	841737	Yellowstone Valley Elec	Wastewater	$ 232.46	4523 Iron Horse Tr, 3002 Cattle Dr & 3002 Cattle Dr Pivot
03/29/2021	841737	Yellowstone Valley Elec	Wastewater	$ 1,300.00	4524 Iron Horse Tr, 3002 Cattle Dr & 3002 Cattle Dr Pivot
03/29/2021	841737	Yellowstone Valley Elec	Radio	$ 236.07	4179002: LANDFILL TOWER ELECTRICAL SERVICE
03/29/2021	841737	Yellowstone Valley Elec	Street/Traffic	$ 30.79	Ben Steele School - 56th St W; 4179020 3.26.2021
03/29/2021	841737	Yellowstone Valley Elec	Light Maint	$ 364.67	SILMD 299 Vintage Estates; 4179014 3.26.2021
03/29/2021	841737	Yellowstone Valley Elec	Street/Traffic	$ 61.56	Alkali Cr Rd & Interbelt Loop lights; 4179018 3.26.2021
03/29/2021	841737	Yellowstone Valley Elec	Street/Traffic	$ 49.10	54th St W & Grand Signal; 4179019 3.26.2021
03/29/2021	841737	Yellowstone Valley Elec	Street/Traffic	$ 75.51	54th St W & Rimrock; 4179019 3.26.2021
03/29/2021	841737	Yellowstone Valley Elec	Light Maint	$ 665.82	SILMD 313 Vintage Estates Sub Phase II; 4179017 3.26.2021
03/29/2021	841737	Yellowstone Valley Elec	Public Safety	$ 694.21	FIRE7: 417013, ELECTRICAL SERVICE TO STATION & PD3

City Council Regular

Date:	04/26/2021
Title:	Public Hearing & Action on Annual Action Plan and CDBG and HOME Budget Allocations
Presented by:	Brenda Beckett
Department:	Planning & Community Services
Presentation:	Yes

RECOMMENDATION

City staff and the Community Development (CD) Board recommend that the City Council conduct a public hearing and approve the FY2021-2022 Annual Action Plan and budget allocations for Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) program.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The City of Billings has been a recipient of CDBG funds since the mid-1970s and HOME funds since the early 1990s (over $47 million). These funds have been provided and monitored by the federal government and must be primarily targeted to address community affordable housing for low income citizens and poverty-impact needs in Billings.

To allocate CDBG and HOME resources, the Community Development Division staff and Board members facilitated an extensive process to gather public input on the use of federal funds. Applications were available at the beginning of December and due at the end of January. Applications were then forwarded to the Community Development Board and recommendations were prepared for C ity Council consideration. The Community Development Board prepared recommendations for the use of CDBG and HOME funds on April 6 during the Board's routine monthly meeting. Staff facilitated a 30-day public comment period, the City Council will take action, and the Annual Action Plan will be submitted to HUD by May 15.

Projects proposed are consistent with the goals and priorities of the five-year Consolidated Plan for the use of CDBG and HOME resources in Billings. The following Consolidated Plan strategies were approved by the City Council in May 2020 and they address Billings' housing and community development needs:

- Create, preserve, and expand affordable housing options
- Neighborhood Revitalization: Foreclosures
- Impact Poverty

STAKEHOLDERS

Stakeholders for CDBG and HOME programs include:

1. Program Recipients - The City serves low income households through a variety of affordable housing programs such as home repair, home buyer, etc. Full descriptions of available programs can be found online at www.BillingsMT.gov/comdev.

2. The Community Development Board - As an advisory body to the City Council, the Board provides detailed oversight to both the CDBG and HOME programs throughout the year. The Board also facilitates an extensive public input process to prepare recommendations for the City Council consideration. Six of nine total Community Development Board members are representatives of low-income neighborhoods either by residence or task force delegation, ensuring low-income citizen involvement of planning and allocation processes.

3. Neighborhood Task Forces - Task forces have historically been consulted regarding housing and neighborhood programs relative to community need. The current funding recommendations have not changed over the past several years as far as programs but CD staff is providing the information on this year's recommendations and programs to the neighborhood task force leadership during the public comment period.

4. Non-Profit Organizations - Community organizations serving those experiencing poverty are supported by the Billings Metro VISTA Project. AmeriCorps VISTA members assist in the provision of needed services to those in need.

ALTERNATIVES

City Council may:

- Hold a public hearing and approve the Annual Action Plan, and the allocation of CDBG and HOME funding as recommended by Staff and the Community Development Board.
- Hold a public hearing and approve the Annual Action Plan and the allocation of CDBG and HOME funding based on alternative funding strategies as determined by the City Council.
- Not hold a public hearing and not approve the Annual Action Plan and the allocation of CDBG and HOME funding and return funding to HUD.

FISCAL EFFECTS

The City of Billings has been awarded $645,143 in new CDBG and $334,548 in HOME funding for use in affordable housing and other projects benefiting low income residents for FY2021-2022. Additional CDBG and HOME funding is anticipated through loan repayments in programs such as First Time Home Buyer and Housing Rehabilitation. The Corporation for National and Community Service has awarded the City of Billings $466,289 in federal funds to support the Billings Metro VISTA Project contingent on the City's CDBG allocation supporting the program.

The City of Billings has also been awarded over $900,000 in CDBG-CV funding through the CARES Act. The CDBG-CV allocation application and recommendation process has begun. Staff anticipates bringing a substantial amendment to the FY2020 Annual Action Plan to the City Council to allocate this funding in late July.

Allocation recommendations conform to pre-determined spending requirements on several categories including: CDBG and HOME administration caps (maximum of 20% and 10% of new funding respectively); and public service caps (up to 15% of new CDBG funding). Changes made out of compliance with federal spending requirements would place the City's entitlement status for federal funds at risk.

The allocation of funding is restricted by eligibility requirements for CDBG and HOME and must meet pressing citywide community needs as identified in the Consolidated Plan; affordable housing, housing choice, and poverty-impact. HUD policy prohibits the use of federal funds to supplant local government funds on projects communities typically underwrite, regardless of whether federal grant dollars are available.

FY2021-2022 Budget Recommendations

CDBG budget recommendations include the following:

- Administration set at the maximum cap; $129,029.
- VISTA program support set at $25,000, which will leverage over $466,000 in grant funds from the Corporation for National and Community Service.
- First Time Home Buyer program funding totaling $166,114
- Housing Rehabilitation program support totaling $75,000.
- Foreclosure Acquisition / Rehabilitation support totaling $250,000.

HOME budget recommendations include the following:

- Administration set at the maximum cap; $33,455.
- Remaining HOME funds will be allocated to the First Time Homebuyer Loan Program; $301,093.

SUMMARY

City staff and the Community Development Board have made recommendations for CDBG and HOME budgets and the Annual Action Plan is ready for Council adoption. The City Council is asked to consider public input received and make a final decision at this meeting on the Annual Action Plan and accompanying CDBG and HOME budget.

Attachments

FY2021-2022 Annual Action Plan - Draft

CDBG & HOME Revenue & Recommendations

Allocation & Funding History

CITY OF Billings

Annual Action Plan
FY2021-2022

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Community Development Division
2825 Third Avenue North
Billings, Montana 59101
www.BillingsMT.gov/comdev
406.657.8281

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F. Citizen Participation Plan ..... TBD

G. Public Notices ..... TBD

H. Public Comments ..... TBD

Section I: Executive Summary

AP-O5 Executive Summary

24 CFR 91.200(c), 91.220(b)

Introduction

Five-year Consolidated Plans and one-year action plans are required by the United States Department of Housing and Urban Development (HUD) for the City of Billings to receive funding through the Community Development Block Grant (CDBG) and HOME Investment Partnerships programs (HOME). The City's five-year Consolidated Plan for FY2020-2024 identifies activities to be carried out from July 1, 2020 through June 30, 2025 to address priority needs in the community and serves as a guiding document for the use of the City's CDBG and HOME funding.

This one-year Annual Action Plan addresses priority needs and outlines the use of the City's CDBG and HOME funding for activities to be carried out from July 1, 2021 to June 30, 2022. Plans should be submitted to HUD 45 days prior to the start of the City's year start date; July 1.

Focused on CDBG and HOME activities, the Consolidated and Annual Action Plans combine the planning and application requirements for the CDBG and HOME programs. Consolidation of the submission requirements for the CDBG and HOME programs allows program planning and citizen participation to take place in a comprehensive context covering both programs. The CDBG and HOME programs covered by the Consolidated Plan have three basic goals:

- **To provide decent housing,** including: maintaining the affordable housing stock in the community; increasing the availability of permanent housing that is affordable to low income households without discrimination; increasing support of housing which enables persons with special needs to live independently; and assisting homeless persons to obtain affordable housing.
- **To provide a suitable living environment**, which includes: improving the safety and livability of neighborhoods; increasing access to quality facilities and services; reducing the isolation of low income households within areas by de-concentrating housing opportunities and revitalizing deteriorating neighborhoods; restoring and preserving natural and physical features of special value for historic, architectural, or aesthetic reasons; and conserving energy resources.
- **To expand economic opportunities**, including: creating jobs accessible to low income individuals; providing access to credit for community development activities which promote long-term economic and social viability; and empowering low income persons living in public and federally assisted housing to achieve self-sufficiency.

All activities undertaken by the City utilizing CDBG and HOME funding must primarily benefit low income persons. The strategies described in the Consolidated and Annual Action Plans outline a specific course of action for the community's housing and community development activities. The plan builds on local assets to meet the needs of the community and sets forth goals, objectives, and performance measures to ensure progress in achieving the strategies described herein.

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Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

The most significant housing issues in Billings include housing cost burden, the availability of affordable housing, and equal opportunity in homeownership for minority households.

- **Housing Cost Burden:** Over 80% of low income households have been paying more than 30-50% of their income for housing costs. Minorities are disproportionately impacted by housing cost burden including Black / African American, Asian, Native American, and Hispanic families.
- **Affordable Housing Availability:** Housing affordability and availability are the most significant factors in limiting housing choice for both renters and homeowners. While there are an adequate number of housing units in Billings to accommodate the population, there is a housing deficit of over 4,700 units for households with incomes less than 30% of the AMI. There are also over 6,200 households on the Housing Authority of Billings waiting lists. Over 2,000 people are waiting for single-person housing.
- **Homeownership and Opportunity:** Racial and ethnic minorities have a low homeownership rate than the White population (67%) in Billings. The Black cohort has the lowest homeownership rate at 16% followed by Native Americans at 31%. Thirty-three percent of the Hispanic cohort are homeowners.

The City's goals are to: create, preserve, and expand affordable housing options; promote neighborhood revitalization through foreclosure program, and to impact poverty. The City will continue to offer programs on a citywide basis to ensure equal opportunity in all Billings neighborhoods:

- **First Time Home Buyer -** Promote financial security, home equity, housing self-sufficiency, housing and neighborhood quality and stability; increase minority homeownership, promote equal access and opportunity, and decrease segregation citywide; improve affordable housing opportunities for the elderly, persons with disabilities, and other special populations; and reduce predatory lending through education and standardized procedures.
- **Housing Rehabilitation -** Help current homeowners maintain their homes in safe, quality condition; and Increase value, quality, and durability of existing affordable housing stock.
- **Affordable Housing Development -** Expand access and availability of decent, affordable housing citywide; improve the physical quality of affordable housing; and foster suitable living environment and quality of life through the improvement of physical conditions including infrastructure for housing projects and housing development.
- **Foreclosure, Acquisition, Rehabilitation -** Mitigate the negative community impact of vacant, foreclosed properties; improve affordable housing quality, condition, safety, livability, and accessibility; stabilize property values in neighborhoods with existing vacant, foreclosed homes; and eliminate the potential for crime related to existing vacant, foreclosed properties.
- **Billings Metro VISTA Project -** Provide resources to nonprofit organizations to undertake poverty impact activities and to support the low income individuals and families they serve; and focus areas include: education, healthcare, food security, economic opportunity, housing, financial literacy, and others.

HUD's EnVision Center Demonstration Project - EnVision Centers focus on empowering people to leave HUD-assisted housing through self-sufficiency to become responsible homeowners and renters in the private housing market through promotion of: economic empowerment; educational advancement; health and wellness; and character and leadership. In May and June 2020, the City of Billings staff facilitated a connection between Housing Authority of Billings and HRDC District 7 to the regional EnVision Center representatives for HUD's Region 8. Planning for a Billings EnVision center is underway.

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Evaluation of past performance

An evaluation of past performance that help the City choose goals or projects.

The City of Billings has been receiving CDBG funds since the 1970s and began receiving HOME funds in the mid-1990s. Performance on past goals and projects has been adequate, given declining resources. As a result, City staff have consolidated smaller programs focused on meeting priority needs, including affordable housing preservation and the provision of new housing opportunities. In 2012, stakeholders recommended prioritizing loan programs to maximize sustainability of community development programs in order to continue funding programs in the future. Loan repayment revenue has increased by an annual average of $230,000 over the past seven years, which has enabled the City to serve dozens of additional low income households through home buyer and repair programs. The City's progress on goals and projects is listed below (as of mid-March 2021).

- **Create, preserve, and expand affordable housing options:**
  - **Affordable Housing Development:** The C & C Community is making progress with infrastructure improvements and the project should be completed next year. Sixty households will benefit from this project.
  - **Housing Rehabilitation:** There is a significant decline in homeowners seeking Housing Rehabilitation Loans and an increased need for affordable housing and infrastructure development. Additional resources may be directed towards longer-term investments to benefit low-income neighborhoods on the whole. Projects under construction were delayed and approved applicants seeking bids put their projects on hold to limit the number of non-household members entering their homes. In addition, new applications nearly stopped during the pandemic. Eligible contractors for the program are also limited and the costs for building materials, specifically wood products, has greatly increased.
  - **First Time Home Buyer:** Thirty-eight households were assisted in purchasing their first homes so far this year; the City has met the set annual goal. However, the number of available affordable homes has significantly declined as families from across the nation relocate to Montana and this may impact sales in the future. The trend has been dubbed "The Zoom Boom". In Yellowstone County, there were less than 300 homes listed for sale in February 2021; one-month's supply. In November 2018, there were over 750 properties listed and in November 2019 there were 629.
- **Neighborhood revitalization:**
  - **Foreclosure Acquisition / Rehabilitation Program:** The North Park property rehabilitation has been completed and is currently being marketed to low-income households. The coronavirus pandemic resulted in limitations on foreclosure proceedings. Therefore, there are no foreclosed homes listed for sale in Billings. Building supply shortages and overall construction cost increases may also limit progress in the coming years.
- **Impact poverty:**
  - **Billings Metro VISTA Project:** Eighteen full-time AmeriCorps members have been working on poverty-impact programs. They focus on expanding services for the homeless and special needs populations: Healthcare; Food Security; Education; Employment; Financial Literacy; and Housing. Host Site Recruitment has declined, as many agencies expressed hesitation to take on a new initiatives with changing organizational needs and services in response to the coronavirus pandemic. VISTA Member recruitment spiked in early 2020, as many employment and other service opportunities were unavailable to candidates due to pandemic response; however, recruitment of qualified candidates has become more challenging due to a lower number of Host Sites as well as a growing job market. The City has also not been able to establish a viable Summer Associate AmeriCorps due to pandemic influences.

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Summary of citizen participation process and consultation process

91.200(b)

Summary from citizen participation section of plan.

Citizen participation is the foundation of housing and community development programs. The City of Billings has adopted a *Citizen Participation Plan* which is implemented during Consolidated and Annual Action Plan processes in order to ensure active participation by residents and affiliate organizations. The City has also adopted a *Language Assistance Plan* to ensure meaningful access to program information and equal opportunity for persons with hearing impairment and limited English proficiency. Both plans can be found online at www.Billingsmt.gov/CDreports.

The Citizen Participation Plan describes public access and engagement through public comment periods, public hearings, published notices, online and hard copy access to documents, and access for the disabled and limited English proficiency. The Plan also details the public decision-making processes via the Community Development Board and the Billings City Council.

Criteria for amending the Consolidated and Annual Action Plans includes substantial changes; *the creation of any new program, project, or activity to be funded or carried out under the City's CDBG and / or HOME programs.* All substantial changes to the Consolidated and Annual Action Plans must meet demonstrated need substantiated by HUD-approved data sources. Minor amendments include the *expansion of an existing program, project, or activity funded or carried out under the City's CDBG and / or HOME programs.* Minor changes must also meet demonstrated need by HUD-approved data sources.

In the event of a pandemic or other infectious disease, the City may alter public participation to include social distancing, virtual attendance, and other forms of virtual participation in lieu of or in addition to efforts described in the Citizen Participation Plan. The City may also implement shorter public comment periods as allowed by HUD. As per federal regulation, the City of Billings may publish its application for CDBG-CV funds for no less than five calendar days to solicit public comments.

Summary of public comments

Brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

The FY2021-2022 Annual Action Plan was open for public comment from March 27 through April 26, 2021. A public hearing was held on April 26, 2021 during the Billings City Council meeting to accept public comments on the Annual Action Plan and Community Development Board recommendations for funding allocation. To facilitate an open public involvement process, the public hearing was available live and remains available on demand at the www.comm7tv.com website and also on Community 7's public Facebook page at www.facebook.com/comm7tv.

Public Comment & Hearing: Comments pending…

Summary of comments or views not accepted and the reasons for not accepting them

All comments were taken into consideration during the development of the Annual Action Plan.

Summary

Comments received…

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Section II: The Process

PR-05 Lead & Responsible Agencies 24 CFR 91.200(b)

Describe agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

The City of Billings - Community Development Division staff is responsible for preparing the Consolidated Plan and administration of CDBG and HOME grant programs.

Agency Role	Name	Department/Agency
CDBG Administrator	City of Billings Brenda Beckett, Division Manager	Community Development Division
HOME Administrator		

Table 1 – Responsible Agencies

Consolidated Plan Public Contact Information

Brenda Beckett, Community Development Manager
Community Development Division, 2825 3rd Avenue North, Billings, MT
Phone: 406-657-8286
Email: beckettb@billingsmt.gov
Web: www.Billingsmt.gov/comdev

AP-10 Consultation 91.100, 91.200(b), 91.215(l)

Introduction

A number of organizations in the community are involved in affordable housing and community development-related activities in Billings and are asked to comment on the Consolidated and Annual Action Plans. The continued cooperation of these organizations in pursuing affordable housing for the community is required to meet the Consolidated Plan goals. Consultations include review of the plan with public and private agencies that provide health care, social services and fair housing education. Populations targeted for consultation include agencies that provide services for children, the elderly, the disabled, minorities, single-headed households, persons with HIV / AIDS and their families, and homeless individuals and families.

The Consolidated and Annual Action Plans are distributed widely during the public comment period and interested persons were invited to attend a number of staff-facilitated, regularly scheduled meetings to find out more about Community Development initiatives. Routine meetings were facilitated through staff for the Community Development Board; six of the nine total members represent and reside in low income neighborhoods.

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Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).

Public Housing: The Housing Authority of Billings is primarily responsible for administration of the public housing and Section 8 Programs for the community. The Housing Authority is an independent organization established under the laws of the State of Montana. Board members for the Housing Authority are appointed by the Mayor for the City of Billings. *91.100(c)*

Housing Opportunities for Persons with AIDS: Public and private agencies have assisted the City in reviewing the Consolidated Plan. Local organizations providing housing, health services, and social services have been involved in planning processes for the homeless and chronically homeless**.** The City does not receive Housing Opportunities for Persons with AIDS (HOPWA) funding directly, but supports the Human Resources Development Council District 7 in their implementation of HOPWA goals and objectives. *91.100(b)*

Adjacent Governments: Communication regarding non-housing community development needs is conducted via collaboration through adjacent units of local government including the State of Montana and Yellowstone County. *91.100(a)(4)*

Metropolitan Planning: The City of Billings - Community Development Division is included in the Planning and Community Services Department. The Department, overall, includes Code Enforcement, Planning / Transportation (includes the City of Billings and Yellowstone County), and the Building Division. These Divisions work internally to implement the Growth Policy, Infill Policy, Transportation Plan and Neighborhood Plans collectively. All City-assisted projects are reviewed for residential access to public transportation and broadband infrastructure. *91.100(a)(5)*

Community Development Board: The ***Community Development Board*** is a citizen's advisory board consisting of nine members who are appointed by the Mayor of Billings with the consent of the City Council. Six members are appointed to represent low income neighborhoods of the City as defined by federal regulations for the CDBG program and three members represent the community at large. This board serves in an advisory capacity to the City Council for the purpose of providing citizen input on policy decisions to the City Council. The Community Development Board makes recommendations to the City Council regarding the Consolidated Plan, the Annual Action Plan, the Citizen Participation Plan, and the CAPER. In addition, the Community Development Board reviews applications submitted for CDBG and HOME funding in order to make funding recommendations to the City Council for approval.

Billings City Council: The ***Billings City Council*** is the final governmental policy body that reviews and takes action on the Annual Action Plan, including the Citizen Participation Plan. The Community Development Board presents recommendations to the City Council during a scheduled work session preceding the public hearing each April in order to deliver information on decisions made regarding recommendations. After receipt and consideration of public comments, the City Council has the opportunity to approve the Consolidated Plan and Annual Action Plan and proposed funding allocations. Following approval, the Consolidated Plan and Annual Action Plans are forwarded to HUD.

Low-Income and Minority Households: In order to encourage citizen participation emphasizing the involvement of low income and minority residents in areas where housing and community development funds may be spent, the City's Community Development Board is comprised of six members representing lower income neighborhoods. The City's Planning and Community Services Department also continues to

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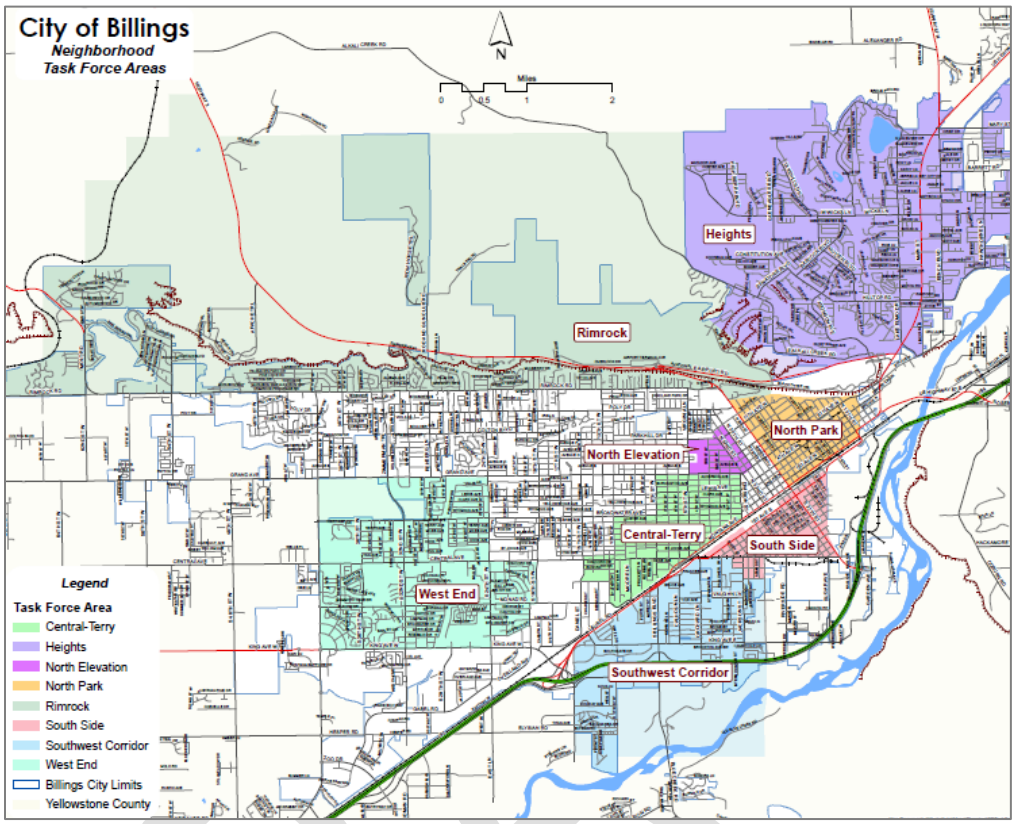
coordinate meetings with the Adjacent Neighborhood Committee including those representing the City's low income areas with high concentrations of minorities.



The City also continues to support the ***Adjacent Neighborhood Committee*** comprised of Task Force officers who meet quarterly to collaborate. The City also seeks input from low-income neighborhood representatives on housing, neighborhood and public service activities for the annual allocation process.

Additional Minority Outreach: Actions taken to establish and oversee a minority outreach program to ensure inclusion of minorities and women, entities owned by minorities and women, is accomplished by the following:

- Annual advertisement for contractor opportunities in construction are published in print media and distributed to low income and minority households.
- Maintaining a current email distribution list for the lending community and the real estate community at large in the Billings area.
- Opportunities for contracts are distributed to:
    - Chairpersons for the Neighborhood Task Forces, which cover both low income areas and higher concentrations of minority residents.
    - Housing Authority of Billings to post for residents utilizing public assistance, also a higher single-headed household and minority population.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

Continuum of Care Funding: Funding is provided to the State of Montana and are distributed by the State to various regions in Montana through the Human Resource Development Councils (HRDCs). A Continuum of Care application is prepared on a statewide basis and the City plays a small role in this process. One or two organizations in Billings may receive Continuum of Care funding, but a very small percentage of the available Continuum of Care funding is allocated to local projects; five to seven percent annually.

Billings Metro VISTA Project: In order to maintain momentum for City's ten-year plan to impact homelessness, the City's Community Development Division created an AmeriCorps Volunteers in Service to America (VISTA) program known as the ***Billings Metro VISTA Project***; sponsored by the Corporation for National and Community Service. VISTA members work to create or expand community-based programs, services, and systems that prevent and intervene in homelessness. VISTA members may be supervised by City staff for over-arching, community-wide benefit programs and they can also be supervised by nonprofit organization staff that are spearheading efforts to impact poverty and homelessness.

Statewide Continuum of Care: The Montana Continuum of Care Coalition (MT CoC) is the statewide organization designed to bring homeless service providers together from across the state in order to identify needs, inventory resources, recognize gaps and prioritize HUD funding as part of a greater planning effort to eradicate homelessness in Montana. The coalition was formed to address homelessness with very few resources to cover Montana's vast geographical area. In 2012, MT CoC restructured to incorporate a Board of Directors to oversee the operations of the coalition. The MT CoC consists of 15 delegates; ten from districts mirroring the same planning districts used by the Montana Department of Health and Human Services and five at-large delegates. The Board of Directors is the decision-making entity for the MT CoC and is responsible for ensuring compliance with the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act.

Local Continuum of Care: The South Central Montana Continuum of Care serves as the City's local Continuum of Care organization. It is a subsidiary of the MT CoC and represents Big Horn, Carbon, Stillwater, Sweet Grass, and Yellowstone counties. The South Central Montana Continuum of Care collaboratively works to develop, support, and promote a continuum of resources, services, and housing opportunities that prevent homelessness and promote long-term stability.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate Emergency Solutions Grant (ESG) funds, develop performance standards and evaluate outcomes, and develop funding, policies and procedures for the administration of Homeless Management Information System (HMIS).

The City does not receive ESG funds as an entitlement; these funds are distributed statewide by the Montana Department of Public Health and Human Services through ten HRDCs throughout the state. Therefore the City does not develop performance standards, evaluate outcomes or develop funding, policies or procedures for the administration of HMIS.

District 7 HRDC utilizes ESG funding for homeless prevention activities and rapid-rehousing. HRDC staff does not maintain a waiting list due to the volume of households in need. HRDC has received additional HUD Continuum of Care funds for rapid-rehousing homeless families living in shelters.

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Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdictions consultations with housing, social service agencies and other entities.

Table 2 – Agencies, groups, organizations who participated

#	Agency/Group/Organization	Type(s)	Consolidated Plan Section(s)	How Consulted / Outcomes
1.	Housing Authority of Billings	Public Housing Authority; Services - Homeless	Housing Need Assessment; Public Housing Needs; Homeless Needs - Chronically Homeless, Families with Children, Veterans; Homelessness Strategy; Market Analysis; Anti-Poverty Strategy	Email / phone / web retrieval; data exchange for the development of relevant sections
2.	Homeword	Housing	Housing Need Assessment; Market Analysis; Anti-Poverty Strategy	
3.	Rimrock	Housing; Services - Persons with Disabilities	Housing Need Assessment; Homeless Needs - Chronically Homeless; Anti-Poverty Strategy	
4.	Mental Health Center	Housing; Services - Persons with Disabilities	Housing Need Assessment; Non-Homeless Special Needs; Anti-Poverty Strategy	
5.	Family Service, Inc.	Services - Housing	Housing Need Assessment; Market Analysis; Homeless Needs - Families with Children; Homelessness Strategy; Anti-Poverty Strategy	
6.	District 7 HRDC	Housing; Services - Housing, Children, Persons with HIV/AIDs, Homeless	Housing Need Assessment; Homeless Needs - Chronically Homeless, Families with Children; Homelessness Strategy; HOPWA Strategy; Anti-Poverty Strategy	
7.	Adult Resource Alliance	Services - Elderly Persons	Housing Need Assessment; Non-Homeless Special Needs; Anti-Poverty Strategy	
8.	Big Sky Senior Services	Services - Elderly Persons	Housing Need Assessment; Non-Homeless Special Needs; Anti-Poverty Strategy	
9.	Living Independently for Today and Tomorrow	Housing; Services - Persons with Disabilities	Housing Needs Assessment; Market Analysis; Non-Homeless Special Needs	
10.	City of Billings - Planning Division	Local Government; Planning Organization	Housing Needs Assessment; Market Analysis; Economic Development; Anti-Poverty Strategy; Broadband Access; Resiliency	
11.	YWCA Gateway House	Housing; Services - Domestic Violence, Children	Housing Needs Assessment; Market Analysis; Homeless Needs - Families with Children; Anti-Poverty Strategy	
12.	Billings Public Schools	Services - Homeless, Education	Homeless Needs - Families with Children; Anti-Poverty Strategy	
13.	Billings Job Service	Services - Employment	Economic Development; Anti-Poverty Strategy	
14.	Montana Fair Housing	Services - Fair Housing	Housing Needs Assessment; Non-Homeless Special Needs; Anti-Poverty Strategy	
15.	The Alliance	Health Agency	Non-Homeless Special Needs; Anti-Poverty Strategy	
16.	Montana Department of Commerce	State; Housing	Housing Need Assessment; Market Analysis; Anti-Poverty Strategy	
17.	Billings Public Works Department	Local Government	Non-Housing Community Development Needs	
18.	Billings Police Department	Local Government; Services - Domestic Violence, Homeless	Housing Need Assessment; Anti-Poverty Strategy	

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Identify any Agency Types not consulted and provide rationale for not consulting.

The City of Billings staff is not aware of any agency types that have not been consulted in preparation of the Annual Action Plan. City staff contacted many agencies to assist with the development of the Consolidated and Annual Action Plans and has widely circulated information relative to proposed programs and funding allocations to garner feedback. Additional efforts were made during the public comment period to distribute the Annual Action Plan for review and feedback.

Describe other local/regional/state/federal planning efforts considered when preparing the Plan.

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	Montana State Continuum of Care	Identifies Federal and State resources to impact homelessness.
Growth Policy	City of Billings - Planning Division	Promotes affordable housing and infill development.
Infill Policy	City of Billings - Planning Division	Promotes affordable housing and infill development.
Annexation Policy	City of Billings - Planning Division	Promotes infill development.
Transportation Plan	City of Billings - Planning Division	Improves transit impacting project affordability
Neighborhood Plans	City of Billings - Planning Division and Neighborhood Task Forces	Guides development efforts in each neighborhood.
Consolidated Plan	Montana Department of Commerce - Community Development	State CDBG and HOME resources may be available to further projects. Consultation and coordination of statewide Analysis of Impediments to Fair Housing Choice.

Table 3 – Other local / regional / federal planning efforts

AP-12 Participation *91.105, 91.200(c)*

Summary of citizen participation process/Efforts made to broaden citizen participation. Summarize citizen participation process and how it impacted goal-setting.

Public comments are requested at least 30 days prior to submission of reports required under HUD's Consolidated Plan process. City staff has considered all written comments by citizens, public agencies and other interested parties prior to submission of its final Consolidated Plan and related reports to HUD and attach a summary of each comment to the final submission. If written comments were not accepted for inclusion in the Plan, City staff has provided written explanation of why those comments were not accepted.

Staff utilizes data-driven analysis processes along with citizen and community participation to establish goals, strategies and funded activities.

Citizen Participation Outreach

#	Mode of Outreach	Target of Outreach	Summary of response/attendance
Summary of comments not accepted and reasons: No comments were rejected.			
1	Public Notices	Nonprofit and other organizations with an interest in CDBG and / or HOME funding opportunities	Public Notices regarding the availability of CDBG and HOME funding were published through the Yellowstone County News on December 11 and 18, 2020.
	The City did not receive applications from nonprofit or other organizations.		
2	Public Notices	Nonprofit organizations with an interest in AmeriCorps VISTA funding opportunities	Public Notices regarding the availability of AmeriCorps VISTA resources were published through the Yellowstone County News on December 11 and 18, 2020.
	The City received numerous proposals for AmeriCorps VISTA placements for projects designed to impact poverty.		
3	Public Notices	Minorities, Disabled, Broad Community, Public & Assisted Housing Residents, All Citizens	Public Notices regarding the publication of the drafted Annual Action Plan on the City's website, the public comment period from March 27 through April 26, 2021. Notice of the public hearing to be held during the April 26, 2021 City Council meeting was published in the Yellowstone County News on March 26, April 2, and April 9, 2021.
	See the appendix for a summary of responses.		
4	Website	Minorities, Disabled, Broad Community, Public & Assisted Housing Residents, All Citizens	The drafted Annual Action Plan was available online from March 27 through April 26, 2021 for public comment and feedback. Emails were also sent to Billings area nonprofit, healthcare, and housing organizations.
	See the appendix for a summary of responses.		
5	Public Meetings	Minorities, Disabled, Broad Community, Public & Assisted Housing Residents, All Citizens	Monthly Community Development Board meetings are streamed live and video is available on demand on the Billings Planning and Community Services Department Facebook page.
	Update…		
6	Public Meeting	Minorities, Disabled, Broad Community, Public & Assisted Housing Residents, All Citizens	City Council public hearing held on April 26, 2021 was streamed live and video is available on demand at www.comm7tv.com. Streamed live and video is available on demand at www.facebook.com/comm7tv.
	Update…		

Table 4 – Citizen Participation Outreach

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Section III: Annual Action Plan

AP-15 Expected Resources 91.220(c)(1,2)

Introduction

The table below illustrates the CDBG and HOME resources expected for the program year. CDBG administration allocations are capped at 20% of the new CDBG allocation in addition to eligible program income received during the project year. Maximum amounts for public service activities are capped at 15% of the new CDBG allocation and 15% of the previous year's program income. HOME administration activities are capped at 10% of the new HOME allocation and eligible program income received following the required affordability period. Revenue received during a project's affordability period is considered recaptured and may not be used for administration.

Expected revenues from the CDBG program include repayments for funding loaned through the Housing Rehabilitation Loan program and other revitalization efforts. The City expects to receive approximately $75,000 to $300,000+ in repayments for the upcoming fiscal year which will be reprogrammed for programs identified herein. The City will not receive proceeds for Section 108 loan guarantees, surplus funds from urban renewal settlements, or float-funded activities.

Revenue expected for the HOME program includes recaptured and program income funding generated by the First Time Homebuyer Loan program. The City expects to receive approximately $150,000 to $300,000+ in HOME funding through these venues, and the funding will be utilized to further programs identified in this Plan. The City of Billings programs utilize 100% of CDBG and HOME funding to benefit low to moderate income households and / or areas. The City may also receive program income attributable to the Neighborhood Stabilization Program and other previously funded federal and state programs.

Routine revenues including program income, recaptured / repaid funds, and re-programmed monies will be utilized for existing and previously approved programs as it is received during each fiscal year. Routine revenues are allocated on a close- and shovel-ready basis to ensure timely commitment and expenditure. These changes are customary and facilitate funding allocations to projects and activities most in demand and do not require a substantial or minor amendment to the Consolidated Plan.

The City has also been awarded $909,126 in CARES Act funding (CDBG-CV) to support coronavirus response for low-income individuals and families in Billings. The City will be submitting a substantial amendment to the FY2020 Annual Action Plan prior to August 2021 with recommended allocations for these funds to exclusively prevent, prepare for, and respond to the coronavirus pandemic.

Anticipated Resources

Program	Source of Funds	Expected Amount Available				Expected Amount Available Reminder of Con Plan	Narrative Description
		Annual Allocation	Program Income	Prior Year Resources	Total		
CDBG	Public / Federal	$645,143	$75,000	$0	$720,143	$0	Entitlement Allocation
	Uses of Funds: Administration, Homeowner Rehabilitation, Homebuyer Acquisition, New Housing Development, Public Services						
HOME	Public / Federal	$334,548	$150,000	$0	$484,548	$0	Entitlement Allocation
	Uses of Funds: Administration, Homebuyer Acquisition, New Housing Development						

Table 5 - Expected Resources – Priority Table

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Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied.

The HOME program requires 25% match funding for projects be dedicated from non-federal sources. The City of Billings meets HOME matching requirements through low-interest financing available for First Time Homebuyer Loans issued through the Montana Board of Housing (MBOH) and matching funds provided for other affordable housing projects undertaken with HOME funds, such as private contributions and other local bank financing.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan.

The City of Billings does not have plans to use publicly owned land to address needs identified in the Consolidated Plan and is not required to do so, as per federal regulation.

Requirements set forth in CFR 24 91.220 and 91.520 indicate the City *may indicate* publicly owned land or property located within the jurisdiction that *may be used* to address the needs identified in the Consolidated / Annual Action Plan.

While the City has not dedicated land to the Community Development Division, the Billings City Council supported the Division's housing programs by dedicating nearly $450,000 in non-federal funds to support Consolidated Plan activities.

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AP-20 Annual Goals and Objectives

Goals Summary Information

Projects are funded on a close- and shovel-ready basis for core programs as described in this Plan.
An asterisk indicates *Housing development organizations housing development activities must be implemented by housing development organizations.

#	Goal Name	Category & Needs Addressed	Outcome	Objective	$	City Program	Goal Outcome Indicator	One Year Goal
1	**Create, preserve, and expand affordable housing options**	Affordable Housing	Affordability	Decent Affordable Housing	CDBG $241,114 HOME $301,093 NSP TBD	Affordable Housing Development	Public Infrastructure: Low income Housing Benefit	# Households Assisted*
							Rental Units Constructed	# Housing Units*
							Rental Units Rehabilitated	# Housing Units*
							Homeowner Housing Added	# Housing Units*
						Housing Rehabilitation	Homeowner Housing Rehabilitated	2 Housing Units
						First Time Home buyer	Direct Financial Assistance to Homebuyers	35 Households Assisted
		• Encourage the citywide development of new affordable single-family, multi-family and special needs housing in the community through private developers and nonprofit organizations. • Provide direct, affordable financing and assistance to low income homeowners for the completion of needed repairs citywide. • Provide affordable financing and support to promote homeownership opportunities citywide.						
2	**Neighborhood Revitalization: Foreclosures**	Affordable Housing	Affordability	Decent Affordable Housing	CDBG $250,000	Foreclosure Acquisition Rehabilitation	Homeowner housing rehabilitated	1 Housing Unit
							Buildings Demolished	# Buildings*
		• Revitalize neighborhoods through foreclosure remediation, redevelopment and infill development.						
3	**Impact Poverty**	Other: Poverty Impact	Availability / Accessibility	Create Suitable Living Environment	CDBG $25,000 CNCS TBD	Billings Metro VISTA Project	Public service activity for low income benefit	200 Persons Assisted
		• Provide public service activity funding to support the Billings Metro VISTA Project to support local nonprofit organizations expand services for the homeless and special needs populations: Healthcare; Food Security; Education; Employment; Financial Literacy; and Housing.						

HOME Investment Partnerships Program (HOME) *Community Development Block Grant (CDBG)* *Corporation for National and Community Service (CNCS)*

Table 6 – Goals Summary

AP-35 Projects 91.220(d)

Introduction

The City of Billings is recommending the following projects for CDBG and HOME funding for FY2021-2022. Revenues received from CDBG, HOME, and other sources will be allocated to current programs under a close- / shovel-ready basis to ensure commitment and expenditure timeliness.

The City will be receiving $645,143 in new CDBG funds and $334,548 in new HOME funds. CDBG and HOME administration will be funded at the maximum allowable caps (20 and 10 percent, respectively).

CDBG programs will be funded as follows: $250,000 to the Foreclosure Acquisition / Rehabilitation program $25,000 to the Billings Metro VISTA Project, , Housing Rehabilitation will be initially funded at $75,000, and the remaining funds would be allocated to the First Time Home Buyer program. These funding allocations are subject to the City's standard close- and shovel-ready allocation process.

The City has asked for a waiver to release the City's obligation to reserve 15 percent minimum HOME funding for a Community Housing Development Organization (CHDO) project in order to prioritize families in current need. All other HOME funds would be dedicated to the First Time Home Buyer program. These funding allocations are also subject to the City's standard close- and shovel-ready allocation process.

#	Project Name	FY2021-2022 Allocations	
		CDBG	HOME
1 & 2	Administration	$129,029	$33,455
3	Housing Rehabilitation	$75,000	-
4	Foreclosure Acquisition / Rehabilitation	$250,000	-
5	Community Housing Development Organizations	-	$0
6	First Time Home Buyer	$166,114	$301,093
7	Billings Metro VISTA Project	$25,000	-

Table 7 – Project Information, Funding Allocations do not include Program Income

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The allocation priorities were established by identifying community needs through the Needs Assessment and Market Analysis:

- **Affordable Housing:** Single- and multi-housing development, Housing Rehabilitation, and First Time Home Buyer, and Foreclosure Acquisition and Rehabilitation.
- **Poverty Impact:** Billings Metro VISTA Project.

The primary obstacle faced by the City in undertaking the activities described in its Consolidated Plan and meeting under-served needs is limited funding. The Needs Assessment identified the affordable housing needs and conditions of our community. These conditions, particularly the cost burden faced by very low income renters and homeowners, is difficult to address given existing resources.

AP-38 Project Summary

Entered into AP-35 in IDIS

#	Project Name	Target Area	Goals / Needs	Funding – No Program Income	Target Date	Estimate # / Type Families Benefitting
4 & 5	Administration	City of Billings	Affordable Housing	CDBG $129,029 HOME $33,455	June 30, 2022	Not Applicable
		General grant administration for CDBG and HOME programs.				
6	Affordable Housing Development	City of Billings	Affordable Housing	CDBG $0	June 30, 2022	# Low income Households Assisted
		Description: Encourage the citywide development of new affordable single-family, multi-family and special needs housing in the community through private developers and nonprofit organizations. Planned Activities: This funding would be utilized to facilitate the development of new affordable housing.				
7	Community Housing Development Organization	City of Billings	Affordable Housing	HOME $0	June 30, 2022	# Housing Units: Rentals constructed, rehabbed, or owner housing added
		Description: Encourage the citywide development of new affordable single-family, multi-family and special needs housing in the community through private developers and nonprofit organizations. Planned Activities: This funding would be utilized to facilitate the development of new affordable housing.				
8	Housing Rehabilitation	City of Billings	Affordable Housing	CDBG $75,000	June 30, 2022	2 Low income Housing Units
		Description: Provide direct, affordable financing and assistance to low income homeowners for the completion of needed repairs citywide. Preserve existing affordable housing supply, particularly in older neighborhoods, to support the stability of the current affordable housing stock. Planned Activities: This program provides low income households with zero interest, no payment financing to make needed improvements. This program revitalizes established neighborhoods and preserve the existing affordable housing stock through the completion of repairs to housing.				
9	First Time Home Buyer	City of Billings	Affordable Housing	HOME $301,093 CDBG $166,114	June 30, 2022	35 Low income Households Assisted
		Description: Provide affordable financing and support to promote homeownership opportunities citywide. Planned Activities: This program provides financial resources to support low-income first time homebuyers with down payment and closing costs.				
10	Foreclosure Acquisition & Rehabilitation	City of Billings	Affordable Housing	CDBG $250,000	June 30, 2022	1 Housing Unit – Low income Household
		Description: Provide direct, affordable financing and assistance to low income homeowners for the completion of needed repairs citywide. Revitalize low income neighborhoods through foreclosure remediation, redevelopment and infill development. Planned Activities: Funding to support the purchase of vacant and foreclosed properties for the purpose of rehabilitation and direct homeownership assistance to income-qualified homebuyers as their primary residence. Properties may also be demolished to make way for new construction of affordable housing. The purpose of the program is to stabilize neighborhoods, stem the decline of house values of neighboring homes due to foreclosure, and to preserve decent affordable housing.				
11	Billings Metro VISTA Project	City of Billings	Poverty Impact	CDBG $TBD	June 30, 2022	200 Low Income Persons Assisted
		Description: Provide public service activity funding to support the Billings Metro VISTA Project to support local nonprofit organizations expand services for the homeless and special needs populations: Healthcare; Food Security; Education; Employment; Financial Literacy; and Housing. Planned Activities: AmeriCorps members work on poverty impact issues in the community including hunger, homelessness, education, and veterans / military family support. Members are placed at nonprofit organization Host Sites and the City to assist in strengthening services in the poverty-impact service continuum.				
Community Development Block Grant (CDBG) HOME Investment Partnerships Program (HOME)						

AP-50 Geographic Distribution 91.220(f)

Description of the geographic areas of the entitlement (including areas of low income and minority concentration) where assistance will be directed

The geographic area served by the Consolidated and Annual Action Plans is defined by the current City of Billings limits. Citation 24 CFR 91.220(f) reads as follows, *"When appropriate, jurisdictions should estimate the percentage of funds they plan to dedicate to target areas."* Estimating the percentage of funds planned for dedication to target areas is not appropriate for the Billings community due to the following reasons:

- Geographic area is defined by the current City of Billings limits.
- Citywide strategies encourage the distribution of resources to support affirmatively furthering fair housing and equal opportunity to avoid segregation in Billings.
- Geographic distribution of investments description includes the focus of resources on a citywide basis to support diversity across the community.
- The City of Billings is classified as a smaller city on a national scale.
- The actual dollar amount planned for allocation to each program is included in this Action Plan.

The City will focus distribution of investments on a citywide basis in order to support diversity and mixed-income development across the community. Neighborhood Revitalization Strategy Areas ***have not been established*** in Billings and there is no specific amount of funding allocated for a target area in the City's geographic distribution of resources. **Therefore, the City plans to dedicate zero percent of funding to target areas in favor of supporting a citywide approach to further fair housing, equal opportunity and anti-segregation efforts.**

Geographic Distribution

Target Area	Percentage of Funds
Citywide	100%

Table 7 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

The strategies identified in the Consolidated and Annual Action Plans will be addressed on a citywide basis to encourage the distribution of low income affordable housing and other assistance to lower income households throughout the community.

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AP-55 Affordable Housing 91.220(g)

Introduction

Planned affordable housing for the upcoming year include Housing Rehabilitation, Foreclosure Acquisition / Rehabilitation, Affordable Housing Development, and First Time Home Buyer. While many of these programs may serve the homeless or special needs households, the programs are not designed to exclusively serve one or more of the following cohorts. The Manufactured Home Repair program is currently funded through a previous year and outcomes are not included in the below charts to avoid duplication.

One Year Goals for the Number of Households to be Supported	
Homeless	0
Non-Homeless	38
Special-Needs	0
Total	**38**

Table 8 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	0
The Production of New Units	0
Rehab of Existing Units	3
Acquisition of Existing Units	1
Total	**4**

Table 9 - One Year Goals for Affordable Housing by Support Type

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AP-60 Public Housing 91.220(h)

Introduction

The Housing Authority of Billings serves extremely low income, very low income, and low income citizens. The Housing Authority plans to apply for all grants that will assist the organization in adding units to its existing programs and any programs that complement existing services and are able to be implemented. The Housing Authority will continue to assess and implement modernization funds to upgrade and restore units and complete energy efficient repairs as needed.

Actions planned during the next year to address the needs to public housing

The Housing Authority may apply for funding to develop affordable housing through the Affordable Housing Development Program. In the past, the City has granted funds to build new units through the HOME and CDBG programs in neighborhoods where Housing Authority property exists. The City has also provided funding for a variety of rehabilitation and new construction projects to neighborhoods that have public housing units in need of upgrading.

The City has helped rehabilitate properties, sold land for new businesses, and granted land to nonprofits to assist with neighborhood revitalization efforts in neighborhoods where Housing Authority complexes have been built. The City has provided funding for parks and play areas for the neighborhoods where Housing Authority families reside. In addition, the businesses that have moved into areas where Housing Authority properties are located have contributed to the economic stability of the Housing Authority clients. The City's First Time Home Buyer program assists with home ownership down payment assistance and home ownership counseling for clients considering homeownership.

The City coordinates with the Housing Authority for housing needs assessments, assists in funding new projects when appropriate, and assists with applications for supportive services when called upon.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

The Housing Authority implements the Family Self-Sufficiency program. This program links participants to community agencies to help them become self-sufficient through individual goal setting. Forty-one households have achieved homeownership through this program to date. Resident councils, an Advisory Board and the Family Self-Sufficiency Panel are involved in providing input on program needs and assisting others to become actively involved in the process. Additional information is included in the five-year plan on file at the Housing Authority office.

Each year, the Housing Authority goes through a process to assess physical needs addressed by tenants through their Resident Advisory Board for the Annual Plan process; comments are also solicited via Resident Council functions throughout the year. These comments, Board participation, tenant commissioners, and Public Housing Administration's daily communications with the Housing Authority's client base serve to assist in assessing client needs for physical adjustments, security issues, and needed links with the community. The physical needs requests are implemented along with staff recommendations in the Capital Fund planning process.

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

Not applicable. The Housing Authority is a High Performer for PHAS and, therefore, a review of troubled status needs is not required as part of the Consolidated and Annual Action Plan.

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AP-65 Homeless and Other Special Needs Activities 91.220(i)

Introduction

As previously stated in the SP-60 Homelessness Strategy of this Consolidated Plan, the Community Development Division's ongoing activities include:

- Continuing to distribute the City's *Resource Map*, *Notepad*, and the *Veteran's Resource Map.* These documents include comprehensive service directories for anyone seeking assistance.
- To the greatest extent possible, City staff will continue to provide local nonprofit organizations access to AmeriCorps VISTA members through the ***Billings Metro VISTA Project*** resources. VISTA members may be placed at the City to undertake objective citywide initiatives. VISTA members may also be placed at nonprofit Host Site organizations to work on specific anti-poverty initiatives.

The City does not directly receive Continuum of Care, Emergency Shelter Grant, or other federal funds to exclusively support efforts to impact homelessness. City staff does not provide direct services to those experiencing homelessness.

A network of over 50 local service providers in the community strive to meet the diverse needs of those experiencing homelessness, those who are at-risk of homelessness, and people experiencing poverty. The Mental Health Center manages a Projects for Assistance in Transition from Homelessness (PATH) outreach program to engage those living outside or in areas unfit for human habitation. Tumbleweed runs a Street Outreach program to seek out unaccompanied youth to engage them in services. A complete listing of services, including outreach, is included in the MA-30 Homeless Facilities and Services section of this Consolidated Plan.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The Mental Health Center manages the PATH outreach program to engage those living outside or in areas unfit for human habitation. Tumbleweed runs a Street Outreach program to seek out unaccompanied youth to engage them in services. Additional services for the homeless are included in the MA-30 Homeless Facilities and Services section of this Consolidated Plan.

Addressing the emergency shelter and transitional housing needs of homeless persons

The shelter needs for those experiencing homelessness in the Billings community are primarily met by the Montana Rescue Mission. The organization operates men's shelter and a shelter to serve women and their children. Montana Rescue Mission does not seek nor utilize federal funds for its operation. Several local service providers assist homeless families by providing funding for rent, mortgage, utility, and deposit assistance.

The Community Crisis Center provides crisis intervention and 23 hour stays as a technique to impact chronic homelessness. The YWCA provides transitional housing for victims of domestic violence. Additional services for the homeless are included in the MA-30 Homeless Facilities and Services section of this Consolidated Plan.

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For those living on the downtown streets of Billings, a position was created for an addiction / mental health counselor to accompany two downtown police officers when engaging people living on the streets. This initiative was undertaken as one of the many outcomes from the Community Innovations Summit, which was facilitated by the Community Development Division and the Downtown Billings Alliance. Non-federal funding through the City of Billings has been allocated to support the counselor staff position.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again.

Family Promise of Yellowstone Valley provides emergency shelter to several families at a time in a network of church congregations. The organization also operates a transitional housing program that provides apartments for those who have graduated from the shelter program.

YWCA Gateway House provides housing for female-headed households who have been victims of domestic violence. Additional services provided include case management, mental health treatment, budgeting assistance, and the facilitation of access to benefits. The organization also provides transitional housing and permanent supportive housing.

HRDC District 7 receives Emergency Shelter Grant funds and manages a rapid rehousing program to provide deposit and rent payment assistance to help families quickly regain stability into permanent housing.

Helping low income individuals and families avoid becoming homeless, especially extremely low income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

The City does not receive McKinney-Vento Homeless Assistance Act funds and is not required to develop and implement a Discharge Coordination Policy. The Montana Continuum of Care (MT CoC) for the Homeless Coalition is the state's lead agency for addressing homeless activities, and is a statewide collaboration of diverse homeless service providers, nonprofit organizations and local and state governments. The coalition was formed to address homelessness with very few resources to cover Montana's vast geographical area. The system is established upon community and regionally based continuum of care systems, which form the statewide coalition and continuum of care process. The City supports the MT CoC in their efforts to establish a Statewide Discharge Coordination Policy.

The City does not receive Emergency Shelter Grant funds. These funds are distributed statewide by the Montana Department of Public Health and Human Services through ten HRDCs throughout the state. The local District 7 HRDC utilizes these funds to support rapid re-housing activities in conjunction with the local shelters.

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AP-75 Barriers to Affordable Housing 91.220(j)

Introduction

Barriers to affordable housing are noted in the MA-40 and SP-55 Barriers to Affordable Housing sections of this Consolidated Plan.

Additional barriers have been identified in the City's Analysis of Impediments to Fair Housing Choice, including:

- Concentrations of minorities that would not exist in a free market not distorted by discrimination suggest that Billings has a dual housing market; one for non-Hispanics, Whites and Asians and another for all other minorities.
- Discriminatory real estate industry practices such as racial and ethnic steering distort the free market in housing.
- Discrimination against Latinos in issuing government-backed mortgage and refinancing loans continues unabated in Billings as it does throughout the nation.
- The relatively high cost of housing continues to pose a barrier to fair housing choice in Billings.
- A review of Unified Zoning Regulations and review requirements to foster compliance with fair housing law and to promote inclusionary zoning.
- There is a serious shortage of housing affordable to holders of Housing Choice Vouchers in the areas where the proportion of public school students from low income neighborhoods is relatively low.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment.

The City plans on assisting with housing affordability and poverty impact through the following programs:

- Housing Rehabilitation
- Foreclosure Acquisition / Rehabilitation
- First Time Home Buyer
- Affordable Housing Development
- Billings Metro VISTA Project

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AP-85 Other Actions 91.220(k)

Introduction

The City's programs have been designed to meet priority needs in the community. However, there is very limited funding coming through the City to meet the needs of local citizens.

Actions planned to address obstacles to meeting underserved needs

The City plans on meeting underserved needs through the following programs:

- **First Time Home Buyer**
  - Promote financial security, home equity, housing self-sufficiency, housing and neighborhood quality and stability.
  - Increase minority homeownership, promote equal access and opportunity, and decrease segregation citywide.
  - Improve affordable housing opportunities for the elderly, persons with disabilities, and other special populations.
  - Reduce predatory lending through education and standardized procedures.

- **Housing Rehabilitation**
  - Help current homeowners maintain their homes in safe, quality condition.
  - Increase value, quality, and durability of existing affordable housing stock.

- **Affordable Housing Development**
  - Expand access and availability of decent, affordable housing citywide.
  - Improve the physical quality of affordable housing.
  - Foster suitable living environment and quality of life through the improvement of physical conditions including infrastructure for housing projects and housing development.

- **Foreclosure, Acquisition, Rehabilitation**
  - Mitigate the negative community impact of vacant, foreclosed properties.
  - Improve affordable housing quality, condition, safety, livability, and accessibility.
  - Stabilize property values in neighborhoods with existing vacant, foreclosed homes.
  - Eliminate the potential for crime related to existing vacant, foreclosed properties.

- **Billings Metro VISTA Project**
  - Provide resources to nonprofit organizations to undertake poverty impact activities and to support the low income individuals and families they serve.
  - Focus areas include: education, healthcare, food security, economic opportunity, housing, financial literacy, and others.

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Actions planned to foster and maintain affordable housing

The City plans on maintaining affordable housing through the following:

- **Create, preserve, and expand affordable housing options:** Affordable Housing Development; Housing Rehabilitation; and First Time Home Buyer.
- **Neighborhood Revitalization – Foreclosures**: Foreclosure Acquisition Rehabilitation
- **Impact Poverty:** Billings Metro VISTA Project

Actions planned to reduce lead-based paint hazards

The City continues to be in compliance with HUD's lead-based paint requirements as established in September of 2000. Projects involving structures built prior to 1978 are considered to have the potential for lead-based paint and consistent procedures have been developed to ensure compliance with federal regulations.

The City will continue diligence while undertaking rehabilitation and construction activities in order to maintain the safety of households participating in federal programs. Participants in the City's housing programs are made aware of the requirements the City must follow when providing assistance. Education on the hazards of exposure to lead is provided for each rehabilitation project. The City currently offers risk assessments, through certified staff, paint inspections, clearance testing, and has access to lead-safe certified contractors to ensure compliance.

Actions planned to reduce the number of poverty-level families

As stated in the SP-70 Anti-Poverty Strategy section of the Consolidated Plan, the Needs Assessment contains comprehensive information on the lower income status of local households. All of the Consolidated Plan strategies target the improvement of economic conditions of lower income households in the community, including housing development, financing home repair, continuing partnerships and funding public service activities. The City proposes to support the following specific activities in this Consolidated Plan to address economic conditions of low and moderate-income households in Billings:

- Continue to work with nonprofit organizations to help address the human service needs of lower income residents of the community in general and of our lower income neighborhoods in particular. This would be achieved primarily through supporting capacity building efforts of social service agencies through implementation of the ***Billings Metro VISTA Project***.
- Continue to apply for the AmeriCorps VISTA project status in order to bring full-time and summer associate volunteers to work on poverty-impact programs.

AmeriCorps VISTA is a national anti-poverty initiative that places full-year and Summer Associate volunteers with local projects. Full-year VISTA members are recruited locally and nationally, are college graduates and commit to at least a year of service with a project. Summer Associates are at least 18 years old and commit to ten weeks of service.

Actions planned to develop institutional structure

As described in the SP-40 Institutional Delivery Structure section of the Consolidated Plan, the City of Billings maintains strong partnerships with housing and social service agencies. The only gaps in the

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institutional structure relate to funding limitations and the City's inability to dedicate time and resources to additional projects outside of the current funding structure.

Actions planned to enhance coordination between public and private housing & social service agencies

The City will continue coordinating with public, private, and social service agencies to further activities and projects identified herein, including participation in the following groups and initiatives:

- Nonprofit Organizations
- Neighborhood Task Forces
- Community Innovations Initiatives
- Resource Map and Notepad
- Veteran's Resource Map
- Billings Metro VISTA Project

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AP-90 Program Specific Requirements 91.220(l)(1,2,4)

Introduction

The City of Billings has programmed all available revenues in current programs identified herein.

Community Development Block Grant Program (CDBG)
Reference 24 CFR 91.220(l)(1)

1.	Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.	$0
2.	The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed.	$0
3.	The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	$0
4.	The amount of surplus funds from urban renewal settlements.	$0
5.	The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan.	$0
6.	The amount of income from float-funded activities.	$0
	Total Program Income:	**$0**

Other CDBG Requirements

1.	The amount of urgent need activities.	$0
2.	The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two, or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specific the years covered that include this Annual Action Plan.	100%
	Years Covered are 2021-2022	

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Reference 24 CFR 91.220(l)(2)

1. **A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:**

The above-noted regulation refers to the use of HOME funds for eligible activities. The City of Billings will not utilize HOME funds outside of the following allowable investments:

- Equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies consistent with the purposes of this part, deferred payment loans, grants, or other forms of assistance that HUD determines to be consistent with the purposes of this part. Each participating jurisdiction has the right to establish the terms of assistance, subject to the requirements of this part.
- Guarantee loans made by lenders and, if required, the participating jurisdiction may establish a loan guarantee account with HOME funds. The HOME funds may be used to guarantee the timely payment of principal and interest or payment of the outstanding principal and interest upon foreclosure of the loan. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans, but under no circumstances may the amount on deposit exceed 20% of the total outstanding principal amount guaranteed; except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME funds are subject to all HOME requirements, funds which are used to repay the guaranteed loans are not.

2. **A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:**

Recapture provisions permit the original homebuyer to sell the assisted property to any willing buyer during the period of affordability while the City is able to recapture all or a portion of the HOME assistance provided to the original homebuyer. The City utilizes recapture provisions exclusively when assisting homeowners and the provisions are enforced via a Promissory Note (not recorded), the use of a Deed Restriction Agreement and a Montana Trust Indenture that are both recorded at the Yellowstone County Clerk and Recorder's office. These written, legal documents contain language outlining the recapture provisions as established herein. The City does not use subrecipients or other grantees to carry out these activities.

Homebuyer Requirements: In order for homeownership housing to qualify as affordable housing eligible for HOME funding, it must be: single-family; considered modest housing; be acquired by a low income household for their principal residence; and meet affordability requirements for a single period of time as determined by the amount of assistance provided. The City utilizes HUD's 95% of the median purchase price limit set forth by 24 CFR 92.254(a)(2)(iii); single family mortgage limits under Section 203(b) of the National Housing Act.

Direct HOME Subsidy: The amount of HOME assistance that enabled the homebuyer to buy the unit. The direct subsidy includes down payment and closing costs provided directly to the homebuyer, which resulted in a reduced purchase price from the fair market value of the home to an affordable price. The entire amount of HOME assistance is subject to recapture.

Net Proceeds: The sales price, less the superior loan repayment and any closing costs. The City will only recapture the net proceeds from a sale. Any loans or improvements made to the property after

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the time of the HOME assistance will be paid after the City is repaid the amount owed under its recapture provisions. If the net proceeds are not sufficient to recapture the full HOME investment, the City will accept the available net proceeds as full payment.

Recapture Model - City Recaptures Entire HOME Assistance Amount: The City allows the assisted homebuyer to retain all appreciation and the City expects to recapture the entire direct HOME subsidy invested in the project. Therefore, the homeowner will retain any value of the appreciation of the property after the City's HOME assistance has been recaptured / repaid. The homeowner's down payment, principal payments, and any capital improvement investment made in the property after the HOME assistance was provided will be returned to the homeowner at closing after the City's HOME assistance is recaptured and repaid from the net proceeds as described above.

Subordination: The City does not subordinate loans in the First Time Homebuyer program and other homeowner-assisted projects without City Council approval. Therefore, if an assisted homeowner refinances the property, the City will need to be repaid the full amount of HOME assistance provided. Assisted homeowners wishing to pursue City Council approval may write a letter explaining the need for the subordination and submit it to the Community Development Division. Staff will then prepare a memo and place the subordination on the Community Development Board agenda for recommendation to the City Council.

Use of Recaptured Funds: Recaptured HOME funds will be used to assist other first time homebuyers to purchase property in Billings or other HOME-eligible activities to be determined through the City's budget allocation process in accordance with the Citizen Participation Plan. Homebuyers must be low-income and must use the assisted property with the recaptured funds as their principal residence. Low-income and first time homebuyer status will be determined based on HOME program regulations.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds. See 24 CFR 92.254(a)(4) are as follows:

Long Term Affordability: Under the recapture provision, there is no requirement that the original HOME-assisted homebuyer sell the unit to another low-income homebuyer.

Affordability Periods: For City-assisted homebuyer units under the recapture provision, the period of affordability is based upon the direct HOME subsidy provided to the homebuyer that enabled the homebuyer to purchase the unit. Any program income used to provide direct assistance to the homebuyer is included when determining the period of affordability. Recapture provisions for the First Time Home Buyer program are either five or ten years for each assisted property beginning after the transfer of the property to the property owner as evidenced by the Deed Restriction Agreement, Montana Trust Indenture and Promissory Note.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

The City of Billings does not propose the use of HOME funds to refinance existing debt secured by multi-family housing that is being rehabilitated with HOME funds.

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COMMUNITY DEVELOPMENT DIVISION

Final Revenue & Recommended Budget FY2021-2022

	CDBG	HOME	Totals
HUD Entitlement Grant	**$645,143**	**$334,548**	$979,691
20% Cap on CDBG / 10% on HOME Admin	**$129,029**	**$33,455**	$162,483
15% CDBG Public Service Cap	**$96,771**	-	$96,771
15% HOME CHDO Allocation Minimum	-	**$50,182**	$50,182
CDBG Available for Home Repair & Buyer	$419,343	-	$419,343
HOME Available for Home Buyer	-	$250,911	$250,911

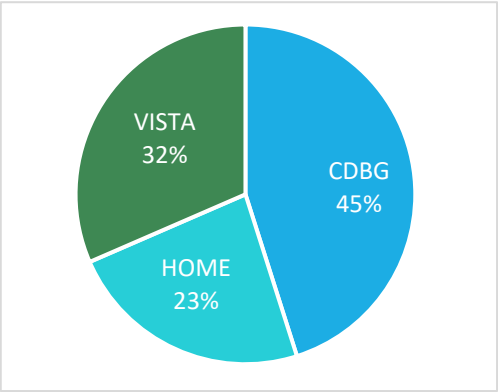
Q3 Balances as of March 24, 2021

Accounts	New Revenue	Balance	Notes
Home Buyer - CDBG	$93,100	$22,781	Another $20k is committed
Home Buyer - HOME	$98,000	$38,487	Applications are pending
Foreclosure - Steffanich	-	$13,552	Pending redevelopment via RFP
Foreclosure - 22nd Street	-	$17,307	Currently for sale
Foreclosure - New Project	-	$56,570	Delayed due to the pandemic
Billings Metro VISTA Project	-	$70,209	Cost share met for current grant due to extension
Housing Rehabilitation	-	$32,257	8 households in queue

Staff Budget Recommendations

Budget Estimates	CDBG	HOME	New $ Totals
CDBG Administration	**$129,029**	-	$129,029
VISTA Administration (Public Service)	$25,000	-	$25,000
HOME Administration	-	**$33,455**	$33,455
Set-Aside for CHDOs	-	**$0**	$0
Affordable Housing Development	$0	$0	$0
First Time Home Buyer Program	$166,114	$301,093	$467,208
Housing Rehabilitation Loan Program	$75,000	-	$75,000
Foreclosure Acquisition Rehab	$250,000	-	$250,000

Total Allocated	$645,143	$334,548
Estimated $ Available	$645,143	$334,548
Difference	$0	$0
Direct VISTA Grant	$85,000	
CNCS Member Support	$365,869	
Total CNCS $	**$450,869**	
CDBG	$645,143	45.10%
HOME	$334,548	23.39%
VISTA	$450,869	31.52%
Total Budget	**$1,430,560**	**100.00%**



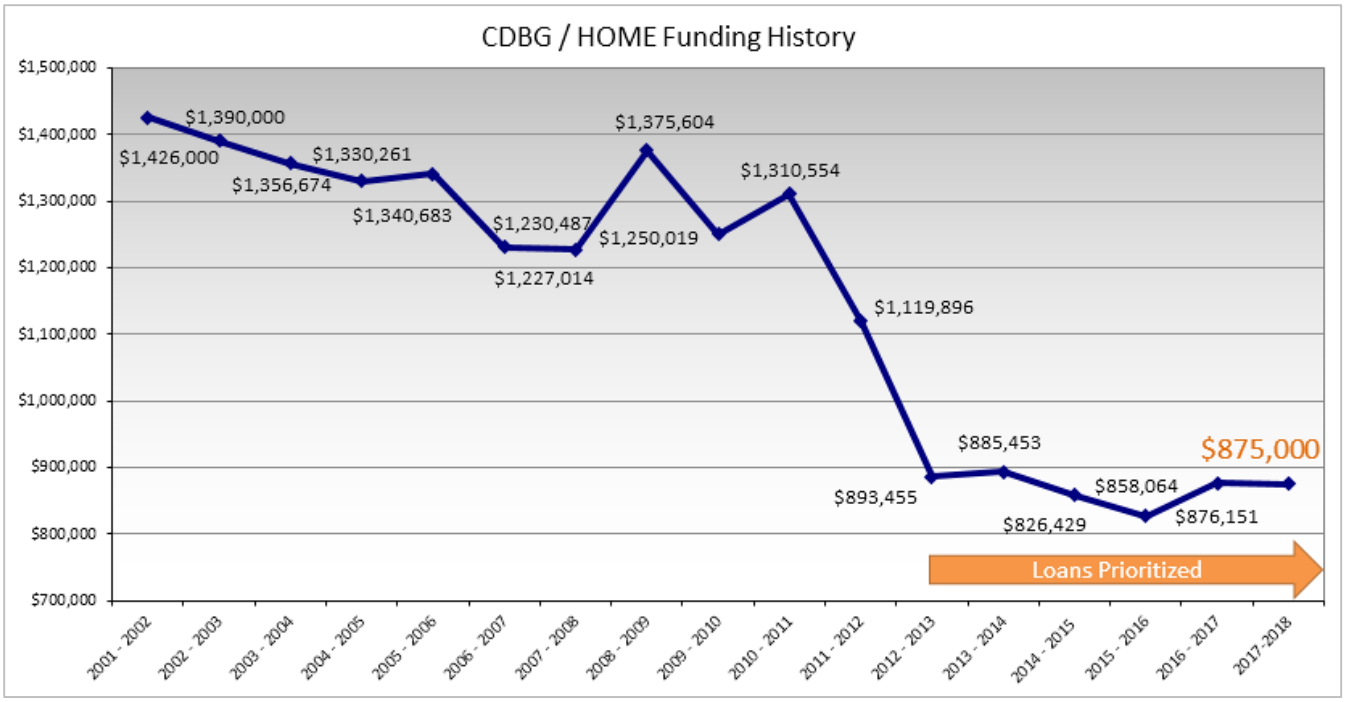
Budget Recommendations:*

Administration	- CDBG and HOME Administration to highest levels allowed by cap
	- No funding for HOME Community Housing Development Organization set-aside
CDBG	- $25,000 or 15% CDBG to the Billings Metro VISTA Project, whichever is less
	- Housing Rehabilitation $75,000 CDBG
	- Foreclosure $250,000 CDBG
	- Remaining CDBG to First Time Home Buyer
HOME	- Remaining HOME funds allocated to First Time Home Buyer

**Continue close- and shovel-ready allocation process*

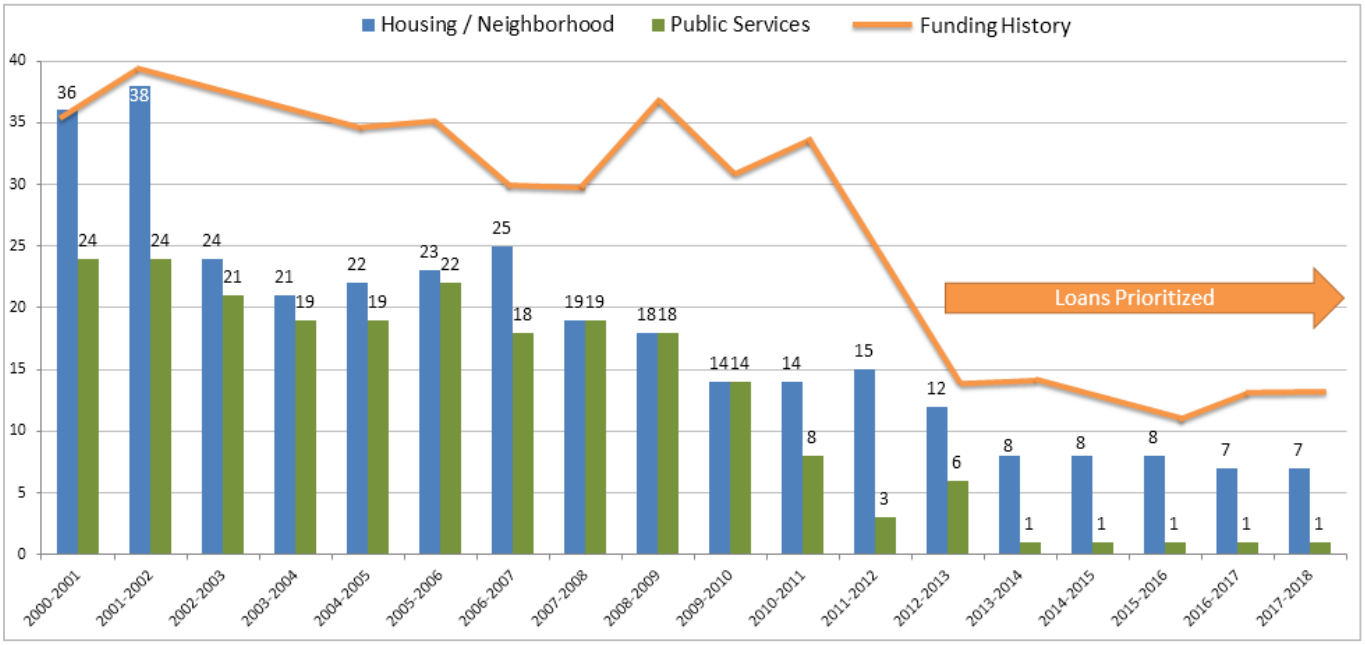
ALLOCATION AND FUNDING HISTORY

Funding Levels: HUD funding levels have declined significantly in recent years and staff does not foresee these programs increasing in the future. Federal priorities are favoring competitive grant programs rather than entitlements like the Community Development Block Grant (CDBG) and HOME Investment Partnerships programs. The Community Development Board and City Council began favoring loan programs rather than grants beginning in 2012-2013; the year funding levels significantly declined.



Grant to Loan Program Transition: When funding levels dropped to critical levels in 2012, the Community Development Board and City Council both supported prioritizing loan programs from 2012 forward. The following chart illustrates the number of housing / neighborhood and public service applications the Community Development Board considered. The chart also compares funding history to the number of applications.

Number of Applications Considered & Funding History



CDBG Public Service Grant Restrictions: In order to be eligible for CDBG funding, Public Service activities are required to be a *new or expanded service (quantifiable increase in level of a service over the past 12 months)*, as the intent of the fund is to support capacity-building. Many of the organizations applied for City funds year after year which would not be considered new or expanded services, if audited today.

Grants Awarded: Staff has records from 1994 to 2012 that can easily be reviewed for data purposes, which represents over $2.7 million in grants awarded to over 40 non-profit organizations in Billings. Figures below do not represent additional funding for housing projects. For example, Interfaith Hospitality Network was provided with $498,000 for housing to accommodate homeless families and the YWCA was awarded $182,400 for the Gateway Shelter. Additional grant funding has been provided through fair housing education grants through the Fair Housing Initiatives Program (FHIP) for several organizations.

Non-Profit Organization	***# Grants***	***Year Span***	***Total Grants***
Big Brothers & Big Sisters	5	1997-2007	$22,845
Big Sky Senior Services	24	1997-2010	$316,458
Billings Health Planning Coalition	4	1997-2005	$27,000
Billings Promise	1	1999	$6,157
Boys & Girls Club	8	2000-2007	$31,467
Big Sky Economic Development Authority	13	1994-2008	$119,912
CASA	5	1997-2000	$26,764
Community Day Care	2	1998-1999	$11,000
Community Housing Resource Board *(includes FHIP funding)*	19	1992-2012	$329,628
Consumer Credit Counseling	1	1999	$1,761
Early Childhood Study	1	1996	$10,750
Easter Seals	2	2008-2010	$30,175
Family Service, Inc.	11	1992-2004	$167,986
Family Tree Center	1	2000	$3,250
Billings Food Bank	11	1996-2006	$111,962
Forever Families	2	2007-2009	$31,743
Friendship House	20	1996-2010	$172,173
HRDC	16	1997-2008	$135,118
In-Care Network	1	2000	$2,000
Interfaith Hospitality Network *(does not include FHIP & housing funding)*	2	2005-2010	$7,000
Kids School Program	3	2001-2003	$19,334
Living Independently for Today & Tomorrow	13	1996-2010	$145,269
Parents Let's Unite for Kids	5	2002-2006	$12,167
Rebuilding Together	8	2004-2011	$70,000
RiverStone Health – Medication Assistance Program	9	1999-2009	$84,022
Sage Tower Community Network	1	2000	$1,960
Scottish Rite Clinic	1	2008	$5,000
Southgate Cop Shop	7	1999-2008	$29,292
Southside Senior Center	1	2011	$30,000
American Red Cross – Southside Smoke Detectors	1	1999	$2,364
St. Vincent de Paul	1	2007	$8,250
Task Force Enhancement	5	1999-2008	$34,125
Temporary Teens	7	1999-2004	$23,195
Tumbleweed	13	1996-2011	$185,598
Vision Seekers After School Program	1	2001	$9,000
Volunteers of America – Independence Hall	1	2009	$30,000
Billings Board of Cooperative Housing	1	2000	$4,438
Yellowstone AIDS Project *(does not include FHIP funding)*	1	1999	$7,000
Yellowstone County Council on Aging	12	1996-2011	$55,649
Young Families Early Head Start	15	1996-2009	$249,674
YWCA *(does not include housing funding)*	13	1997-2009	$158,575
Over 40 Organizations	***268 Grants***	***17+ Years***	***$2,735,061***

In 2012, the Community Development Board asked City staff to expand research previously conducted to include total monetary value of grants issued versus loans / liens. From 1994 to 2012, the Community Development Division issued over $6.6 million in grants, over $9 million in loans and placed liens of over $2 million on affordable housing projects.

Grants	*Amounts*	*Total*
Subrecipients *(317 activities)*	$3,267,340	**$6,636,565**
Infrastructure	$708,014	
Parks	$866,713	
Special Assessment Grants	$493,295	
Home Repair Programs	$1,130,494	
Affordable Housing	$170,709	

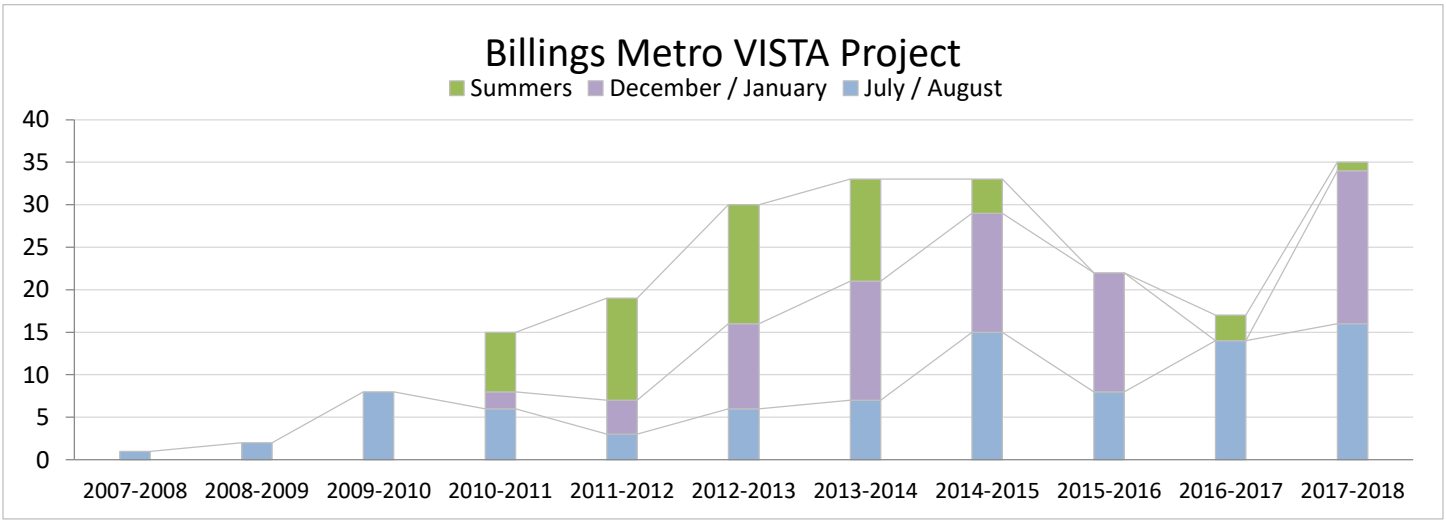
Loans	*Amounts*	*Total*
First Time Homebuyer	$5,562,790	**$9,320,115**
Home Repair Programs	$3,261,694	
Affordable Housing	$495,631	

Liens	*Amounts*	*Total*
Affordable Housing	$1,854,677	**$2,172,705**
Rental Rehabilitation	$318,028	

In 2012, nine nonprofit agencies applied for grant funds and they were polled regarding the impact of not receiving funds. All of the organizations stated their agencies would remain open, but they may reduce the number of clients they could serve.

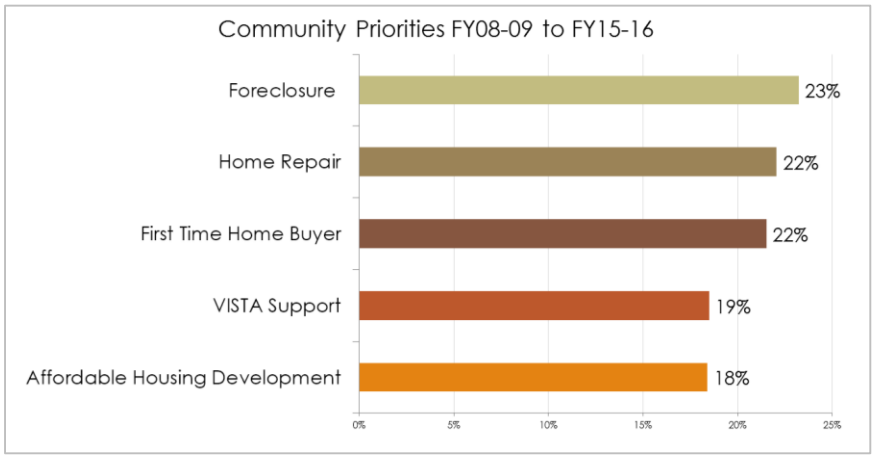
As a result, the Board made budget recommendations reflecting fiscal responsibility and sustainability, while prioritizing housing programs as per HUD requirements. The likelihood of continuing housing activities would substantially diminish if the City continued to fund grant programs not generating program income. The Board evaluated the long-term sustainability of operating loan programs rather than issuing grants. Four City programs were eliminated and substantial reductions were made in the three remaining home buyer / repair programs. Grants were not issued to nonprofit organizations for the first time since the 1970s.

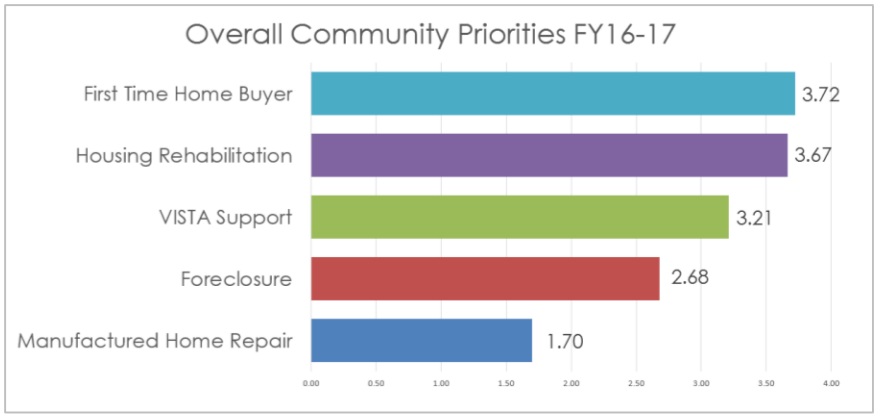
AMERICORPS VISTA: As funding dwindled to support non-profit organizations, the AmeriCorps Volunteers in Service to America (VISTA) program received additional allocations in funding to expand the program. From 2012 to 2015, the City received overlapping grants and more members. The *Billings Metro VISTA Project* continues to be offered to support capacity-building activities as a resource to non-profit organizations working on poverty issues.



PUBLIC AND CITY COUNCIL PROGRAM PRIORITIES

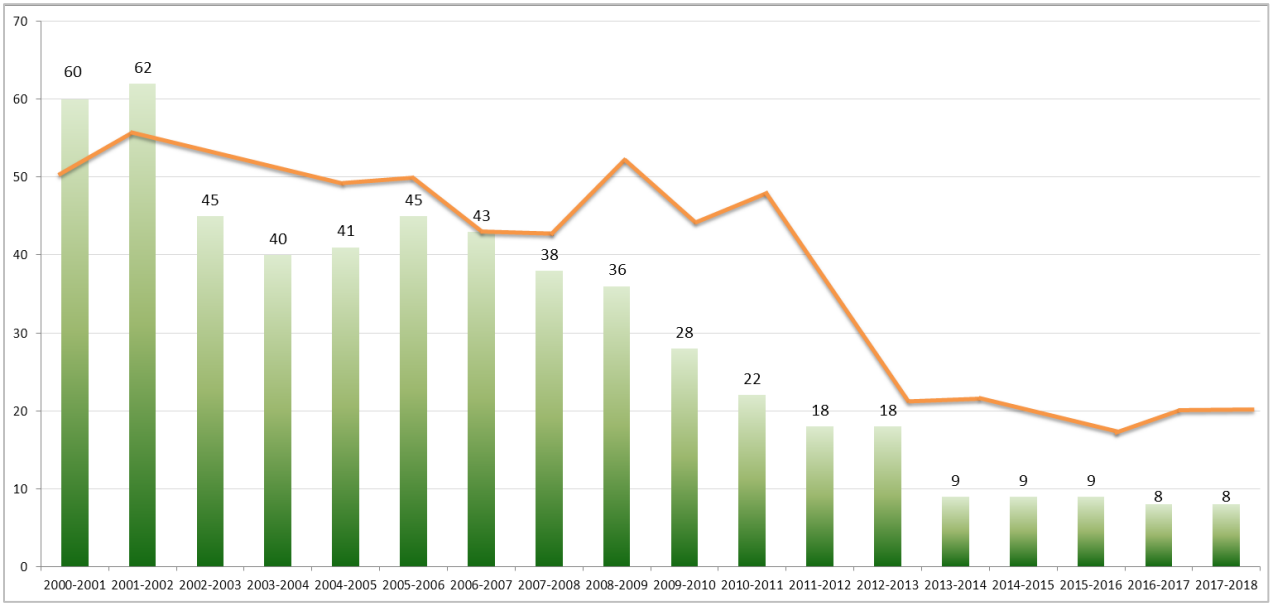
Task Force Priorities: Task Force rankings from 2008-2016 favor home repair / buyer and affordable housing development programs. The following figures represent the rankings from all Task Forces combined. Calculation methodology changed in FY2016-2017 when the survey added an online, weighted calculation.





Priority-Based Budgeting: The Division's process for priority-based budgeting began in 2008 when the City Council asked the Community Development Board to examine recommendation processes. When surveyed, *the majority of Council members favored funding fewer organizations with larger amounts.* Half of the Council members asked the Board to shift funding focus to housing programs. Organizations were then given minimum and maximum application amounts shortly thereafter and the number of funding applications declined.

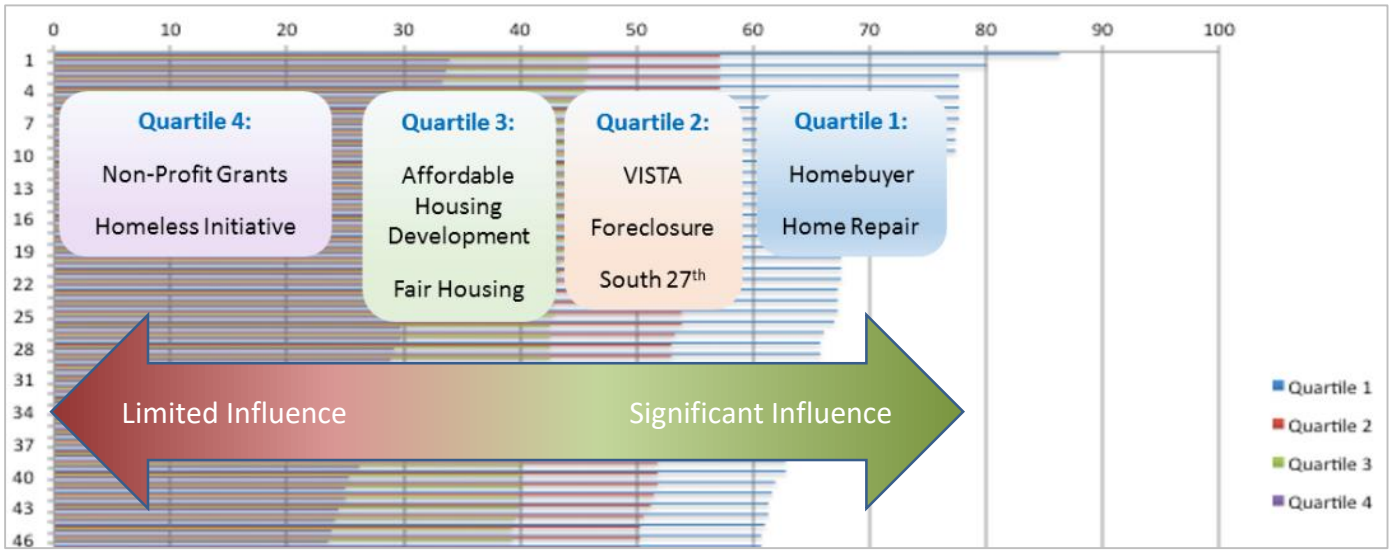
Total Number of Applications Considered & Funding History



Priority-Based Budgeting 2012: The City Council initiated an extensive process to rank programs based on how they influence the City's ability to achieve established community results, such as:

- Sustainable Economic Development
- Comprehensive, Orderly Growth and Development
- Community Resource Preservation
- Involved, Engaged and United Community

The home repair / buyer programs were ranked as having *significant influence* on the City's ability to achieve desired community results. However, grants to non-profit organizations and the homeless initiative were ranked as having limited influence.



City Council Regular

Date:	04/26/2021
Title:	Development Agreement with Lupine Holdings, LLC for Certificate of Survey 1889 Amended Tracts 1A and 1B
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends that the City Council approve the development agreement with Lupine Holdings, LLC.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

At the March 22, 2021 meeting, City Council approved the annexation of Certificate of Survey 1889 Amended, Tracts 1A and 1B with the condition that the developer will enter into a development agreement with the City. The property is located north of Highway 3 and west of the airport. Lupine Holdings, LLC desires to develop the property as a commercial development. The development agreement outlines necessary public improvements in order to develop the property. The property owner has submitted the attached Development Agreement and the Council will consider whether to approve the agreement.

ALTERNATIVES

City Council may:

- Approve the development agreement with the property owner; or
- Disapprove the development agreement. If the agreement is not approved, the responsibility for infrastructure improvements would be in accordance with policies in place at the time of development.

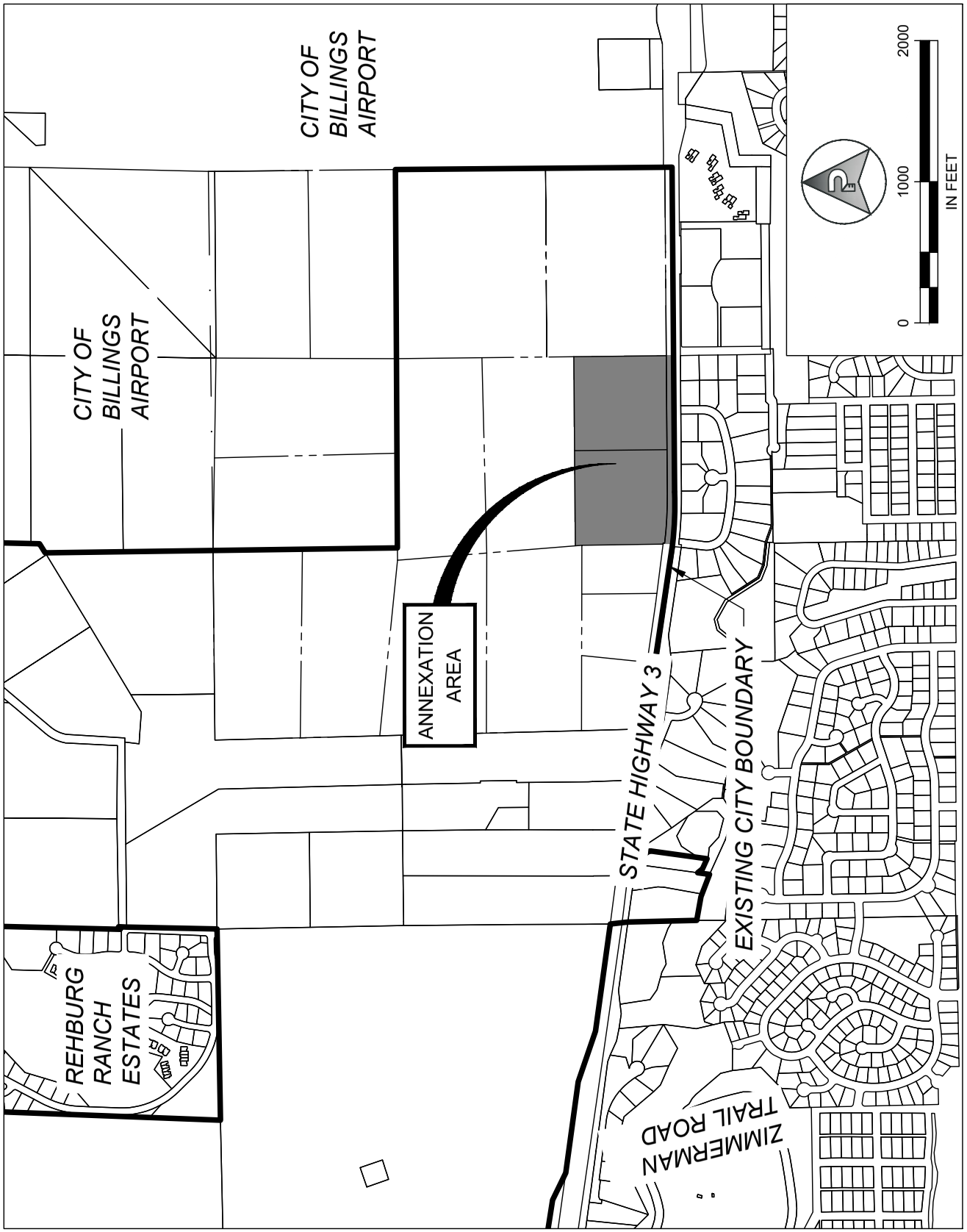
FISCAL EFFECTS

The development agreement requires improvements that meet current subdivision regulations. In addition, the development agreement defines lots in the development that may be required to participate in future Special Improvement Districts. There are no fiscal effects of this development agreement unless subdivision regulations change in the future.

Attachments

Map

Development Agreement



PROJECT TITLE
PETITION FOR ANNEXATION
C.O.S. 1889 AMENDED

SHEET TITLE
VICINITY MAP

DRAWN BY
TJK

DATE
Feb-21

CHECKED BY
CD

CLIENT
AVIATION
PROPERTIES, LLC

PERFORMANCE ENGINEERING
608 NORTH 29TH STREET
BILLINGS, MT 59101
(406) 384-0080
www.performance-ec.com

EXHIBIT
EX A

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2/24/2021 5:45 PM
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PROJECT TITLE
PETITION FOR ANNEXATION
C.O.S. 1889 AMENDED

SHEET TITLE
AREA DETAIL MAP

DRAWN BY TJK
DATE Feb-21
CHECKED BY GD

CLIENT
AVIATION PROPERTIES, LLC

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EXHIBIT
EX B

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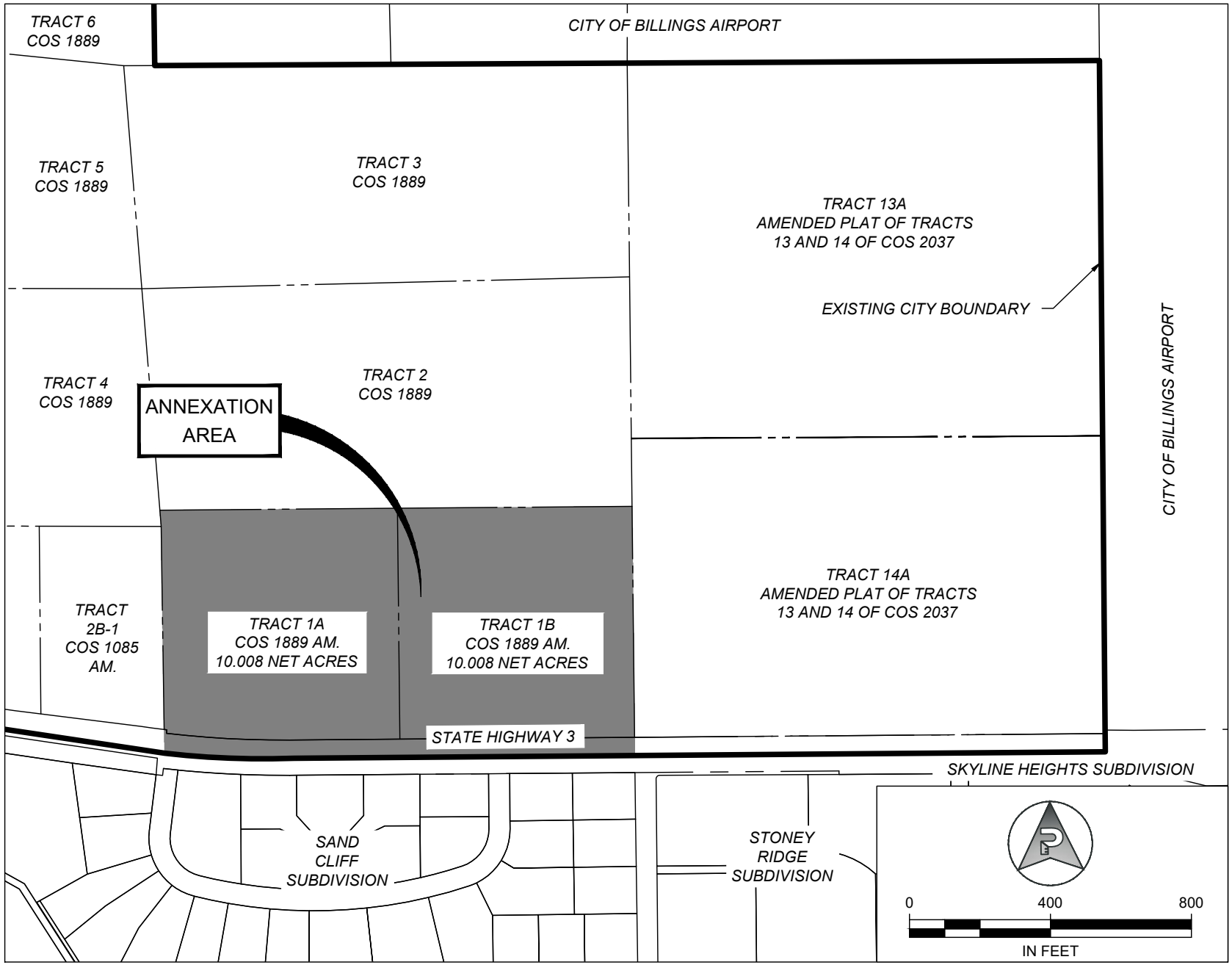


Return to:
Performance Engineering, LLC
608 N. 29th Street
Billings, MT 59101

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made this _____ day of _____, 20____, by and between Lupine Holdings, LLC, 421 Rimrock Road, Billings, MT 59102 hereinafter referred to as "DEVELOPER," and THE CITY OF BILLINGS, MONTANA, a municipal corporation, c/o City Hall, 210 North 27th Street, Billings, Montana, 59101, hereinafter referred to as the "CITY." DEVELOPER and CITY are sometimes referred to in this Agreement individually as "Party" and collectively as the "Parties."

WHEREAS, DEVELOPER is the owner of certain real property situated in Yellowstone County, Montana, more particularly described as follows:

> Tracts 1A and 1B of Certificate of Survey 1889 Amended (Document No. 3574908), of which plat is on file and recorded at the Yellowstone County Clerk and Recorder's Office. Above referenced properties are hereinafter referred to as "Developer Tracts".

WHEREAS, DEVELOPER has submitted to the City a Petition for Annexation to the City for Developer Tracts; and

WHEREAS, DEVELOPER desires to annex Developer Tracts to the City; and

WHEREAS, DEVELOPER is proposing to develop the Developer Tracts in phases over time; and

WHEREAS, CITY has approved the Petition for Annexation by Resolution No. 21-10937 for the Developer Tracts contingent upon a Development Agreement being executed between CITY and DEVELOPER to identify required off-site infrastructure improvements and guarantees of those improvements.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties do hereby agree as follows:

1. *Roads and Access.* The Developer Tracts will be accessed by way of approaches along Montana State Highway 3. Said approaches must be reviewed and approved by the Montana Department of Transportation (MDT) and the City of Billings, who may require a traffic impact study at the time of development. The traffic study shall be prepared and paid for by DEVELOPER. The approach for AJ Way is existing but will be improved to meet City of Billings standards. The approaches must be meet current MDT and City codes and regulations.

2. *Sanitary Sewer.* The Developer Tracts will be served by proposed sanitary sewer improvements that will discharge to the existing sanitary sewer collection system in Stoney Ridge Road. DEVELOPER will be responsible for connecting the discharge line into the existing sewer manhole and extending the sewer main along the Developer Tracts Highway 3 frontage at the time of development. Additionally, DEVELOPER will be required to extend sanitary sewer north from Highway 3 along the western property line of the Developer Tracts. DEVELOPER shall grant the CITY a 20-foot easement for the sanitary sewer along the western property line. DEVELOPER shall be responsible for payment of the City wastewater system development fee prior to the issuance of any building permits.

3. *Water.* The Developer Tracts will be served by proposed water lines connecting to the existing 12-inch distribution line owned by the City of Billings along State Highway 3. Water line sizes will be determined at the time of development and submitted to the City of Billings for approval. DEVELOPER shall be responsible for payment of the City water system development fee prior to the issuance of any building permits.

4. *Storm Drain.* The DEVELOPER will manage storm drainage within the Developer Tracts in accordance with the City of Billings Stormwater Management Manual in affect at the time of development. If storm drain is extended along the frontage of Highway 3, all of Tracts 1A and 1B can be assessed for the proportionate share of storm drain

5. *Right-of-Way.* Right-of-Way will be dedicated to the City of Billings per the 2018 Billings Urban Area Long Range Transportation Plan and in accordance with the City of Billings Subdivision Regulations. Said plan calls for a collector road along the eastern boundary of Tract 1B of COS 1889 Amended. Right-of-Way outside that listed above will be dedicated at time of future subdivision or development.

6. *Street Construction and Widening.* DEVELOPER will be required at the time of development to widen the existing paved roadway (AJ Way) along the eastern side of Tract 1B of COS 1889 Amended to meet the City of Billings standard requirements for roadways. A geotechnical report will be prepared and paid for by DEVELOPER and submitted to City Engineering to determine if the existing section of AJ Way meets City requirements. Similarly, at the time of development of each other tract included in the Developer Tracts, roadway conforming to the City of Billings standard requirements for roadways shall be constructed by the DEVELOPER.

   An 8 to 10 foot sidewalk or trail along the north side of State Highway 3 will be constructed in the future. DEVELOPER and/or individual lot owners waive the right to protest being included in a Special Improvement District (SID) for the proportionate share of said cost. All of the Developer Tracts can be assessed for installation of the sidewalk/trail along the State Highway 3 frontage of Developer Tracts. The development shall be responsible for the maintenance of the sidewalk/trail after construction.

7. *Future Intersection Contributions*. A traffic impact study will be performed at the time of future subdivision and/or development to determine DEVELOPER contributions to future intersection improvements. The traffic impact study and any future intersection improvements will be at the expense of the DEVELOPER.

8. *Other Public Improvements.* For any other improvements not specifically listed in this Agreement, the CITY shall rely on the attached Waiver filed concurrently herewith, to ensure the installation of any or all remaining public improvements. Said improvements shall include, but not be limited to, street construction and paving, curb, gutter, sidewalks, participation in a pedestrian underpass crossing State Highway 3, driveways, storm drainage, and street lighting. The attached Waiver, waiving the right to protest the creation of one or more Special Improvement Districts, by this reference is expressly incorporated herein and part hereof. All of the Developer properties can be included in a Special Improvements District for improvements identified in Development Agreement regardless of location of individual properties in relation to the improvements.

9. *Compliance.* Nothing herein shall be deemed to exempt the Developer Tracts from compliance with any current or future City laws, rules, regulations, or policies that are applicable to the development, redevelopment, or use of the subject property.

10. *Runs with Land.* The covenants, agreements, and all statements in this Agreement and in the incorporated and attached Waiver shall run with the land and shall be binding on the heirs, personal representatives, successors, and assigns of the respective parties.

11. *Attorney's Fees.* In the event it becomes necessary for either Party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing Party or the Party giving notice shall be entitled to reasonable attorney fees and costs, including those fees and costs of in-house counsel.

12. *Amendments and Modifications.* Any amendments or modifications of this Agreement shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

"DEVELOPER" Lupine Holdings, LLC

By: _____

Title: _____

STATE OF MONTANA)
:ss
County of Yellowstone)

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the person who signed the foregoing instrument as the_____ of Lupine Holdings, LLC, and who acknowledged to me that said DEVELOPER executed the same.

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

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

This Agreement is hereby approved and accepted by City of Billings, this ___ day of _____, 20___.

"CITY" CITY OF BILLINGS, MONTANA

By:_____
Mayor

Attest:_____
City Clerk

STATE OF MONTANA)
:ss
County of Yellowstone)

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

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

Approved as to Form:

_____
City Attorney

WAIVER OF RIGHT TO PROTEST

FOR VALUABLE CONSIDERATION, the undersigned, Owner of the hereinafter described real property, does hereby waive the right to protest the formation of one or more Special Improvement Districts (SID) for the construction, reconstruction or maintenance of streets, curbs, gutter, concrete ribbons, sidewalks, driveways, survey monuments, street name signs, street lights, street light energy and maintenance, traffic control devices on-site and off-site inclusive as determined by an overall traffic accessibility study, specific realignments or relocation of sanitary sewer lines and water lines, valley gutters, culverts, storm sewer lines, if any, either within or without the area, Highway 3 pedestrian crossing, and other improvements which the City of Billings may require.

The Waiver and Agreement shall run with the land and shall be binding upon the undersigned, its successors and assigns, and shall be recorded in the office of County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

Tracts 1A and 1B of Certificate of Survey No. 1889 Amended (Document No. 3574908), of which plats are on file and recorded at the Yellowstone County Clerk and Recorder's Office.

"DEVELOPER" Lupine Holdings, LLC

By: _____
Title:_____

STATE OF MONTANA)
:ss.
County of Yellowstone)

On this ____ day of _____, 20___, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the person who signed the foregoing instrument as the _____of Lupine Holdings, LLC, and who acknowledged to me that said DEVELOPER executed the same.

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

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

City Council Regular

Date:	04/26/2021
Title:	EBURD Tax Increment Assistance - 1518 1st Avenue North
Presented by:	Wyeth Friday
Department:	Planning & Community Services
Presentation:	Yes

RECOMMENDATION

The Billings Industrial Revitalization District (BIRD) Board of Directors recommends the City Council approve up to a maximum reimbursement of $63,085 from the EBURD tax increment finance district funds to J&S Properties to assist in the renovation of property for Yellowstone Ice and Water at 1518 1st Avenue North.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The Billings Industrial Revitalization District (BIRD) Board of Directors is presenting this recommendation to the City Council for allocating $63,085 in tax increment finance funds (TIF) from the East Billings Urban Renewal District (EBURD) to provide financial assistance to J&S Properties for renovation of property to house Yellowstone Ice and Water at 1518 1st Avenue North. The applicant is requesting TIF funding to assist in demolition, removal and replacement of asphalt, sidewalk construction, and engineering and architectural design work for the project. The total cost of property improvements for this first phase of the project is estimated at $215,000. The overall plan is for Yellowstone Ice and Water to first relocate its retail operations to this location and then ultimately relocate its manufacturing facilities to the southern half of the property off of Montana Avenue.

The BIRD Board's recommendation of $63,085 toward the improvements results in about a 3 to 1 ration of private investment to public investment. However, the BIRD Board supports varying from the City's TIF Policy recommended ratio of 5 to 1 for the following reasons:

- This work is part of a larger project once the manufacturing facility to the south of it is also established
- There are poorly established to non-existent pedestrian walkways and existing streetscapes in this area that need to be brought up to City standard
- The property owner is taking on significant additional costs that are not being reported as part of the project relating to power lines, alley right of way, etc.
- With the redevelopment of these two locations, there will be a significant return on the taxable value of these properties

The expenses for the demolition work, removal and replacement of asphalt, sidewalk construction, and engineering and design work recommended by the BIRD Board are eligible as per Section 7-15-4288 (2) (See BIRD Board Recommendation attached) and Section 7-15-4233 (m)(n). The project also is in alignment with the EBURD Urban Renewal Plan under its Business Programs and Projects goal (See page 3, item I of the Urban Renewal Plan Attached), and the EBURD Master Plan's principles of fostering economic growth, ensuring industrial operations continue, and encouraging community collaboration around public safety. Reuse and improvement of this property in the EBURD to facilitate Yellowstone Ice and Water's continued expansion in the community aligns well with the urban renewal efforts of the City and the EBURD.

The BIRD Application Review Committee reviewed the application on March 24 and made a recommendation of approval to the BIRD Board. The BIRD Board of Directors voted at its meeting on March 30 to recommend funding of this application to the City Council. This process and action of the BIRD is under its authority per the Memorandum of Understanding between the City of Billings, Big Sky Economic Development, and the BIRD, Inc. approved by the City Council on May 13, 2019.

ALTERNATIVES

The City Council is the final authority in disbursing TIF funding. This proposed use of TIF funds conforms to the City's TIF Policy and aligns with the EBURD Urban Renewal Plan and Montana Code for urban renewal projects and programs.

The City Council may:

- Approve the recommendation from the BIRD Board for the expenditure of these TIF funds, or;
- Modify and approve the recommendation from the BIRD Board for the expenditure of these TIF funds
- Disapprove of the recommendation from the BIRD Board for the expenditure of these TIF funds.

FISCAL EFFECTS

The request is for a total of up to a maximum of $63,085 to be reimbursed to J&S Properties only upon completion of the work and submittal of the invoices for the cost incurred. While the EBURD budget has capacity to cover this payment of TIF assistance, a budget amendment would need to be completed for this project if it is approved by the City Council. It also may be that this expenditure would not impact the EBURD budget until FY22, and a budget amendment would be addressed at that time.

Attachments

J & S Properties Application

Site and Aerial Images

BIRD Board Recommendation

EBURD URD Plan

BILLINGS INDUSTRIAL REVITALIZATION DISTRICT

BILLINGS INDUSTRIAL REVITALIZATION DISTRICT, INC.
EBURD PROCEEDS APPLICATION

Project Name: YIW Sales Building Remodel Date Submitted: 03/19/2021

APPLICANT INFORMATION

1. Name: J&S Properties Inc.
2. Address: PO Box 31292, Billings, MT 59107
3. Telephone Number: (406) 259-1528 Cell# (406) 855-4248

PROJECT INFORMATION

1. Building Address: 1518 1st Avenue North, Billings, MT 59101
2. Legal Description: Lots 13-18, Block 121 in original town site of Billings
3. Ownership: J&S Properties Inc.

   Address: PO Box 31292, Billings, MT 59107

4. If property is not owned by the APPLICANT, list leasehold interests (Attach evidentiary materials.)

   Name: _____

   Address: _____

5. Existing/Proposed Business: Sales Facility

   Business Description: Ice & Water Sales

6. Employment: Existing FTE Jobs 2-3 at Sales Facility

   New Permanent FTE Jobs created by project 0 Construction FTE Jobs 3-12

7. Architectural Firm: Simonsen Architect, LLC

   Address: PO Box 2132, Billings, MT 59103

   Architect: Eric Simonsen

8. Description of Project: (Attach narrative explanation & plans.)

9. Rehabilitation/construction plans: (Attach schematics, site and landscaping plans.)

10. Project Schedule: (Attach time line or schedule through completion.)

PROJECT COSTS

Land and Site Improvements (Itemized)

1.	Remove & Replace asphalt	$ 34,347
2.	Remove & Replace sidewalks & approach	$ 4,050
3.	Sign Products	$ 22,406
4.	Parking lot striping	$ 500
	Subtotal	$ 61,303

Construction/Rehabilitation Costs (Use general construction trade divisions)

1.	Jones Construction see attached (bid)	$ 148,466
2.	Enterprise Communications (security system)	$ 3,365
3.		$
4.		$
5.		$
6.		$
7.		$
8.		$
	Subtotal	$ 151,831

Fees

1. Architectural/Engineering $ 13,400
2. Permits Plan review fees & permit fees $ 1,364
3. Appraisal Report $ 6,500

Subtotal $ 21,264

Total Project Development Costs **$** 215,298

PROJECT FINANCING

Please complete Sources of Funds detail and summarize below.

A. Applicant Equity

Cash Invested $ 80,000

Land & Buildings
(if value is more that State of Montana valuation then a current appraisal must be submitted) $ 540,400

Other _____ $ _____

_____ $ _____

A. Subtotal Applicant Equity $ 620,400

B. Lender Commitments (Attach Bank Loan Commitment letter, Letters of Credit or other documentation.)

Lender	Loan Amount	Interest	Term	Payment/Period
_____	$ _____	_____%	____yrs	$ _____/Month
_____	$ _____	_____%	____yrs	$ _____/Month

B. Total Loan Amount $_____

C. TIFD request for funds for eligible public improvements.

MCA Statute
(office use only)

_____	$ _____	_____
_____	$ _____	_____
_____	$ _____	_____
_____	$ _____	_____
_____	$ _____	_____
_____	$ _____	_____
_____	$ _____	_____
_____	$ _____	_____
_____	$ _____	_____
_____	$ _____	_____

C. Subtotal TIFD Funds Requested $ _____

D. Other Source of Funding _____
Cash and Loan _____ $_____

Sources of Funds Summary (Post totals from above.)

A. Applicant Equity $ Building is debt free

B. Lender Commitments $ up to $365,000

C. TIFD Funds Request $ _____

D. Other Funds $ 80,000

Total Project Financing **$** _____

APPLICANT STATEMENT OF QUALIFICATIONS AND FINANCIAL RESPONSIBILITY

APPLICANT

1. Name: J&S Properties Inc.

   Address: PO Box 31292, Billings, MT 59107

2. If the APPLICANT is not an individual doing business under his/her own name, the APPLICANT has the status indicated below and is organized or operating under the laws of _____.

3. _X_ corporation/LLC.

   _____ nonprofit or charitable institution

   _____ partnership known as _____

   _____ Other (explain): _____

   Date of organization: December 31, 2001

4. Names, address, title of position (if any), and nature and extent of the interest of the officers and principal members, principal shareholders, investors, or partners of the APPLICANT.

Name and Address	Nature and Extent of Interest
Scott Chesarek, PO Box 31888, Billings, MT 59107	President (50%)
Jason Kummerfeldt, 4816 Arapaho Trl, Billings, MT 59106	Vice-President (50%)

Financial Condition

1. Provide a current financial statement (consisting of a Balance Sheet and Profit & Loss Statement) & Current Tax Return for each private entity involved in the project. This application and all financial information become part of the public record when submitted to the BIRD and is available upon request under the State of Montana Public Information Rules.

2. Has the APPLICANT or any individual or entity affiliated with the development of this project been adjudged bankrupt, either voluntary or involuntary, within the past ten (10) years?
   No X Yes _____ If yes, give date, place, and under what name

   _____

3. Has the APPLICANT or any individual or entity affiliated with the development of this project been indicted for or convicted of any felony within the past ten years:
   No X Yes _____ if yes, give date, charge, place, court and action taken for each case.

   _____

   _____

CONSTRUCTION CONTRACTOR

1. Identify the construction contractor or builder who will undertake this project.

   Name: Jones Construction

   Address: _____

2. Has named contractor or builder ever failed to qualify as a responsible bidder, refused to enter into a contract after an award has been made, or failed to complete a construction or development contract within the last ten years?
   No X Yes _____ if yes, explain.

3. Attach copies of bids to application:

4. If Applicant intends to do any of the construction themselves then APPLICANT shall provide three (3) independent contractor bids which must accompany this application for the work to be provided.

CERTIFICATION

I (we), J&S Properties Inc. by Scott Chesarek (please print), certify that the statements and estimates within this Application as well as any and all documentation submitted as attachments to this Application or under separate cover are true and correct to the best of my (our) knowledge and belief. I/We certify that I/We will make no application for any other tax abatement that may be available for this real property or building.

Signature _____ Signature _____

Title President Title _____

Address P.O. Box 31292 Address _____

Billings, MT 59107 _____

Date 3/19/21 Date _____

YELLOWSTONE BANK

March 19, 2021

Billings Industrial Revitalization District
Attn: Zack Terakedis
1413 4th Ave N
Billings, MT 59101

Re: J&S Properties, Inc.

Dear Zack,

Please accept this letter as certification that J&S Properties, Inc. has credit facilities in place with Yellowstone Bank to complete the Yellowstone Ice and Water sales facility renovations at 1518 1st Avenue North in Billings, MT. If further information is required, please contact me directly.

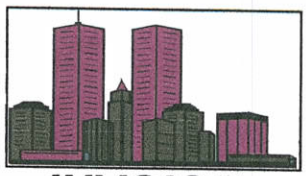
Sincerely,

Zachary Dunn
President, Billings Downtown Bank

ZJD:nl

ROBERTSON VALUATION GROUP

P.O.Box 81688
Billings, MT 59108-1688
Phone 406-208-4884



INVOICE

Customer

Name	Mr. Zack Dunn, President,Yellowstone Bank-Downtown
Address	3010 3rd St
City	Billings State MT ZIP 59101
Phone	

Date	3/12/2021
Order No.	
Rep	
FOB	

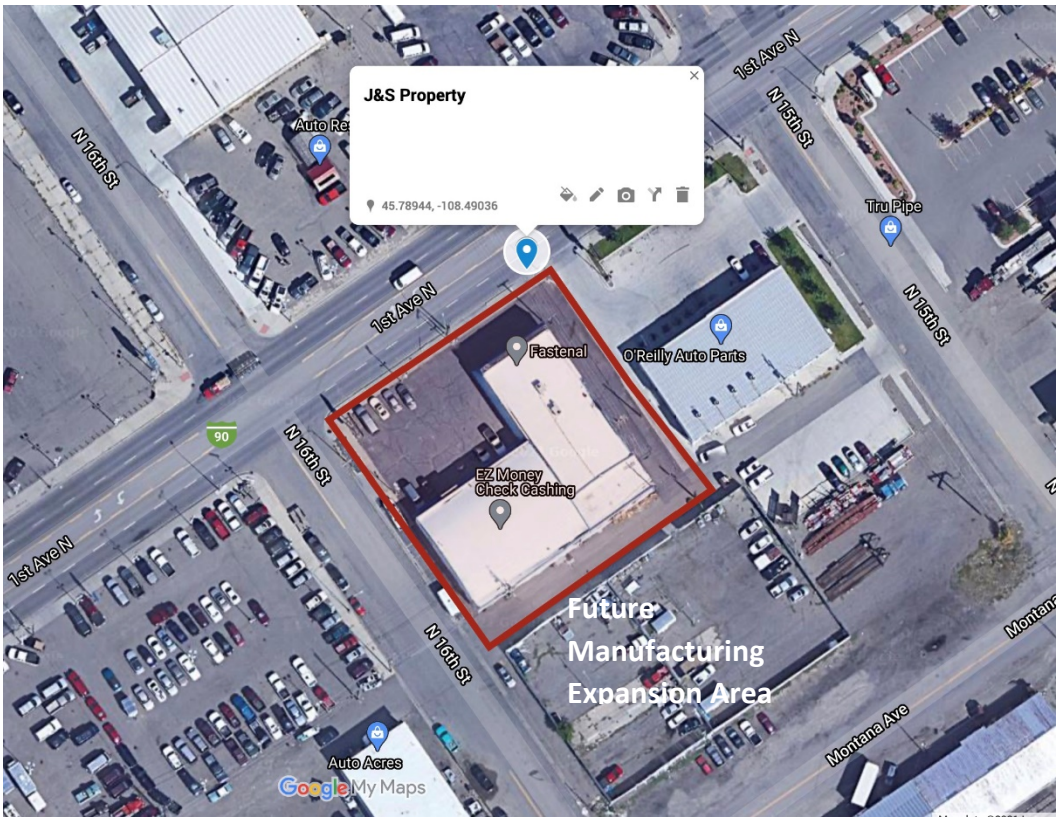
Qty	Description	Unit Price	TOTAL
One	Appraisal Report of: J&S Properties Appraisal Report of: Yellowstone Ice and Water Billings, MT	$6,500.00	$6,500.00
		SubTotal	$6,500.00
		Shipping & Handling	$0.00
		TOTAL	$6,500.00

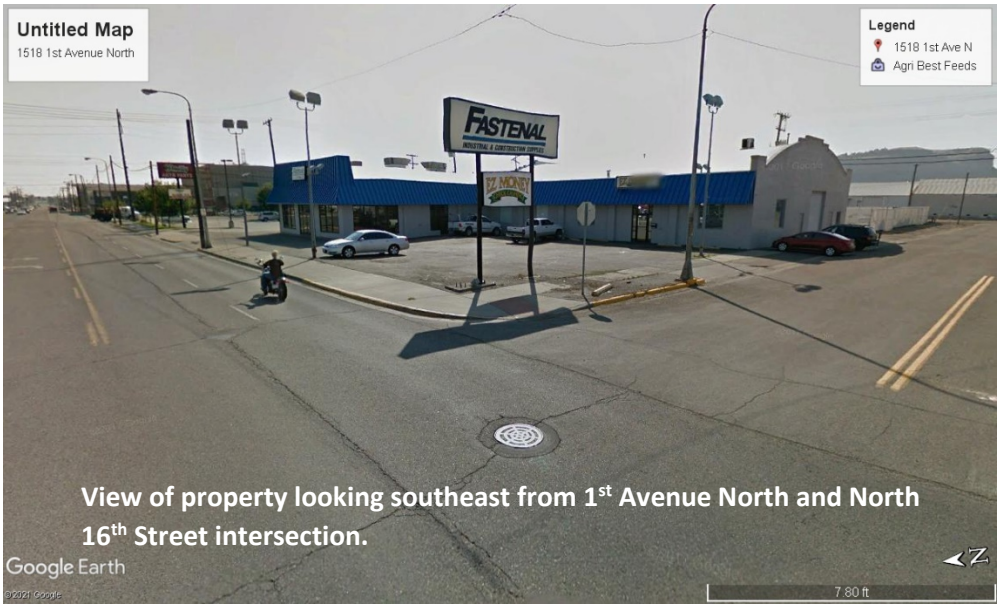
Payment Details

- ○ Check
- ◉ Credit Card
- ○ _____

Please Make Check Payable To: Robertson Valuation Group LLC

Thank You For Your Buisiness


J&S Property
45.78944, -108.49036
1st Ave N
N 15th St
N 16th St
Tru Pipe
Fastenal
O'Reilly Auto Parts
EZ Money
Check Cashing
90
Future
Manufacturing
Expansion Area
Montana Ave
Auto Acres
Google My Maps


Untitled Map
1518 1st Avenue North
Legend
1518 1st Ave N
Agri Best Feeds
FASTENAL
EZ MONEY
View of property looking southeast from 1st Avenue North and North 16th Street intersection.
Google Earth
7.80 ft

View along North 16th Street property frontage with obstructions and unimproved boulevard area and sidewalk.

EAST BILLINGS URBAN RENEWAL DISTRICT (EBURD)

4/1/21

Billings Industrial Revitalization District (BIRD) Recommended Assistance

Project: Rehab of existing property for expanded retail
Entity: J&S Properties
Tax parcel: A00875

Rehab existing site for retail location

Eligible Public Improvements	Requested		Recommended	MCA Statute
Remove and Replace Asphalt	$34,347	70%	$24,042	7-15-4288 (2)
Sidewalk, Curb and Approach	$4,050	70%	$2,835	7-15-4288 (2)
Architectural/Engineering/Permits and Appraisals	$21,264	60%	$12,758	7-15-4233 (m)(n)
Demolition/Construction	$148,466	15%	$23,450	7-15-4288 (2)
Sign Products	$22,406	0%		
Parking Lot Striping	$500	0%		
Security System	$3,365	0%		
			-	
TOTAL	**234,398.00**		**63,085.00**	**27%**

Current taxable value		540,400.00
Projected taxable value on completion		785,000.00
value added		244,600.00
estimated annual increment generated	N/A	
multiplied by remaining TIF years (25)	N/A	

Public Benefit:
This project correlates with the EBURD Master Plan
by eliminating blighted buildings from the district.
It encourages redevelopment of the property which will add to the revitalization of the EBURD.

2015 EXPANSION OF THE BILLINGS, MONTANA EAST BILLINGS URBAN RENEWAL DISTRICT, WITH TAX INCREMENT, AND AMENDMENT TO THE URBAN RENEWAL PLAN

FOR CITY OF BILLINGS AND PLANNING REVIEW
February 2015

Prepared by

Billings Industrial Revitalization District, Inc. (BIRD)
1413 4th Ave. N., Ste. C – Billings, MT 59101
pattynordlund@billingsbird.com kelly@billingsbird.com

SECTION 1 – INTRODUCTION

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

SECTION 2 – BACKGROUND

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

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

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

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

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

I. Business Programs and Projects

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

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

II. Parking and Transportation

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

III. Management, Implementation and Maintenance

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

IV. Infrastructure Improvements

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

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

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

V. Housing Improvements

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

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

SECTION 3 – SUMMARY OF BLIGHT FINDINGS

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

SECTION 4 – DESCRIPTION OF BLIGHTED AREA

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

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

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

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

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

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

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

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

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

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

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

SECTION 5 – DETERMINATION OF BLIGHT

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

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

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

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

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

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

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

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

SECTION 6 – THE SITE AND ITS RELATIONSHIP TO THE CITY

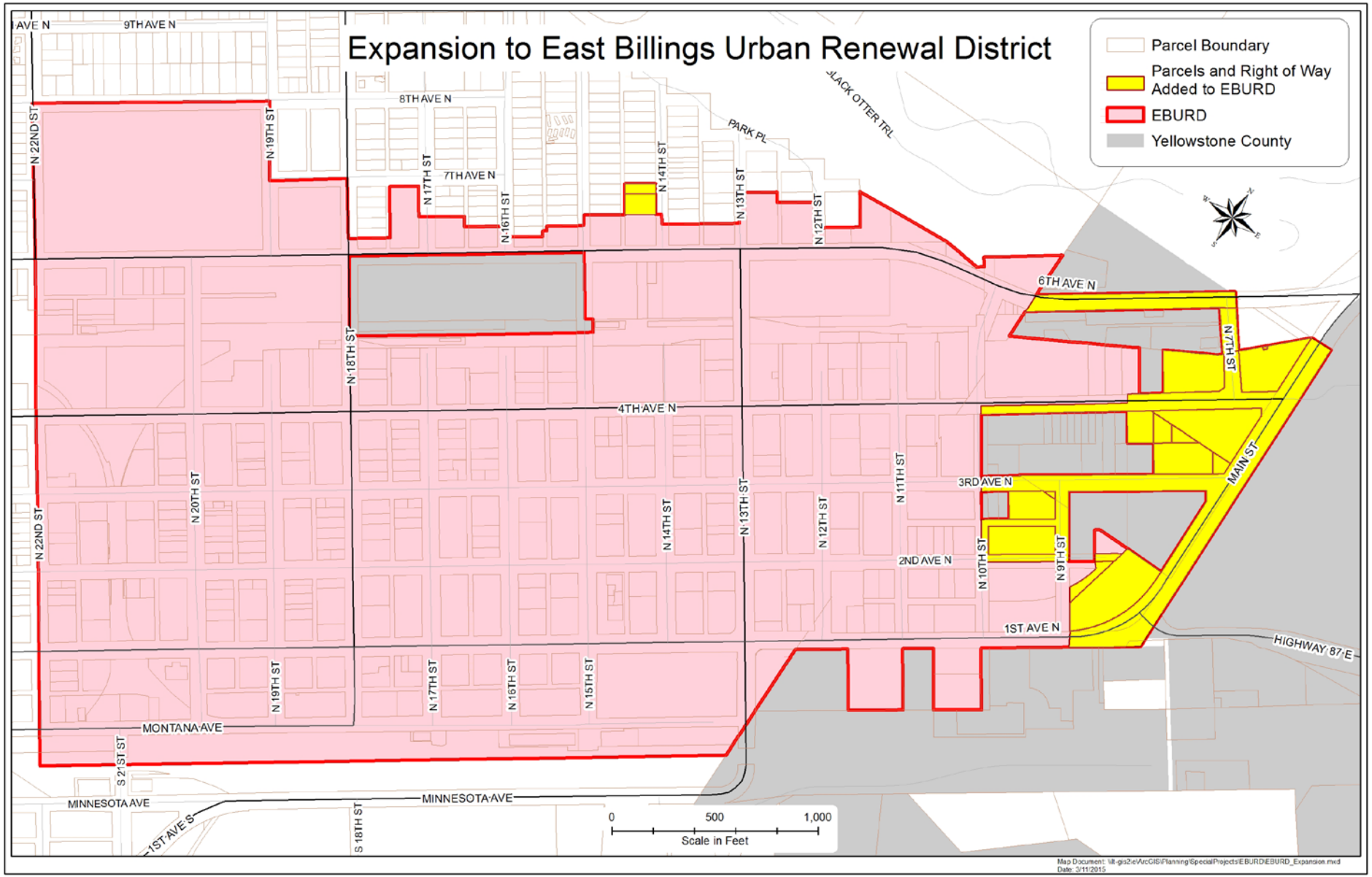
The Expanded EBURD occupies the center of the City of Billings, adjacent to the Downtown Central Business District and the medical corridor to the west; connecting to the Billings Heights area via Main Street to the northeast; welcoming visitors from Lockwood and beyond via 1st Avenue North to the southeast;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

SECTION 7 – LEGAL DESCRIPTION

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

Please see map on following page.

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


Expansion to East Billings Urban Renewal District
Parcel Boundary
Parcels and Right of Way Added to EBURD
EBURD
Yellowstone County
9TH AVE N
8TH AVE N
7TH AVE N
6TH AVE N
4TH AVE N
3RD AVE N
2ND AVE N
1ST AVE N
1ST AVE S
MONTANA AVE
MINNESOTA AVE
HIGHWAY 87 E
MAIN ST
PARK PL
JACK OTTER TRL
N 22ND ST
N 21ST ST
N 20TH ST
N 19TH ST
N 18TH ST
N 17TH ST
N 16TH ST
N 15TH ST
N 14TH ST
N 13TH ST
N 12TH ST
N 11TH ST
N 10TH ST
N 9TH ST
N 7TH ST
S 21ST ST
S 18TH ST
0
500
1,000
Scale in Feet

SECTION 8 – PROPERTY DEVELOPERS

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

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

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

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

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

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

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

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

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

SECTION 10 – CONFORMANCE TO THE GROWTH POLICY

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

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

vitality of the city core and downtown area.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 11 – CERTAIN PLAN FEATURES AND FINANCIAL MATTERS

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

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

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

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

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

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

SECTION 12 – TAX INCREMENT

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

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

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

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

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

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

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

SECTION 13 – CONCLUSIONS

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

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

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

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

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

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

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

Please see Exhibit A on next page.

EXHIBIT A 2015 EBURD Expansion

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

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

Exhibit A figures provided by Yellowstone County GIS

City Council Regular

Date:	04/26/2021
Title:	Downtown Billings Partnership - Tax Increment Assistance - Montana Rescue Mission Unified Campus
Presented by:	Wyeth Friday
Department:	Planning & Community Services
Presentation:	Yes

RECOMMENDATION

The Downtown Billings Partnership (DBP) Board has reviewed this TIF application and recommends the City Council approve up to a maximum reimbursement of $420,000 in two installments of $210,000 per fiscal year, starting in the fiscal year following the year in which the project is completed, from Downtown Urban Renewal tax increment finance district funds to the Montana Rescue Mission. Actual reimbursement will be based upon 100% of the actual costs incurred for qualified expenses for demolition and renovation of the property at 2822 Minnesota Avenue, subject to the following conditions:

1. The Applicant shall sign a development contract with the City of Billings and DBP within 150 days of City Council's approval.
2. This TIFD reimbursement is the maximum that can be received pending satisfactory submission of all paid invoices showing the completion of expenditures related to this project.
3. If funds are not available, reimbursement can be carried over to the next fiscal year.
4. Prior to disbursement of funds, the MRM's Women's Shelter property at 2520 1st Avenue North must be sold to a privately owned, tax paying entity.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The DBP staff received and reviewed the Montana Rescue Mission (MRM) TIF Application starting in January 2021. The applicant presented the application to the DBP Development Committee on February 11 and a tour of the property was conducted with DBP Board and staff members on February 18. It was then reviewed and recommended by the DBP Development Committee on March 11 and the full DBP Board made its recommendation to City Council on March 26 (See DBP Meeting Minutes attached).

MRM is requesting TIFD assistance in the amount of $1.5M dollars on a 5:1 matching basis to help complete development of a $12 million unified campus for its operations and services. MRM's private investment for the project is $10.5M, which includes federal low-income housing tax credits and private fundraising. The total project will cost $12M and Table 1 below shows a breakdown of TIF eligible expenses and privately funded expenses. Following a lengthy extensive review of the program goals, the proposal's merits, the projected funds available, and the MRM's desire for short term disbursement, the Downtown Billings Partnership Board is recommending a grant allocation of $420,000 toward the project to be paid in two equal consecutive installments following completion of the project. This total recommended award aligns with the City's TIF Policy recommendation of a 5:1 private to public investment (the ratio is 4% or 24:1). This project also could be considered a non-profit

application from MRM. If approved, this TIF assistance request will be subject to available Fund 203 cash and will only be applied to qualified expenditures including exterior restoration, foundational/structural improvements, Crime Prevention Through Environmental Design (CPTED) elements within landscaping, lighting and streetscape improvements.

Table 1

Eligible TIF expenses:	**Privately funded expenses**
Exterior improvements: $782,742 Exterior sitework: $797,848 Structural upgrades: $967,389 **Subtotal: $2,547,979**	East building interior improvements Middle building interior improvements West building interior improvements Building 21 interior improvements **Subtotal: $9,458,062**

The Development Committee and Board were supportive of the project and found the application was a very strong match for accessing urban renewal funds because:

- Existing businesses and the surrounding neighborhood on Minnesota Avenue will benefit from improved safety and security, the re-occupying and rehabilitating of an old historic building in Downtown Billings will further stabilize downtown properties, and helping provide needed services for our homeless and very low income residents in the community is a critical need.
- The qualified expenses are related to exterior restoration, foundational/structural improvements, and Crime Prevention Through Environmental Design (CPTED) with landscaping, lighting, and streetscape improvements.
- The application aligns with elements/goals of the DBA Strategic Plan (may be viewed through this link https://downtownbillings.com/about/about-the-dba/), City TIF Policy, MCA, and the North 27th Street District Urban Renewal Plan (See Table 2 below and attachments).

Table 2

Qualified Improvements	**DBA Strategic Plan**	**City TIF Policy**	**Urban Renewal Plan**	**Montana Code Annotated**
Exterior restoration Foundational/structural improvements Crime Prevention Through Environmental Design (CPTED) through landscaping, lighting and street scape improvements	Strong Downtown Identity –P.13 Vibrant &Connected Downtown–P.13 Diverse Economic Engine -P.13 Downtown Housing -p. 16	Permitted uses of TIF Funds: Private infrastructure with Public Benefit(Facades, Windows, –P.2 Financial Assistance Through TIF– P.2	Business Programs &Projects –P.54 Infrastructure Improvements–P.55 Crime Prevention and Public Safety -P.55	7-15-4288

The Montana Rescue Mission (MRM) is embarking on a project to create a Unified Campus for its operations and services. This project will encompass several buildings on Minnesota Avenue; some of which have been operational but not as optimal as they can be while other properties have been underutilized and in dire need of revitalization. This project involves properties between South 29th St and South 28th St (west to east), as well as Minnesota Ave and 1st Ave South (north to south). This effort will streamline MRM's services in addition to contributing to the momentum of redeveloping and reactivating Minnesota Avenue. This new campus is a holistic approach to combat homelessness and guide vulnerable populations through the challenges of being re-established in the community.

The plan dictates releasing the Women's Shelter building on 1st Avenue North from MRM's ownership and consolidating all operations within the new campus. The new space will offer more privacy for its tenants, increase capacity, and offer low-income housing. Low-income tenants are still expected to meet the conditions associated with low-income housing requirements, and are subject to availability of units. This campus will also offer an outdoor green space, car and bike parking, playground and pet area, on-site daycare, vocational training, library lounge, exercise facility, community auditorium, medical clinic, computer lab, class and office spaces, and a barber/beauty shop.

By reinvigorating this existing space as well as releasing the Women's Shelter building back into a tax-paying entity, this project addresses many of the goals of the Downtown Billings Strategic Plan and Urban Renewal Plan, such as enhancing the pedestrian experience, contributing to public safety, activating vacant spaces, and providing natural surveillance. Additionally, this project uses existing infrastructure and resources to restore health and vitality for the benefit of downtown life and the surrounding neighborhood.

The DBP Board in its recommendation is supporting less than the original requested amount after consideration of the District's program goals, the proposal's merits, the projected funds available in the Downtown TIF Budget in the next several years, and MRM's desire for short term disbursement of funds. The recommendation for a total of $420,000 in qualified expenses is well below the City TIF Policy's recommended ratio of 5:1 private investment to public investment given the project's total estimated $12 million cost. The DBP Development Committee and the DBP Board both support this application request, recognizing this project will make a significant commitment and investment in Downtown Billings, anchor and revitalize a significant portion of Minnesota Avenue, make the area safer, while also providing critical services in the community.

ALTERNATIVES

City Council may:

- Approve the recommendation from the DBP Board for the expenditure of these TIF funds consistent with some elements/goals of the DBA Strategic Plan, North 27th Street Urban Renewal Plan, City TIF Policy and MCA, or;
- Modify the recommendation from the DBP Board for the expenditure of these TIF funds before taking action, or;
- Disapprove the recommendation from the DBP Board for the expenditure of these TIF funds. If the Council chooses not to approve this TIF application, specific reasoning for the denial is helpful to provide further direction to the DBP Board and staff, and City staff for future applications.

FISCAL EFFECTS

The recommendation is for up to a maximum of $420,000 to be reimbursed to the Montana Rescue Mission for the identified building remodel work (See TIF Application Attachment). The estimated total project cost is $12 million, making the private to public investment ratio for this project 24:1. The funds are payable per the conditions of approval outlined above in the DBP recommendation and pending satisfactory submission of all paid invoices showing actual cost incurred for the project. This project is proposed to be reimbursed in two phases over several fiscal years, starting the fiscal year after the project is completed. Currently, the project is estimated for completion in 2023. If approved, payments will be incorporated into future year budgets.

Attachments

MRM Application

DBP Review Committee Summary

DBP Board Minutes

2008 Downtown Urban Renewal Plan

City TIF Policy

DRaft Development Agreement

DOWNTOWN (N 27TH STREET) URBAN RENEWAL DISTRICT

N27URD

Tax Increment Financing Fund Application

APPLICANT INFORMATION			
Name: Montana Rescue Mission			
Address: 2822 Minnesota Avenue			
City/State/Zip Billings, MT 59101			
Phone: 406-259-3800	E-mail: mattl@billingslf.org		
If the applicant is not an individual doing business under his/her own name, the applicant has the status indicated below and is organized or operating under the laws of:			
A corporation/LLC: ☐	A non-profit or charitable institution or corporation X ☐	A partnership: Known as: ☐	Other: ☐
Date of Organization: 7/29/1963			
PROJECT INFORMATION			
Building Address: 2822 Minnesota Avenue			
City: Billings	State: MT	ZIP Code: 59101	
Legal Description: BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK A, Lot 7 - 8, ORIGINAL TOWNSITE "A" ADDITION			
Property Owner (if property is not owned by the Applicant, list leasehold interests and attach evidentiary materials)			
Property Owner (name or entity): Montana Rescue Mission			
Property Owner Contact Name: Matt Lundgren	Contact Phone: 406-259-3800		
Lessor's Address: 2902 Minnesota Avenue			
City: Billings	State: MT	ZIP Code: 59101	
PROJECT ARCHITECTURAL FIRM			
Firm Name: Schutz Foss Architects			
Address: 3030 4th Avenue N, Billings, MT 59101			
Representative:			
Phone: 406-252-9218	E-mail:		
PROJECT CONTRACTOR (OR PARTY RESPONSIBLE FOR CONSTRUCTION)			
Name/Representative: TBD			
Address:			
Phone:	E-mail:		
PROJECT FINANCIAL LENDING INSTITUTION (leave blank if not applicable)			
Name/Representative: N/A			
Address:			
Phone:	E-mail:		

PROJECT INFORMATION

Description of Project:

Attach a narrative explanation and any other design information. Use this section to pitch your project and explain how it will eliminate blight and/or benefit the public.

Rehabilitation Plans:

Attach schematic design drawings and/or completed construction document plans - including site, landscaping, and other engineering design information.

Project Schedule:

Attach a timeline or schedule through completion.

To receive maximum funding all applications must be submitted to the DBP and approved by the CITY prior to the start of the relevant phase of construction.

PROJECT FINANCING

Please complete Sources of Funds detail and summarize below.

Applicant Equity

Cash Invested	$_____
Land & Buildings	$500,000
Other (Specify) LIHTC Equity	$5,597,890
Subtotal	$6,097,890

If land & building value is more than the State of Montana valuation, a current appraisal must be submitted (within 3 years).

Lender Commitments (Attach evidence i.e. Letters of Credit or other documentation)

Lender	Loan Amount	Interest	Term	Payment/Period
_____	$_____	_____%	_____yrs	$_____/Month
_____	$_____	_____%	_____yrs	$_____/Month
Total Loan Amount				$_____

TIF Request

Eligible Improvements

Building Upgrades	$1,500,000
_____	$_____
_____	$_____
_____	$_____
_____	$_____
_____	$_____
Subtotal of TIF Funds Requested	$1,500,000

Sources of Funds Summary (Post totals from above)

Applicant Equity	$6,097,890
Lender Commitments	$0
TIF Funds Request	$1,500,000
Other Funds (Specify) Grants/Donations	$4,402,110
Total Project Cost	$12,000,000

To receive maximum funding all applications must be submitted to the DBP and approved by the CITY prior to the start of the relevant phase of construction.

CERTIFICATION

I (we), Matthew Lundgren (please print), the APPLICANT, certify that the statements and estimates within this Application as well as any and all documentation submitted as attachments to this Application or under separate cover are true and correct to the best of my (our) knowledge and belief.

Signature _____ Signature _____

Title Executive Director Title _____

Address 2902 Minnesota Ave Address _____

Billings, MT 59102 _____

Date 12/22/2020 Date _____

URD TIF GRANT PROGRAMS – Governing Body: City of Billings, City Council

To receive maximum funding all applications must be submitted to the DBP and approved by the CITY prior to the start of the relevant phase of construction.

mrm
montana
rescue mission

Dear members of the Downtown Billings Alliance,

Thank you for considering Montana Rescue Mission's Unified Campus for Tax Increment Funding. Though shelter and services for homeless and hungry individuals and families in our community may not be the first investment that comes to mind when thinking of urban renewal, I believe that you will agree that this investment will truly make Downtown Billings a more stable and vibrant place and create a safer neighborhood.

MRM's proposed Unified Campus represents a physical as well as social investment in our community. Care has been taken to preserve the history of crumbling Minnesota Avenue buildings while making them safe, attractive, and usable once more. While the Unified Campus will be built of brick and mortar on nearly a full city block in Downtown Billings, it represents so much more. It is a community commitment to meet the complex needs of individuals experiencing homelessness, so they can become active and thriving community members in a campus dedicated to keeping their care in one centralized location.

The Unified Campus brings all services for homeless individuals and families to one location, which means the services will be readily accessible. We know that breaking the cycle of homelessness requires more than just shelter, it requires us to address complex and interwoven healthcare, job skills, childcare, and other needs – the Unified Campus will give Montana Rescue Mission the ability to meet all of these needs much better than we currently do at multiple locations scattered throughout downtown and with providers all across town.

Your TIF investment will help the downtown by helping the neediest members of our community get back on their feet while contributing to the vitality of Downtown Billings. An investment in the Unified Campus is an investment in our neighbors. Indeed, 94% of the guests we serve have lived in Montana for a significant portion of their lives and very few are transient from other states.

We have thoughtfully responded to each question asked in your designated scoring criteria. Please contact me with any additional questions or requests for further information at mattl@billingslf.org or at 406-670-8556. Once again, thank you for your consideration. I look forward to working with the members of the Downtown Billings Alliance to implement this critical project for the neighborhood.

Sincerely,

Reverend Matthew Lundgren
Executive Director, Montana Rescue Mission

Vibrancy & Connectedness

Elimination of Blight:

Montana Rescue Mission's Unified Campus project addresses blight by renovating nearly a full city block in Downtown Billings to invigorate the heart of the city and better serve the needs of our community. The Unified Campus will address multiple definitions of blight as defined by the Montana Code Annotated listed below:

(a) the substantial physical dilapidation, deterioration, age obsolescence, or defective construction, material, and arrangement of buildings or improvements, whether residential or nonresidential.
(b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality.
(d) high density of population and overcrowding.
(h) unsanitary or unsafe conditions.
(i) deterioration of site.

The Unified Campus includes multiple improvements to counteract blight definition "a" and "b" by investing $12 million dollars upgrading and completely renovating multiple obsolete and deteriorated buildings on Minnesota Avenue. The project removes crumbling and dangerous structural issues and replaces them with affordable housing and a modern shelter facility for Women, Men, Families and Children. Likewise, this project addresses poor ventilation, adds adequate lighting in indoor and outdoor space, mitigates plumbing/sewage inadequacies, decompresses overcrowded shelter space, adds open outdoor green spaces, adds indoor common areas, and beautifies Downtown Billings by upgrading buildings that are currently an eyesore and target of graffiti.

The project addresses definition "d" (high density of population and overcrowding) by providing 29 low-income housing units in Downtown Billings for families and individuals in need of decent and affordable housing. Our city has a waiting list of over 1,000 families looking for affordable housing, so this meets a real community need. In addition, providing living space in the downtown core will serve as an economic driver to boost downtown businesses and vitality. The Unified Campus project also changes the way Montana Rescue Mission will shelter individuals in need of a safe, clean, and warm place to stay. Currently, guests are sheltered in two different downtown buildings in barracks-style rooms, a service-delivery model that is outdated and not conducive to social distancing or privacy. This Unified Campus project will implement best practices for serving homeless individuals by utilizing individualized rooms for smaller groups, an elevator to meet mobility needs, and includes an ADA compliant bathroom for each guest room.

The project also addresses definition "h" (unsanitary or unsafe conditions). Our current buildings are extremely outdated and do not offer adequate bathroom and shower facilities or adequate indoor and outdoor communal space. Current group bathrooms and group showers will be replaced with individual bath and shower spaces to protect privacy and stop the spread

of germs and viruses. Likewise, clean and ADA accessible public bathrooms will address an unmet community need for public restrooms in the downtown area.

Similarly, our plan to provide adequate indoor and outdoor space will diminish our guest's tendency to congregate on sidewalks near busy streets, often obstructing pedestrian and vehicle traffic. The Unified Campus project includes the divestment of the Women's and Family Shelter building on the busy 1st Avenue North which does not provide any outdoor space for families with young children currently housed in that space.

All Montana Rescue Mission guests will be sheltered at the new Unified Campus on Minnesota Avenue, where they will have access to adequate indoor and outdoor communal spaces. We expect this will lead to significantly fewer homeless individuals congregating throughout Downtown Billings. Additionally, with medical, mental health, childcare, laundry, education, training and other services offered on our Unified Campus, the homeless members of our community will stay safer by accessing the services they need all on one campus and spending fewer hours walking across Downtown Billings to access services.

Improved Housing Opportunities:

In addition to increasing shelter space for homeless individuals by nearly 50%, the Unified Campus includes 29 low-income housing apartments available to the public and to individuals and families transitioning out of the Montana Rescue Mission shelters. The apartments will provide ongoing access for tenants to Montana Rescue Mission services (medical, mental health, food resources, clothing resources, childcare, laundry, etc.) while helping tenants build independence, rental history, and credit history in support of their next steps. Similarly, these apartments will include all utilities as a part of the rent, thus overcoming a major barrier for some renters. Tenants are very likely to be employed in the downtown Billings corridor and meet a much-needed labor shortage and labor housing need.

Apartments, constructed in compliance with International Building Code (IBC), will be energy efficiency, spacious, will offer natural light, and will be fully furnished. The historic buildings' 16 foot ceilings will add to the appeal of these units. The project includes seven efficiency apartments, seventeen one-bedroom apartments and five two-bedroom apartments. Rental prices will be between 40- 60% of market rate and will stay at this rate to comply with the Low-Income Housing Tax Credits we received to build this part of the project. Please see the chart below for exact details.

Bedrooms	Bathrooms	Description	# Units	Median Income Targeted	Description	Tenant Paid Rent
0	1.0	LIHTC	1	40%	Efficiency @ 40%	$510
0	1.0	LIHTC	5	50%	Efficiency @ 50%	$600
1	1.0	LIHTC	2	40%	1 Bed @ 40%	$545
1	1.0	LIHTC	10	50%	1 Bed @ 50%	$685
1	1.0	LIHTC	6	60%	1 bed @ 60%	$760
2	1.0	LIHTC	3	50%	2 Bed @ 50%	$820
2	1.0	LIHTC	2	60%	2 Bed @ 60%	$880

Enhanced Landscaping:

In an existing downtown city block that has no landscaping and no greenspace, the Unified Campus will highlight green spaces that provide optimal shade, accessibility, and drainage. Water retention areas will mitigate run off and provide irrigation for grass, plants, and trees on the campus. Community gathering areas with seating, conversation areas, a gas outdoor fire pit, a pet walking area, and sandstone block features will be available for the public, shelter guests, and tenants. External landscaping will include multiple raised bed garden plots for tenants, a robust playground for the childcare area, multiple trees, and a designated smoking area. Much of this landscaping will be enclosed in a park-like setting surrounded by an attractive fence to provide security and beauty. Similarly, in keeping with the historical nature of Minnesota Avenue, placards noting our buildings' historical importance and role in Billings' early years will be installed to provide guidance for tourists, walking tours, and history buffs in their quest to explore historic Downtown Billings, "Old Town Historic District".

Activation of Inactive Space:

The Unified Campus project includes a major renovation of the following buildings comprising ¾ of a city block: Granny's Attic Building located at 2804 Minnesota Avenue, the Montana Rescue Mission Men's Shelter at 2822 Minnesota Avenue, and the former Montana Rescue Mission Bargain Center at 21 South 29th Street. In their current condition, these buildings have very few viable uses and all need major repairs. Currently, less than 40,000 of 200,000 square feet (20% of the available space) are occupied and viable. Furthermore, upper floors are unusable in their current condition.

Our planned renovation of over 100,000 square feet will transform these buildings into a Unified Shelter Space for Men, Women, Families and Children, 29 affordable apartments and a community learning center to deliver healthcare, mental health counseling, job skills training, a barber/beauty salon, an auditorium, and classrooms for adult and community education. The renovations will allow for the full use of all floors of buildings and will transform the property into a thriving and usable space. Sections of existing buildings that are structurally unsound will be removed and replaced with green park space and parking. Likewise, an existing parking lot located north of South 29th Street which is in disrepair, will be upgraded and repurposed to provide better traffic flow and mitigate loitering.

Walkways, Parks and Parking:

In addition to the existing 40 diagonal and 12 parallel on street parking spots, the Unified Campus will include 47 additional lighted parking spots for staff, tenants and guests which will ease the parking burden in the surrounding area. Covered and weatherproof storage and parking for 100 bikes will also accompany this parking area for the safety and security of those who travel via bicycle. A storage area for 20 strollers will also be placed into service to provide space for those with children to keep strollers and kid equipment close at hand. Ample 10' sidewalks already exist on the perimeter of the property and will be repaired and replaced, as necessary, to keep pedestrian traffic on track and safe. As mentioned above, historical placards

and information will be included on the sidewalks to note our buildings historical importance. Finally, a large brightly colored and fun playground will be placed in the center of the park to accommodate children's need to play and explore.

Green Space and Public Space:

As the shelter, apartments and the community building are open to the public, our added green spaces and parks will significantly improve a block with no current greenspace. Community gathering areas with seating, conversation areas, an outdoor fire pit, a pet walking area and sandstone block landscaping features will be available for shelter guests, tenants and members of the public who use our services. External landscaping will include multiple raised bed garden plots for the tenants and community and historical placards will be placed to honor the history of the site and buildings. A robust playground in the childcare area will include grass, hills and play areas. Multiple trees will shade the parking area and a designated smoking area will provide for adequate separation for those who smoke. Much of this landscaping will be enclosed in a park-like setting surrounded by an attractive fence to provide security and beauty. Montana Rescue Mission will maintain and improve this park as a good neighbor and member of the downtown community.

Strong Identity

Increased Visitation:

The Montana Rescue Mission Unified Campus will unquestionably add to the "Strong Identity" of Downtown Billings. Having walkable social services all located on one city block will build community and foster accessibility. Furthermore, our Medical and Mental Health Clinic, as well as "Mission Diner" meal services, will be available to the public and meet a critical need for nutrition, health, and wellness. The Auditorium and Chapel spaces will be available to host community meetings and gatherings. Our beauty/barber shop, classrooms and licensed childcare will also meet a critical need for personal growth and educational development. As this campus is taking a cutting edge and state of the art "campus approach," ours will be a national model and pilot project for others working to end homelessness to visit and emulate. Furthermore, developing this large section of Minnesota Avenue will stimulate development and revitalize the entire Minnesota Avenue area spurring investment and redevelopment of a little visited part of Downtown Billings.

Design and Aesthetic:

The Montana Rescue Mission's Unified Campus will improve the design and aesthetic of the entire block. Replacing the current crumbling stucco and rotting brick exterior with a new façade and a safe structure will not only make the buildings more attractive, but will also preserve the historic nature of the area by stopping decay, stabilizing the structures and adding the aforementioned historical placards to note the history of Minnesota Avenue. Work with the

Western Heritage Museum and Yellowstone County Historical Preservation Board is already underway to document this area's historical impact and ensure the design of our new structure is appropriate for the overall look and feel of the Minnesota Avenue community. Furthermore, we will be discontinuing the use of the alley between our buildings and making that a park space by replacing derelict loading docks with plants and landscaping for the future enjoyment of the community.

Pedestrian and Visitor Experience:

The Unified Campus plans include robust interior and exterior lighting to ensure safety for guests and the public. Similarly, the landscaping, public seating, gas outdoor fire pit, and park areas will all brighten passerby's experience. The addition of trees, landscaping, community gardens and gathering areas will enhance the experience of all who visit this space. Finally, the historical placards will educate and inform people about Minnesota Avenue's historical relevance and will allow pedestrians to experience past and present Downtown Billings history.

Public Art:

Public art will be on display with the historical placards and façade renovation. Part of our commitment to keep the "spirit of the neighborhood" alive is to include window boxes with historical artifacts from the south side and the work of the Rescue Mission over the years. Likewise, we will include artifacts from the interior of our building into the park spaces to display the role of these buildings over the years.

Diverse Economy & Sustainability

Creation of Jobs:

The Unified Campus is expected to support 80 jobs of varying skill and education levels across several service areas. We plan to add 20-30 positions across many pay ranges with this expansion, including therapists, case managers, maintenance, food service, childcare workers, nurses, chaplains, administrators, and property managers. Furthermore, providing affordable workforce housing in the heart of downtown will mean downtown employers will have staff close at hand to fill positions. From our case management experience, we know that lack of affordable downtown housing and lack of transportation often prohibit low-wage employees from maintaining employment in Downtown Billings, the new low-income housing units should help reduce this problem by providing housing close to downtown employers. Between 29 housing units and over 200 shelter beds, we expect 150-250 individuals housed by the Unified Campus will be employees who work to fuel the growth, sustainability and vibrancy of Downtown Billings.

Economic Growth:

Montana Rescue Mission's Unified Campus project will promote economic growth and increase tax value in downtown Billings. Often, nonprofit projects are criticized because they do not contribute to the tax base, however, our project is different and will contribute to the tax base. To centralize our work and move toward a "Unified Campus" approach, we will be divesting our current Women and Families shelter at 2520 1st Avenue North. This property, across from Stella's Bakery is listed for sale for $1.7 million and the current interested parties are planning to substantially invest in this building to develop and grow this property as another vital part of downtown revitalization. This will place 2520 1st Avenue North property back on the tax rolls and generate income for Downtown Billings. Furthermore, our properties on Minnesota Avenue and 29th Street, while not currently on the tax role and not returning to the tax role with this project, provide millions of dollars of tax savings relief for the city and county by caring for the homeless and hungry as a private nonprofit and thus saving costs that would otherwise be allocated from city or county funds. The work we do serving the homeless saves the city and county money without any cost to the taxpayers.

Energy Efficiency:

The Unified Campus project will incorporate energy efficient design and components to meet modern building codes and save vital resources. All doors, windows, roofing, HVAC, plumbing, and electrical will be replaced and the highest level of efficiency will be installed. Buildings will be designated as "Green Buildings" in accordance with Montana Board of Housing standards. Furthermore, the renovations will use all approved measures to save future operating costs, including solar panels, and repurposing and recycling current building components for future use. Remodeling the buildings instead of completely replacing them will also recycle much of the main structures and flooring to create a modern space with a historical and authentic character.

Business Development:

The Unified Campus will encourage business development in multiple ways; by developing businesses and providing a trained workforce. Our campus will house a childcare facility open to the public that serves children ages zero to three. This will support multiple childcare jobs and will also support the ability of parents to participate in the workforce while their children are supervised.

In support of the workforce, the campus will include vocational training areas for shelter guests and community members to receive training in automotive, wood, metal, metal, culinary, cosmetology and clerical job skills areas. This workforce training component of our campus will more than encourage business, it will be a life blood to provide staffing for critical workforce shortages in downtown Billings and beyond.

Additionally, the 29 rental units and over 200 shelter beds will provide workforce housing close to the heart of downtown. This housing will be vital as rental costs continue to escalate in Billings and more of the workforce is driven further out of town.

Benefit to the Public

Public Parking:

The Unified Campus will provide adequate signage for wayfinding in Billings and also add public parking. In addition to the existing 40 diagonal and 12 parallel on street parking spots surrounding our property, the Unified Campus will include 47 additional lighted parking spots on ground level for staff, tenants and guests, which will ease the parking burden in the surrounding area. Covered and weatherproof bike storage and parking for 100 bikes will also accompany this parking area for the safety and security of those who travel via bicycle. A storage area for 20 strollers will also be available for parents to store strollers and other equipment.

Public Safety:

The Unified Campus plans were designed with public safety in mind and a CPTED evaluation was performed by Dan Brooks of the Chamber of Commerce. Additionally, plans for our campus were used as a case study and for training for a regional CPTED conference held in Billings in December. The CPTED evaluation helped identify several areas for enhanced public safety on the Unified Campus. Examples of safety components include intentionally designed sight lines for staff and security cameras, as well as a thoughtful reconfiguration of the existing alley and loading docks, which will be transformed into a green space to deter vagrancy.

In alignment with CPTED strategies, the Unified Campus will also promote a safer downtown Billings by helping residents of affordable housing units and guests at the Montana Rescue Mission experience a sense of community. The Unified Campus represents a planned community (much like Josephine Crossing) that includes all necessary amenities in one location (food, housing, childcare, medical, educational, social, etc.). Meeting these needs in place and providing more on-site activities will alleviate the need for homeless individuals to wander other parts of Billings.

Residents and guests of our campus will learn that community includes personal and corporate responsibility and that residents are expected to look out for their neighbors and alert authorities or MRM staff and volunteers of unsafe situations or activities. The MRM Facilities will be a drug, alcohol and firearm free space, further contributing to public safety.

Pedestrian Crossing and Traffic Calming:

Montana Rescue Mission will ask the city to place pedestrian crosswalks on both Minnesota Avenue 29th Street and 28th Street to promote traffic safety and calm traffic on the perimeters of this campus to make pedestrians safe. Our existing 10' sidewalks are ample for safety and will be repaired or replaced to be up to code with the advent of this project. Other measures to promote pedestrian safety may be considered as the need arises.

Additionally, by sheltering families at the Unified Campus and divesting the current Women's and Family Shelter building at 2520 1st Avenue North, the sidewalks and alleyways between our two separate shelters will see less pedestrian traffic and be a safer experience for our guests and downtown motorists alike.

Additional

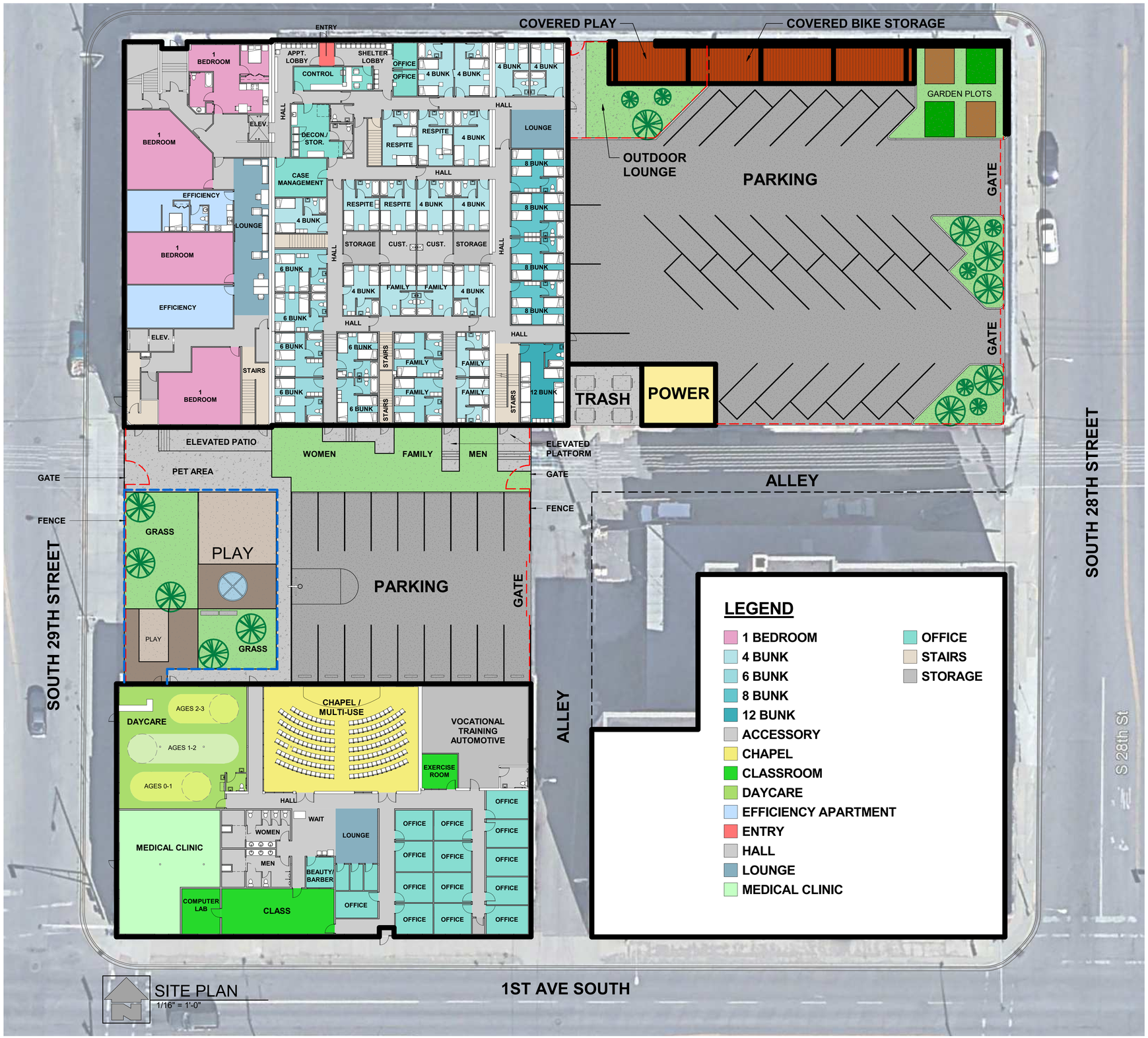
Convention Center:

The Auditorium and Chapel spaces at the Unified Campus will be available to host community meetings and gatherings. Meetings will be offered free for nonprofits, while a small fee to cover our costs for set up, tear down, and cleaning will be charged to the public or businesses using our convention space.

Infrastructure:

Montana Rescue Mission's Unified Campus builds social infrastructure that supports the vibrancy of Downtown Billings. It provides dignified shelter and housing for Billings community members who need help getting back on their feet. The Unified Campus has been purposefully designed to implement best practices in serving homeless members of our community.

Of critical importance, this project will bring all Montana Rescue Mission services onto one campus, allowing for more coordinated service delivery and making homelessness brief, rare and non-reoccurring for our guests so they can quickly regain their independence as thriving members of our community and keep our homeless guests close to services that help them grow.



SITE PLAN
1/16" = 1'-0"

PRELIMINARY

Date	10-29-2020
Issue	Preliminary
Drawn by	SmN

REVISIONS

NUMBER	REVISION DESCRIPTION	DATE

UNIFIED CAMPUS
MONTANA RESCUE MISSION
Billings, MT

SCHUTZ FOSS ARCHITECTS, P.C.
ARCHITECTURE · INTERIORS · PLANNING
BILLINGS, MT. & GILLETTE, WY. & DICKINSON, N.D.
www.schutzfoss.com

SITE PLAN CONCEPT

Project No. 1843

2.1

12/10/2020 3:20:57 PM

LEGEND

- 1 BEDROOM
- 4 BUNK
- 6 BUNK
- 8 BUNK
- 12 BUNK
- ACCESSORY
- EFFICIENCY APARTMENT
- ENTRY
- HALL
- LOUNGE
- OFFICE
- STAIRS
- STORAGE

MAIN FLOOR PLAN

1/8" = 1'-0"

PRELIMINARY

Date	10-29-2020
Issue	Preliminary
Drawn by	SmN

REVISIONS

NUMBER	REVISION DESCRIPTION	DATE

UNIFIED CAMPUS
MONTANA RESCUE MISSION

Billings, MT

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MAIN FLOOR REMODEL PLAN

Project No. 1843

3.0

12/10/2020 3:20:59 PM

LEGEND

- 4 BUNK
- ACCESSORY
- LAUNDRY
- LINEN
- MECHANICAL
- OFFICE
- PLAY ROOM
- STAIRS
- STORAGE
- TEACHING KITCHEN/ DINING

LOWER LEVEL FLOOR PLAN

1/8" = 1'-0"

PRELIMINARY

Date	10-29-2020
Issue	Preliminary
Drawn by	SmN

REVISIONS

NUMBER	REVISION DESCRIPTION	DATE

UNIFIED CAMPUS
MONTANA RESCUE MISSION
Billings, MT

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LOWER
REMODEL PLAN

Project No. 1843

3.1

12/10/2020 3:21:00 PM

LEGEND

- 1 BEDROOM
- 2 BEDROOM
- EFFICIENCY APARTMENT
- HALL
- LAUNDRY
- LIVING ROOM
- MAINTENANCE
- STAIRS

UPPER FLOOR PLAN

1/8" = 1'-0"

PRELIMINARY

Date	10-29-2020
Issue	Preliminary
Drawn by	SmN

REVISIONS

NUMBER	REVISION DESCRIPTION	DATE

UNIFIED CAMPUS
MONTANA RESCUE MISSION
Billings, MT

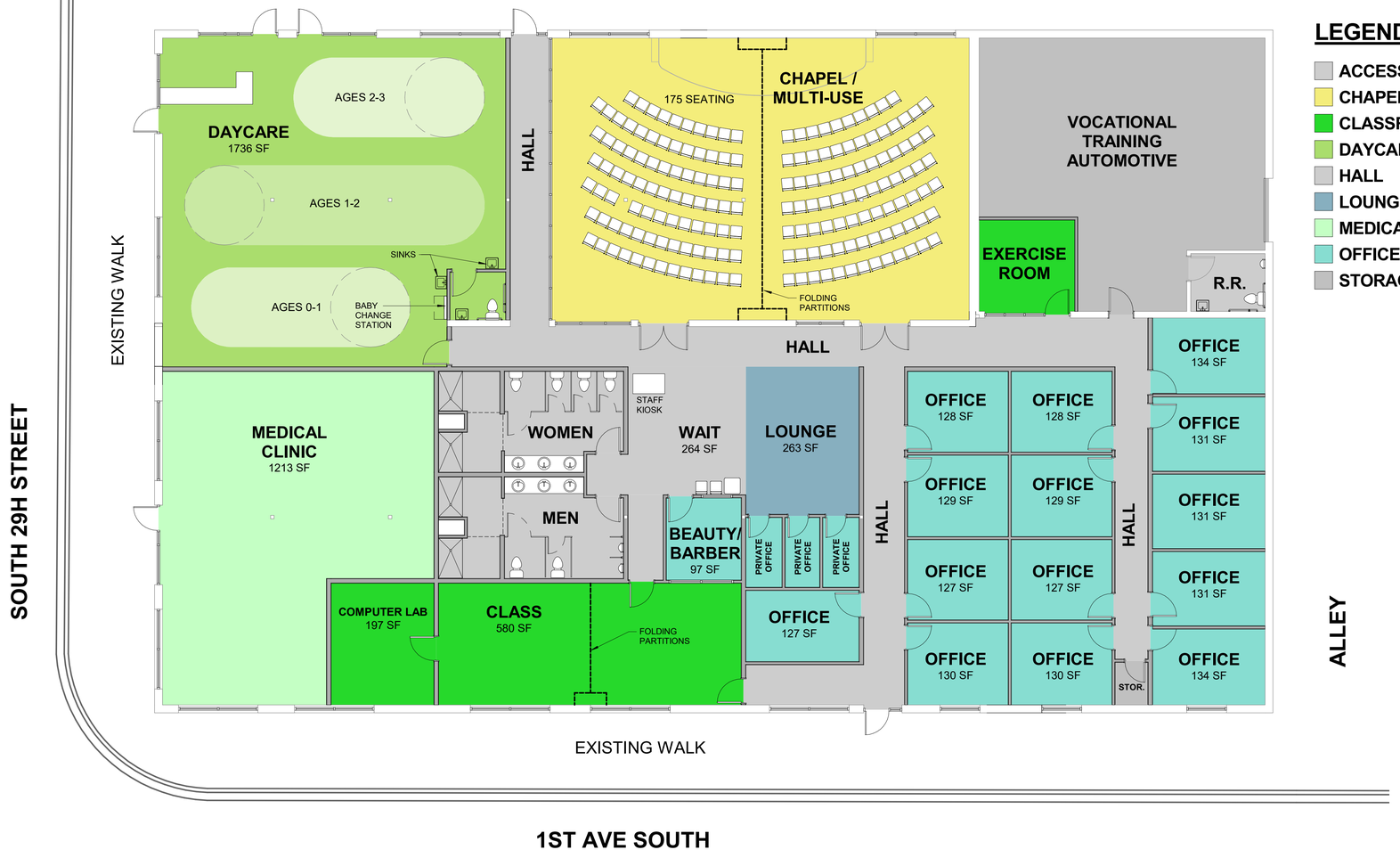
SCHUTZ FOSS
ARCHITECTS, P.C.
ARCHITECTURE · INTERIORS · PLANNING
BILLINGS, MT. & GILLETTE, WY. & DICKINSON, N.D.
www.schutzfoss.com

UPPER FLOOR
REMODEL PLAN

Project No. 1843

3.2

12/10/2020 3:21:02 PM



LEGEND

- ACCESSORY
- CHAPEL
- CLASSROOM
- DAYCARE
- HALL
- LOUNGE
- MEDICAL CLINIC
- OFFICE
- STORAGE

BUILDING 21 REMODEL PLAN

1/8" = 1'-0"

PRELIMINARY

Date	10-29-2020
Issue	Preliminary
Drawn by	SmN

REVISIONS

NUMBER	REVISION DESCRIPTION	DATE

UNIFIED CAMPUS
MONTANA RESCUE MISSION
Billings, MT

SCHUTZ FOSS
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ARCHITECTURE · INTERIORS · PLANNING
BILLINGS, MT. & GILLETTE, WY. & DICKINSON, N.D.
www.schutzfoss.com

BUILDING 21
REMODEL PLAN

Project No. 1843

3.4

12/10/2020 3:21:03 PM

mrm
montana
rescue mission

Unified Campus Timeline

2020 Tasks Completed

- Architectural planning with Schutz Foss Architects PC.
- Coordination with community stakeholders, including endorsements from the Billings City Council and Yellowstone County Commissioners.
- $6.4million in tax credits earmarked to match community investment.
- $1.4million in pledged community funding.
- $4.6million in requested funding
- Fundraising underway
- Pre-Development meeting with City Departments – building, zoning, engineering, to discuss development plans, recently, was met with great support.

2021 Tasks Planned

- Divest Montana Rescue Mission Women's Shelter to free capital for this project and add to tax rolls.
- Finalize partnership Memorandums of Understanding for all agencies and individuals who will provide services at the Unified Campus.
- Secure additional funding needed to complete the project.
- Development of Design to include details of all disciplines. Issuance of final design Construction Documents to the City of Billings.
- Receive city, county and state permitting approval to begin construction.
- Choose construction contractor through a competitive bid process.
- Begin construction.

2022-2023

- Complete the construction phase of the Unified Campus; as per contractors time line, yet to be established.

Development Committee Action Item **Agenda Item 3-a**

Meeting Date: Friday, March 26, 2020, 7:30 am

Location: Remotely via Zoom

RE: Montana Rescue Mission TIFD Assistance

Proposal:

The Montana Rescue Mission (MRM) is embarking on a project to create a Unified Campus for their operations and services. This project will encompass several buildings on Minnesota Avenue; some of which have been operational but not as optimal as they can be while other properties have been underutilized and in dire need of revitalization. This project involves properties between S 29th St and S 28th St (west to east) as well as Minnesota Ave and 1st Ave S (north to south). This effort will streamline MRM's services in addition to contributing to the energetic momentum of reactivating Minnesota Avenue. This new campus is a holistic approach to combat homelessness and guide vulnerable populations through the challenges of being re-established in the community.

The plan dictates releasing the Women's Shelter building from their ownership and consolidating all operations within the new campus. The new space will offer more privacy for its tenants, increase capacity, and offer low-income housing. Low-income tenants are still expected to meet the conditions associated with low-income housing requirements and are subject to availability of units. This campus will also offer an outdoor green space, car and bike parking, playground and pet area, on-site daycare, vocational training, library lounge, exercise facility, community auditorium, medical clinic, computer lab, class and office spaces, and a barber/beauty shop. By reinvigorating this existing space as well as releasing the Women's Shelter building back into a tax-paying entity, this project addresses many of the goals of the Downtown Billings Strategic Plan and Urban Renewal Plan such as enhancing the pedestrian experience, contributing to public safety, activating vacant spaces, and providing natural surveillance. Additionally, this project uses existing infrastructure and resources to restore health and vitality for the benefit of downtown life and the surrounding neighborhood.

MRM is requesting TIFD assistance in the amount of $1.5M dollars on a 5:1 matching basis. Their private investment is $10.5M, which includes federal low-income housing tax credits and private fundraising. The total project will cost $12M and below is a breakdown of TIF eligible expenses. Following a lengthy extensive review of the program goals, the proposal's merits, the projected funds available, and the applicant's desire for short term disbursement, the Development Committee is recommending a grant allocation of $420,000 toward blight elimination to be paid in two equal consecutive installments following completion of the project. If approved, this TIFD assistance request will be subject to available Fund 203 cash and will only be applied to qualified expenditures, such as demolition, exterior restoration (exterior windows, doors, lighting, signage, awnings), foundational/structural improvements, landscaping and streetscaping.

Eligible TIF expenses:	**Privately funded expenses**
Exterior improvements: $782,742	East building interior improvements
Exterior sitework: $797,848	Middle building interior improvements
Structural upgrades: $967,389	West building interior improvements
Subtotal: $2,547,979	Building 21 interior improvements
	Subtotal: $9,458,062

Financials

If approved, reimbursement funds are available for reimbursement starting in the fiscal year following the fiscal year in which the project is completed. Reimbursement is to be in at least two consecutive installments of $210,000 a year.

DBP Development Committee recommends approval of this project by the Board of Directors with the following contingencies:

1. The Applicant shall sign a development contract with the City of Billings and DBP within 90-150 days of City Council's approval.
2. This TIFD reimbursement is the maximum that can be received pending satisfactory submission of all paid invoices showing the completion of expenditures related to this project.
3. If funds are not available, reimbursement can be carried over to the next fiscal year.

DBP board of directors may approve, modify and approve, or disapprove the recommendation prepared by the Development Committee.

Motion to approve: I make a motion to approve the recommendation of the Development Committee to award this applicant a reimbursement grant not to exceed $420,000 so long conditions above are met.

Motion to disapprove: I make a motion to disapprove the recommendation of the Development Committee...

Motion to Modify: I make a motion to...

COVERED PLAY
COVERED BIKE STORAGE
GARDEN PLOTS
OUTDOOR LOUNGE
PARKING
GATE
GATE
TRASH
POWER
ELEVATED PATIO
PET AREA
WOMEN
FAMILY
MEN
ELEVATED PLATFORM
GATE
FENCE
ALLEY
GATE
FENCE
GRASS
PLAY
GRASS
PARKING
GATE
SOUTH 29TH STREET
SOUTH 28TH STREET
ALLEY
DAYCARE
CHAPEL / MULTI-USE
VOCATIONAL TRAINING AUTOMOTIVE
MEDICAL CLINIC
CLASS
LEGEND
1 BEDROOM
4 BUNK
6 BUNK
8 BUNK
12 BUNK
ACCESSORY
CHAPEL
CLASSROOM
DAYCARE
EFFICIENCY APARTMENT
ENTRY
HALL
LOUNGE
MEDICAL CLINIC
OFFICE
STAIRS
STORAGE
SITE PLAN
1ST AVE SOUTH

DBP Board Meeting
March 26, 2021 – 7:30 am
Remote via Zoom

ATTENDED:	Denis Pitman	Steve Tostenrud	Katy Easton	Sean Lynch
Chris Kukulski	Jock West	Norman Miller	Wyeth Friday	Sam Merrick
Mehmet Casey	James Chandler	Steve Arveschoug	Dave Fishbaugh	Marguerite Jodry
Janna Hafer				
GUESTS:	Matt Lundgren			
ABSENT	Penny Ronning	Ignacio Barron Viela	Andy Patten	Joni Harman
Steve Wahrlich	Chris Montague	Ethan Kanning		

1) Call to Order – Introductions, Courtesies, and Public Comments - Mr. West called the meeting to order at 7:31 AM

2) Regular Agenda:

a. Minutes – February 26, 2021 meeting minutes, vote to approve minutes - Ms. Jodry made a motion to approve the minutes and Mr. Lynch 2nded the minutes.

b. Presentations:

i. Montana Rescue Mission Team - Unified Campus - Mr. Lundgren presented on the MRM and covered their Key Programs. He shared information on their future vision of A Unified Campus, he covered the details of how they are planning to fit their needs rather than their current situation. He believes that the support of the TIF and the DBA is essential to them as they are vital members to downtown and provide vital services to the homeless population downtown. Ms. Jordy asked if the clinic portion of this project was going to be with the existing healthcare for the homeless services? Mr. Lundgren confirmed that this will be a different service but would be provided by MSU and their student nursing program which they have partnered with for 35 years. Mr. Lynch clarified and Mr. Lundgren confirmed that the tax base was due to the sale of a property and not from their new facility.

3) Action Items

a. Montana Rescue Mission - Development Committee Recommendation - The committee recommendation was provided in the board package. Mr. Casey reviewed the proposal, he shared the initial requested amount was larger but was within the 5:1 ratio, given the extensive review the

committee recommended $420,000 towards blight elimination to be paid in two equal installments upon the completion of the project to be applied to the various listed qualified expenses in two consecutive years. Mr. Casey listed the conditions provided in the recommendation which were:

i. The applicant would sign a development agreement contract with the City of Billings and DBP within 90-150 days of City Council's approval.
ii. This TIFD reimbursement is the maximum that can be received pending satisfactory submission of all paid invoices showing the completion of expenditures related to this project.
iii. If funds are not available, reimbursement can be carried over to the next fiscal year.

Mr. West asked Mr. Lundgren to confirm that the Women's shelter is under contract with an entity in addition to a backup offer that are for profit entities, Mr. Lundgren confirmed this. Mr. West asked for confirmation on funds available to fulfill this and Mr. Casey confirmed that we do. Mr. West opened the conversation to the board for questions.

Mr. Lynch was willing to make a motion on this with the terms that the shelter is being sold to a for-profit business. There was a second to the motion but it was unclear who due to technical difficulties with Zoom no name appeared and no name was mentioned. All that were present were in favor, none opposed the motion was approved and passed.

4) Old Business - Mr. Casey had some updates to share with the board

1) The Stone agreement has been fully signed and he has been in communication with Randy Swenson about this project.
2) The Burger Dive and Kibler & Kirch are currently working on adjustments within their individual contracts. Nothing that would change the vote or recommendation but details of the address, acquisition, dates and when construction will complete.
3) Mr. Casey provided an update on the 29th street conversion and there have already been a few changes and Erin is no longer with the city and there is a slight change in the start date and starting point. The anticipated start date is April 5th or 12th and the tentative start location is at 3rd and moving south leaving 6th and 4th for last.

5) New Business

1. Mr. Casey provided an update on the upcoming budget presentation to council that are more infrastructure based with CPTED and Signage base. In addition, we are considering a TIF allocation to improve Skypoint for the 20th anniversary and various parking accommodations. In addition to this, we're trying to implement a tree program to add landscape and greenery to create more pedestrian friendly areas and beautification efforts.
2. At the state level, Mr. Casey reported that one house bill 639 has been

tabled and he is still watching one senate bill 388. Both bills deal with TIF, Mr. Friday shared some information regarding Bill 388 and is in opposition to this bill.

6) Partner reports (if time permits)

a. **City of Billings** - Mr. Kulkulsi said he's working with the DBA team regarding budgets and the two way street conversion. He also covered various investments with parking, technology and tired signage to do. He gave a big thank you to the team that cleaned up downtown.
b. **Yellowstone County** - Mr. Pitman provided an update and that they have a lot of things going on regarding their Metra master plan and intended to go out for a bond this fall. He said he's been working with the jail to get those who need to be in there, in there and mental health services in the jail as well. In addition to attempting to get more MDT street sweeping services on state roads.
c. **SD#2 -** Ms. Hafer shared that school is still in session and they are pretty proud of that and 10-15% still remain remote. She shared that in 2015 they passed the largest bond in history, and they are working with DA Davidson to refinance that bond and hope to save taxpayers money. She shared that summer school is going to happen this year for all grades.
d. **Big Sky Economic Development** - Mr. Arveschoug shared that BSEDA put their bid out for the MT State bank building and they are excited as well as nervous. Their federal grant dollars are going to help them meet their mission in addition to Chris Nelson supporting their mission to support entrepreneurship. There's a new MT House Bill 650, it is a MT startup tax incentive bill and is hoping for traction.
e. **Downtown Billings Association** - Ms. Easton shared that events are coming back downtown and a press release is scheduled to come out in the near future. She shared that the DBA is striving to bring events back in a safe and thoughtful way and is a collaboration with several other event organizations.
f. **Business Improvement District** -Ms. Easton shared the jail has set aside 10 beds for the MAAP program five for men and five for women and these beds have already been filled. She shared that the actual and visual impact this has had on downtown is significant. She also shared that they are working on a community impact statement and they have been able to identify 94 individuals with 15 or more contacts with law enforcement in a year, some reaching over 300 and they are looking at the financial impact on the community with hopes to deliver numbers soon.
g. **Billings Cultural Partners** - Not present
h. **Parking Advisory Board** - Mr. Fishbaugh commended Mr. Casey for putting together an application process for pedlets which will be managed by the DBA and will submit recommendations to the parking board.
i. **Downtown Billings Property Owners Association**- There was no meeting last month but there is a meeting next month and an invitation is extended to the Downtown Resource Officers to discuss their concerns with the transient population and hope to come up with some constructive ideas to provide solutions. This meeting will be held on the 21st of April.

7) Adjourned at 8:33 a.m.

NOTE: SUPPORTING DOCUMENTS FOLLOW AGENDA

CITY OF BILLINGS

CITY OF BILLINGS' VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS December 8, 2008 6:30 P.M.

CALL TO ORDER – Mayor Tussing
PLEDGE OF ALLEGIANCE – Mayor Tussing
INVOCATION – Councilmember McCall
ROLL CALL
MINUTES – November 13, 2008, Special Meeting
November 24, 2008
COURTESIES – Presentation to Al Winegardner and family in appreciation of donation in memory of Jayne Winegardner
PROCLAMATIONS
ADMINISTRATOR REPORTS – Tina Volek

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

CONSENT AGENDA:

1. A. Change Order #3, W.O. 08-09, Waste Water Treatment Plant Primary Effluent Pipe Replacement and Sludge Drying Bed Expansion, Western Municipal, $20,468.65, and **increase** the City Administrator's change order authority by $50,000.

B. Approval of compensation agreement for Private Contract No. 599, Emmanuel Baptist Church Sanitary Sewer Extension project, $325,360.

C. **Approval** of amended Purchase and Sale Agreement with School District Two for ten acres within Cottonwood Park for $200,000, and **authorization** for the Mayor to execute associated documents to consummate the sale and transfer of ownership of the property.

D. **Approval** of grant application submittal to Safe Route to School Program for the Elementary School Traffic Plan, $50,000.

E. **Resolution** relating to financing of proposed Zone 3 Storage, Zone 4 Reservoir project and Water Rehabilitation project; establishing compliance with reimbursement bond regulations under the Internal Revenue Code for the purpose of reimbursing the City with bond sale proceeds for financing water projects prior to the availability of funds.

F. **Resolution** relating to financing of a proposed Wastewater treatment plant disinfection system project; establishing compliance with reimbursement bond regulations under the Internal Revenue Code for the purpose of reimbursing the City with bond sale proceeds for financing sewer projects prior to the availability of funds.

G. **Second/Final reading** ordinance expanding the North 27th Street Urban Renewal Area – 2008.

H. **Second/Final reading** ordinance modifying the South Billings Boulevard Urban Renewal District.

I. **Exempt Amended Plat** of Tract 1 of Certificate of Survey 1815.

J. **Bills and Payroll**
(1) November 7, 2008
(2) November 14, 2008

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION GRANTING NEW OR EXPANDING INDUSTRY TAX INCENTIVES FOR BIG SKY ECONOMIC DEVELOPMENT AUTHORITY/GENERAL ELECTRIC CAPITAL CORPORATION** for a new building at 3333 Hesper Road. Staff recommends approval. (**Action**: approval or disapproval of staff recommendation).

3. **PUBLIC HEARING AND RESOLUTION GRANTING NEW OR EXPANDING INDUSTRY TAX INCENTIVES FOR DALCO INDUSTRIES DBA TETON STEEL** for property improvements at Gabel Road and South 29th Street. Staff

recommends approval. (**Action**: approval or disapproval of staff recommendation).

4. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR REVISIONS TO BOARDS AND COMMISSIONS:** Revisions that provide consistency in procedural areas for advisory boards, commissions and committees, and reorganizes ordinances into one Article of the Code. Staff recommends approval. (**Action**: approval or disapproval of staff recommendation).

5. **PUBLIC HEARING FOR EXTENSION OF INTERIM ZONING ORDINANCE:** A proposed one-year extension of the Interim Zoning Ordinance that amends Section 27-611, Sexually Oriented Businesses, and allows the interim zoning ordinance to be effective until December 23, 2009. Staff recommends approval. (**Action**: approval or disapproval of staff recommendation).

6. **DOWNTOWN BILLINGS PARKING STUDY.** Delayed from 11/24/08. Staff recommends approval of contract with Rich and Associates, Inc. for $68,500. (**Action**: approval or disapproval of staff recommendation).

7. **PUBLIC COMMENT on <u>Non-Agenda</u> Items --** <u>Speaker sign-in required.</u> *(Restricted to <u>ONLY</u> items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)*

(Action: approval or disapproval of Consent Agenda.)

ADJOURN

(NOTE: Additional information on any of these items is available in the City Clerk's Office)

Visit our Web site at:
http://ci.billings.mt.us

ATTACMENT A

ORDINANCE NO. _____

AN ORDINANCE MODIFYING THE URBAN RENEWAL PLAN OF THE NORTH 27TH STREET DISTRICT URBAN RENEWAL AREA; MODIFYING THE BOUNDARIES OF THE DISTRICT; ADOPTING A MODIFIED URBAN RENEWAL PLAN INCLUDING A TAX INCREMENT PROVISION; APPROVING URBAN RENEWAL PROJECTS THEREIN AND AUTHORIZING THE ISSUANCE OF TAX INCREMENT URBAN RENEWAL REVENUE BONDS OF THE CITY TO FINANCE COSTS THEREOF

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

WHEREAS, on July 11, 2005 the City Council adopted Ordinance No. 05-5333, which created the North 27th Street District Urban Renewal Area (hereafter "North 27th Street District") and adopted the Urban Renewal Plan of the North 27th Street District Urban Renewal Area ("N. 27th Street Plan") that included a tax increment provision and endorsed urban renewal projects.

WHEREAS, on November 13, 2006 the City Council adopted Ordinance No. 06-5394 which expanded the boundaries and amended the N. 27th Street Plan to create the Extended N. 27th Street District that included a tax increment provision and endorsed urban renewal projects.

WHEREAS, it has been determined that the Extended North 27th Street District and the N. 27th Street Plan should be modified to include additional property contiguous to the Extended North 27th Street District.

WHEREAS, this Council on November 24, 2008, conducted a public hearing on a proposal to modify the N. 27th Street Plan by adopting the Urban Renewal Plan of the Expanded North 27th Street District Urban Renewal Area - 2008, thereby establishing a modified urban renewal area to be formally designated as the Expanded North 27th Street District Urban Renewal Area - 2008 (the "Expanded North 27th Street District - 2008" or "the Property"), and to undertake urban renewal projects therein, all as authorized by Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act").

WHEREAS, the Expanded North 27th Street District - 2008 is depicted on Attachment 1 (depicting the relationship of the Expanded North 27th District – 2008 to the Extended N. 27th Street District) and which is hereby incorporated herein and made a part hereof. Pursuant to this Ordinance, the boundaries of the Redevelopment Area are modified to reflect the addition of the Property depicted on the map on Attachment 1. The Redevelopment Area, as modified, is depicted on Attachment 1 and legally described on Attachment 2 (the "Resulting Redevelopment Area") (each of which is hereby incorporated herein and made a part hereof). The Resulting Redevelopment Area is contiguous.

WHEREAS, opportunities have been presented to the City that makes it desirable for the City to consider urban renewal projects within the Expanded North 27th Street District - 2008 consisting of demolishing certain blighted structures within the district; improving such properties with new construction, landscaping, utilities, and other similar improvements; and making the properties so improved available for private redevelopment in accordance with the Act (the "Projects"). Development proposals to be considered for funding include mixed use projects, building renovations, services for the District and the construction or expansion of City owned parking structures within the District.

WHEREAS, the proposed modified urban renewal plan titled the Urban Renewal Plan of the Expanded North 27th Street District - 2008 is attached hereto as Attachment 3 (which is hereby incorporated herein and made a part hereof) (the "Modified Plan"). The Modified Plan contains a tax increment provision and will govern the operation and administration of the Expanded North 27th Street District - 2008.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Billings, Montana, as follows:

1. Findings. This Council hereby finds, determines and declares, based on the comments received at the public hearing and other studies and information available to this Council, that:

a. The Property presently contains structures and improvements that are in a state of substantial deterioration, are obsolete or defective, pose unsanitary or unsafe conditions, are vacant and unused, and have inappropriate uses. The present condition of the Property substantially impairs the sound functioning of the downtown area of the City and its environs, is conducive to juvenile delinquency and crime, poses the threat of vandalism or mischief and fire or loss, constitutes an economic and social liability, and is a menace to the public health, safety, and welfare of the residents of the City. Accordingly, the Council reaffirms its previous findings that the Property is a blighted area within the meaning of Section 7-15-4210 of the Act. This Council finds that the rehabilitation, redevelopment or a combination thereof of the Property is necessary and in the interest of the health, safety, morals or welfare of the residents of the City. This Council finds that undertaking measures to eradicate or diminish the blight affecting the Property will help to foster a more dynamic, livable, and vibrant downtown.

b. If Projects require relocation of displaced persons, a detailed relocation plan is required and will be prepared.

c. The Modified Plan conforms to the 2003 Billings and Yellowstone County Growth Policy and the City's Downtown Framework Plan.

d. The Modified Plan will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise.

e. A sound and adequate financial program is required for the financing of Projects, which program includes substantial private investment and financing and the sale and issuance by the City of Tax Increment Bonds in proportions yet to be determined, for the purpose of financing a portion of the costs of the Projects as set forth above.

f. Approved Projects will constitute urban renewal projects within the meaning of the Act and are authorized to be undertaken by the City.

2. Plan Adoption. The Modified Plan is hereby adopted and approved in all respects, including without limitation, the segregation and application of tax increments as provided in Sections 7-15-4282 through 7-15-4293 of the Act as provided therein. For purposes of allocating taxes according to the Act, the "prior assessed value" of taxable property within the Expanded North 27th Street District - 2008 is that value shown on the assessment rolls as of January 1, 2008.

3. Project Approval. Authorized Projects are hereby approved.

4. Bonds. This Council approves financing the costs of Urban Renewal Projects, or a portion thereof, with proceeds of the Bonds. The City is hereby authorized and directed to undertake activities and analysis ordinarily prerequisite to the issuance of tax increment urban renewal revenue bonds in a principal amount not to exceed $10 million for financing of the costs of Urban Renewal Projects or a portion thereof.

5. Conditional Commitment. The adoption of the Plan does not constitute a guarantee or a firm commitment that the City will issue the Bonds or undertake Projects. If, based on comments or information made available to or obtained by the City, it appears that the issuance of the Bonds or Projects is not in the public interest or consistent with the purposes of the Act, the City reserves the right not to issue the Bonds or undertake the Project.

7. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

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

9. Effective Date. This Ordinance shall be in full force and effect from and after the date that is 30 calendar days after the date set forth below.

ADOPTED by the City Council of the City of Billings, Montana, on second reading this 8th day of December, 2008.

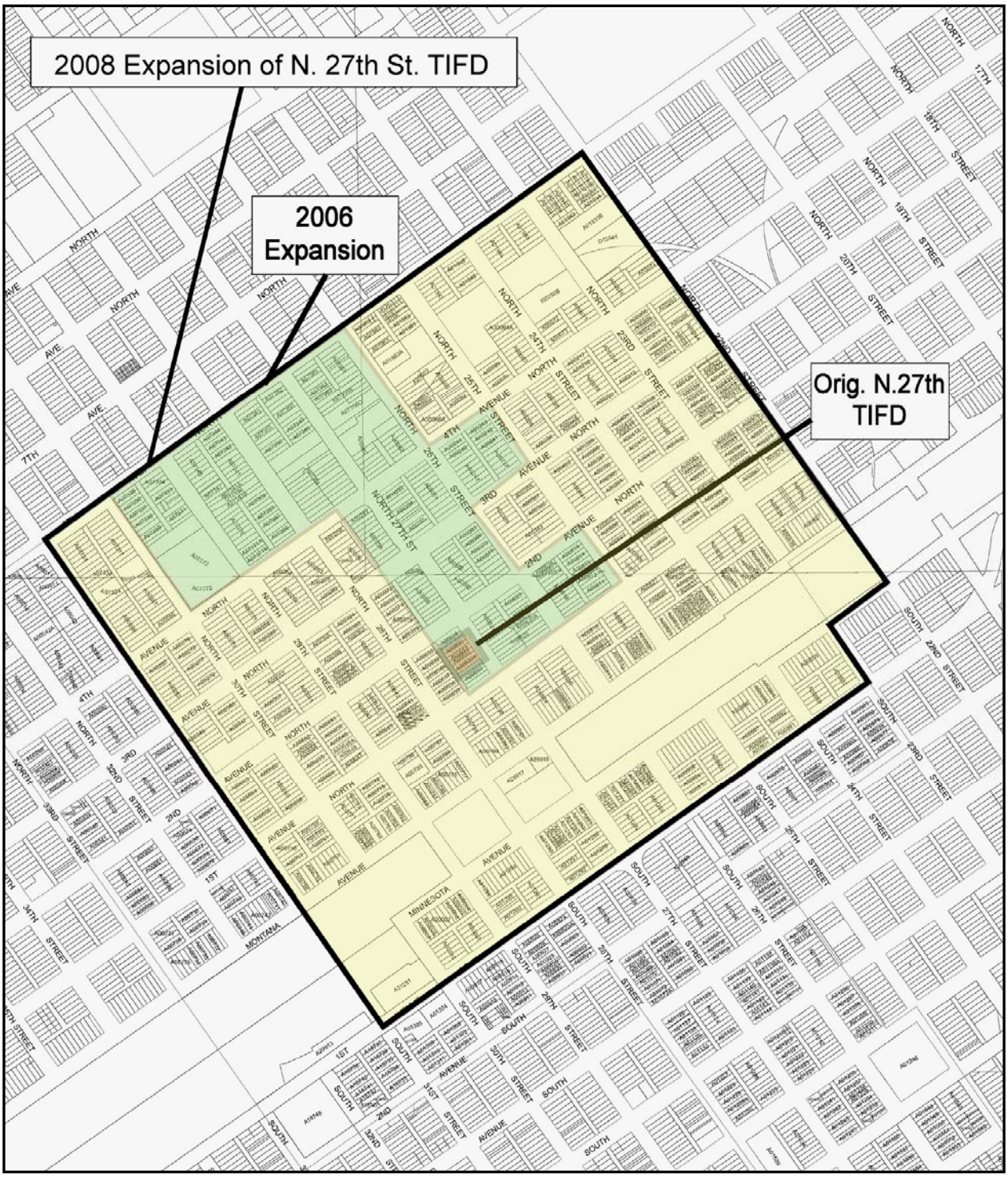
_____
Ron Tussing, Mayor

ATTEST:

_____
Cari Martin, City Clerk

ATTACHMENT 1

Expanded North 27th Street Urban Renewal District – 2008 Boundaries, Boundaries of the Extended N. 27th Street District (2006) and the Boundaries of the N. 27th Street District (2005)



ATTACHMENT 2

Expanded North 27th Street Urban Renewal District – 2008
Boundary Description

Beginning at a point at the intersection of the centerlines of 6th Avenue North and North 31st St. proceeding east along the centerline of 6th Ave. North to a point at the intersection of the centerlines of 6th Avenue North and N. 22nd Street proceeding south along the centerline of North 22nd Street, crossing the centrally assessed Burlington Northern Railroad property, to a point at the intersection of South 22nd Street and Minnesota Avenue proceeding west along the centerline of Minnesota Avenue to a point at the intersection of Minnesota Avenue and South 23rd Street proceeding south along the centerline of South 23rd Street to a point at the intersection of South 23rd Street and 1st Avenue South proceeding west along the centerline of 1st Avenue South to a point at the intersection of the centerlines of 1st Avenue South and South 31st Street proceeding north along the centerline of South 31st Street, crossing the centrally assessed Burlington Northern Railroad property, to the starting point at the intersection North 31st Street and 6th Avenue North encompassing all parcels and tax codes therein.

ATTACHMENT 3
Expanded North 27th Street Urban Renewal Area – 2008
Modified Plan

EXPANSION OF THE BILLINGS, MONTANA NORTH 27TH STREET URBAN RENEWAL AREA, WITH TAX INCREMENT, AND AMENDMENT TO THE URBAN RENEWAL PLAN

FOR CITY OF BILLINGS AND PLANNING REVIEW
October 14, 2008

Prepared by

Downtown Billings Partnership, Inc
2815 2nd Ave. North – Billings, MT 59101 – gregk@downtownbillings.com

SECTION 1 – INTRODUCTION

On July 11, 2005, the City Council adopted an ordinance that (a) created the North 27th Street District Urban Renewal Area ("North 27th Street District") and (b) adopted an urban renewal plan for the district. On November 13, 2006 the City Council adopted an ordinance that (a) expanded the North 27th Street District and (b) modified the urban renewal plan for the district. For reasons discussed in this Amendment to the Urban Renewal Plan of the North 27th Street District ("Plan"), it has been determined that the North 27th Street District should be expanded again to include other contiguous blighted properties in need of redevelopment. Further, it has been determined that this area, known as the Central Business District of Billings, has been and is in need of expanded public parking, enhanced pedestrian connections and experiences, improved public safety, and infrastructure improvements to public and private properties that will lead to increased taxable values. The existing urban renewal plan may be modified by ordinance in accordance with the procedure described in M.C.A. § 7-15-4221. The Urban Renewal Plan of the North 27th Street District approved by the City Council on July 11, 2005 and modified on November 13, 2006 is hereby included by reference as part of this amended Plan and shall remain applicable hereto except to the extent the original plan is explicitly or impliedly amended by this Plan. It is recognized as part of this Plan that the basic vision of the document known as Downtown Billings Framework Plan, adopted by the Billings City Council on December 22, 1997 and by the Yellowstone County Commissioners on December 23, 1997, is still valid and should be considered a part hereof. The terms defined in "Part I – DEFINITIONS" of the North 27th Street District Plan shall have the same meanings in this Plan unless a contrary meaning is expressed herein. The expanded district proposed in this Plan is hereafter referred to as the Expanded North 27th Street District - 2008 or the "District."

SECTION 2 – BACKGROUND

The original Downtown Redevelopment District, a downtown tax increment finance district, was created on December 20, 1975 by a resolution which cited hazardous conditions existing in the district due to overhead utility wires, inefficient land use, problems of access and circulation, physical constraints to development, random location of mixed uses and deteriorated building

conditions, and found that rehabilitation and redevelopment of the District would be in the public interest. That original district (hereafter "1975 District") comprised one hundred and twenty four (124) blocks in the city center after the 1985 south expansion and the 2004 east expansion. The 1975 District expired March 1, 2008 but the Urban Renewal Plan and the Framework Plan used for that district, in many parts and in relation to this District remain valid.

Because the 1975 District has terminated, but many of the undesirable conditions continue to exist, it was determined that it would be in the best interest of the City to expand the North 27th Tax Increment District to assist the construction of public improvements, stabilize and grow the tax base, increase the parking inventory, increase the inventory of downtown residential property, stimulate multi-use development ("Multi-Use Facility Projects"), fill street level vacancies, provide expanded security, develop safe event locations with appropriate traffic control devices, expand the Business Improvement District, make modifications to street and intersection lighting, increase traffic calming and reduce the noise in the district through Quiet Zone management and further implement the vision of the Downtown Framework Plan.

Currently, there is a need to expand the North 27th Street District to encompass development needs on the North 27th Street corridor, the North Broadway corridor, the Old Town Neighborhood and the Montana Avenue Historic District (including expansion of the Historic District to include areas south of the railroad tracks), the Civic District, areas adjacent to the Medical Corridor, adjacent to the East Billings Urban Renewal Area and other underutilized properties within the Central Business District of Billings. Although there has been significant improvement in the valuation of property in much of the 1975 District, the area defined by this proposed expanded tax increment district has major properties that have been neglected for many years and continue to show signs of serious blight and tax base decline. Many parcels have been removed from the tax rolls and/or are delinquent on payments of taxes and fees. The Expanded North 27th Street District creates an opportunity to continue redevelopment of the center of downtown with a mixture of public and private investment in a roughly seventy-one-square-

block district (just over half of the size of the 1975 expanded district) encompassing the existing North 27th Street District.

The area has several pockets of low taxable value, with several lots of the land being owned by government and other non-profit entities and several buildings that are over 50% vacant.

The creation of the Expanded North 27th Street District is essential to any planned development at 4th Avenue North and North Broadway, redevelopment of the vacant Northern Hotel, improving security and expanding the clean safe and vibrant programs of the Business Improvement District, continuing redevelopment of the Civic Plaza area, developing the boundary areas of the Medical Corridor and the East Billings Urban Renewal Area, and expanding the Historic District. It could also assist with the essential remodeling of the Northern Hotel, the Babcock Theatre, the Westwood Building, the Lincoln Hotel Building. Public infrastructure construction within this expanded District could assist with the renovation and/or relocation of various City facilities, such as the public library. It is currently expected that the expanded North 27th Street District may help fund the following projects:

I. Business Programs and Projects

a. Business Retention
    i. Targeted assistance and review of existing street level businesses
    ii. Retail market survey
b. Business Recruitment
    i. Development of a "chainlet" network
    ii. Business plan development assistance
    iii. Association networking
    iv. Business Improvement District support
    v. Business cluster analysis
    vi. Pedestrian study
        1. demographics
        2. directions
        3. linkages
        4. destinations
        5. wayfinding

II. Parking and Transportation

a. Increase use of public transit
b. Parking structures to support current and future needs

c. Explore parking linkages to adjacent destinations
d. Explore parking management practices and programs
    i. Off street parking
    ii. On street parking

III. Crime Prevention and Public Safety

a. Cooperative Security Program
b. Business Watch Program
c. Crime and Fraud prevention programs
    i. Geared towards street level businesses

IV. Management, Implementation and Maintenance

a. Downtown Billings Partnership, Inc. or its successor, management agreement
    i. Project development
    ii. Public awareness
    iii. Advocacy and liaison between public and private sectors
b. Business Improvement District expansion and development
    i. Cooperative work agreements with PMDs
    ii. Development and promotion of Conference Corridor
    iii. BID expansion
    iv. "Green" Management
        1. Recycling programs
        2. Tree management

V. Infrastructure Improvements

a. Public
    i. Expansion of Historic District
    ii. New Library
    iii. New Planning Department Offices
    iv. Public Parking and Greenspace
    v. Intersection Lighting by Public Works
    vi. New SILMDs for mid-block lighting
    vii. Streetscapes and traffic calming plans
    viii. Sidewalks, curbs and gutter improvements
        1. stabilization of vaults
    ix. Relocation of public and private utility lines
b. Public infrastructure improvements that would support the following development projects/programs
    i. Workforce housing development
    ii. Loft and Condo development
    iii. Lodging development
    iv. Conference Facilities

v. Entertainment venues

SECTION 3 – SUMMARY OF BLIGHT FINDINGS

The area in the proposed expansion of the North 27th Street District contains a great deal of blight. Within the district there is substantial structural deterioration, long-term land vacancy, a railroad spur line that has been abandoned and a major rail line that continues to divide the Central Business District. Several of the commercial buildings in the district are deteriorated and/or vacant and need demolition or renovation. Many of the storefronts and upper floors are vacant or under-occupied. Sidewalks are cracked; alleys are deteriorated, and, in general, much of the area is below accepted standards. In contrast to the above, there are certain properties within the district in good repair but included in the district to allow for a contiguous block of land within the district and because pockets of revitalization cannot be sustained if areas of neglect and blight surround them. Over time, without continued managed urban renewal, even these success stories will once again decline in taxable value. Most of the district falls into the blighted, neglected and under-utilized categories.

SECTION 4 – DESCRIPTION OF BLIGHTED AREA

The expanded urban renewal area described in this amended Plan incorporates most of the Central Business District. Within the district there are several older, single-story structures that have been retrofitted for offices and warehousing, numerous surface parking lots, and several vacant structures. Many of these structures are unsuited to their current uses because of age obsolescence and physical deterioration.

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

> *[A]n area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs or arrests the sound growth of the city or its environs; retards the provision of housing accommodations; or constitutes an economic or social liability or is detrimental*

or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

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

The land being added to the Plan area includes 405 (Exhibit A) property tax codes plus a segment of centrally assessed BN Railroad property. The complete, expanded Urban Renewal Area will have 481 property tax codes plus the segment of BN Railroad property. Within that total area, and as noted in the 2006 approved Urban Renewal Plan, there are many "target areas" that should be immediately considered for redevelopment. The properties on N. Broadway between 4th Avenue North and 6th Avenue North will need additional parking to facilitate the construction of a Stockman Bank facility. The area adjacent to the Northern Hotel on North Broadway is in need of parking due to the closure of the privately owned parking structure in that area due to unsafe and blighted conditions of the structure. The area east of the Yellowstone County Courthouse Lawn is targeted for a new federal courthouse and will need additional parking and green spaces. The area between the new MET transit facility on N. 25th Street and to the east boundary of the East Billings Urban Renewal Area (N. 22nd Street) is in need of redevelopment that could include workforce housing and parking. The status of the Battin Federal Courthouse is still unclear. The facility is contaminated with asbestos and is destined to become vacant with the completion of a new federal courthouse and office building. This

vacancy will present a redevelopment opportunity in the near future. The area surrounding City of Billings Park IV contains many surface parking lots that could be developed if Park IV is sold to a private developer. This area lacks high-rise housing with mixed use occupancy on the first floor. The future use of the Lincoln Center is unclear and it could be a redevelopment opportunity if the school district ceases its administrative and continuing education functions in the building. The properties on 1st Ave. S. and Minnesota Avenue are not currently in a Historic District and values remain stagnant as compared to the Montana Avenue area. The redevelopment of the south side of the railroad tracks has not kept up with the redevelopment north of the tracks and should be a target area. Several properties located between Montana Avenue and 1st Avenue North are severely underutilized and in need of redevelopment. Without attention to some of this blight, over time, the value of the Montana Avenue redevelopment will most likely be negatively impacted.

SECTION 5 – DETERMINATION OF BLIGHT

The proposed expansion area of the North 27th Street District contains a number of underdeveloped properties. The Council previously determined that the property included in the North 27th Street District was "blighted" within the meaning of the Act in Resolution 05-18276 adopted June 13, 2005 and Resolution 06-18488, adopted September 25, 2006. The Redevelopment Area, including the portion that is to be expanded to form the Expanded North 27th Street District - 2008, was previously determined to be blighted and an appropriate area for an urban renewal project in Resolution No. 12107 dated January 5, 1976. Deficiencies in public and private properties located in the district lead to a determination that the area continues to be blighted, as defined by state statute. Specific areas of blight on the site are listed below:

Deficient Structures in Expanded Area

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

Deficient Public Facilities in Extended Area

The streets, curbs, gutters and sidewalks in much of the area are in satisfactory repair. However, sewer and water utilities in the area are aging and have required frequent repairs in recent years. Several parking lots generally do not meet code requirements for paving, striping and landscaping. Many of them are cracked and crumbling. The city owned parking ramps within the area, except for Park IV have extensive "waiting lists" and public parking for adjacent office and commercial structures continues to be inadequate. Demand for parking will continue and additional and expanded parking structures will be required to accommodate commercial growth.

Deficient Land Use in Extended Area

In general, the area is under-utilized due to the significant amount of surface parking areas and a large number of single-story structures. The taxable value of this district must be stabilized and encouraged to grow.

SECTION 6 – THE SITE AND ITS RELATIONSHIP TO THE CITY

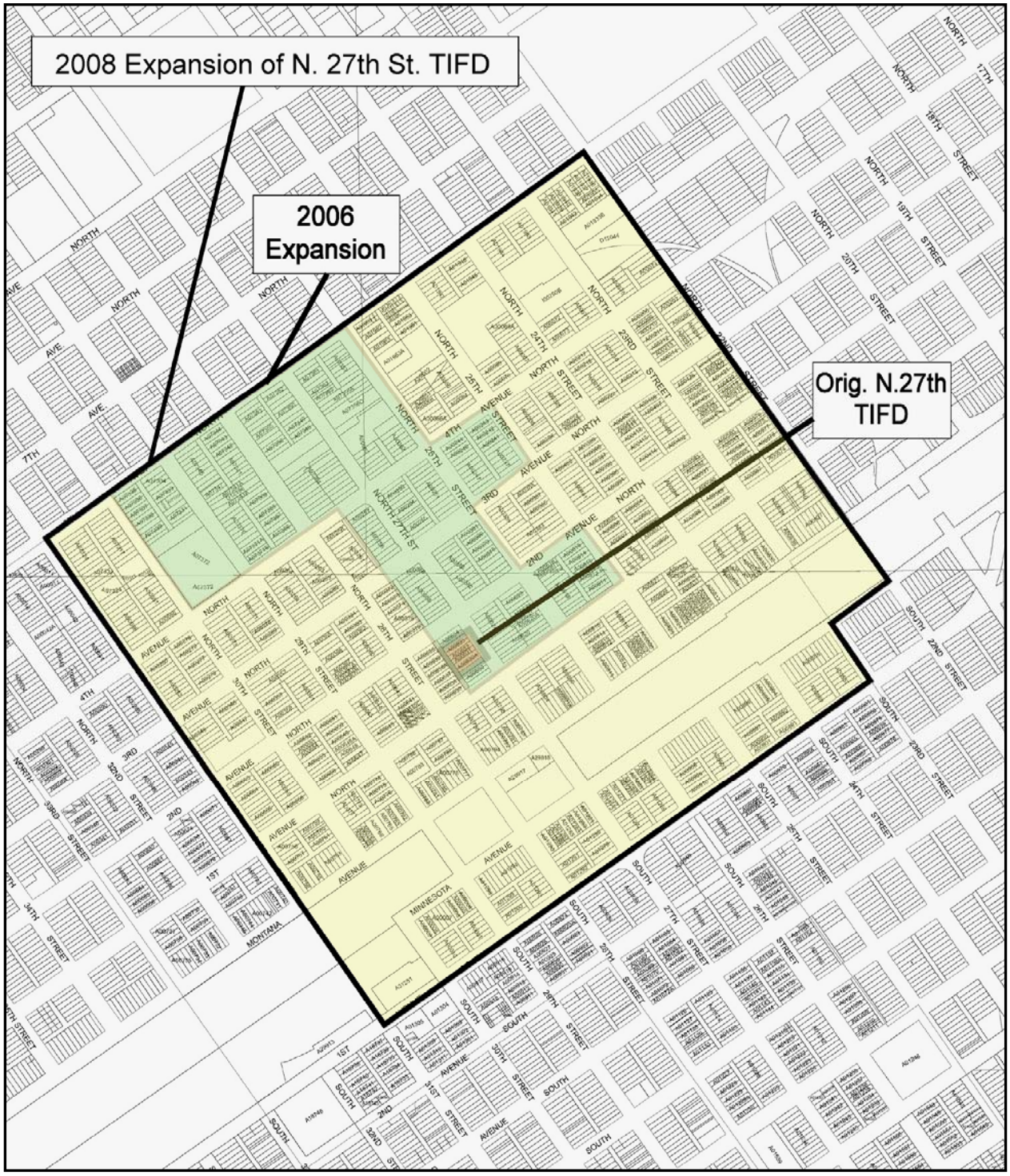
As noted, the expanded North 27th Street Urban Renewal Area comprises most of the Central Business District (CBD) of the City of Billings.

SECTION 7 – LEGAL DESCRIPTION

The legal description of the proposed Expanded North 27th Street District – 2008 is as follows:

Beginning at a point at the intersection of the centerlines of 6th Avenue North and North 31st St. proceeding east along the centerline of 6th Ave. North to a point at the intersection of the centerlines of 6th Avenue North and N. 22nd Street proceeding south along the centerline of North 22nd Street, crossing the centrally assessed Burlington Northern Railroad property, to a point at the intersection of South 22nd Street and Minnesota Avenue proceeding west along the centerline of Minnesota Avenue to a point at the intersection of Minnesota Avenue and South 23rd Street proceeding south along the centerline of South 23rd Street to a point at the intersection of South 23rd Street and 1st Avenue South proceeding west along the centerline of 1st Avenue South to a point at the intersection of the centerlines of 1st Avenue South and South 31st Street proceeding north along the centerline of South 31st Street, crossing the centrally assessed Burlington Northern Railroad property, to the starting point at the intersection North 31st Street and 6th Avenue North encompassing all parcels and tax codes therein, all inclusive.

Map of entire Expanded N. 27th District



SECTION 8 – PROPERTY DEVELOPERS

New development in the proposed tax increment district will also be accomplished through the implementation of the Downtown Framework Plan. These Projects are described in Section 2 of this plan.

SECTION 9 – PROJECT RELATIONSHIP TO THE FRAMEWORK PLAN

The proposed urban renewal area and expanded tax increment district is located generally in the center of the City and encompasses most of the "districts" as defined by the Billings Framework Plan ("Framework Plan"). One goal of the Framework Plan was to remove barriers to downtown circulation and development created by 4th Avenue North and 6th Avenue North and establish the area between the avenues as both a discreet district and a recognized extension of the CBD, thereby allowing potential ties to the medical corridor and MSU-Billings from the CBD. Generally, the Framework Plan stressed the downtown's ability to make a positive impact on the entire city. The Framework Plan also recommended a private non-profit organization to assist the City of Billings with the management of the Tax Increment District through an annual work plan and contract. This Expanded N 27th Street District may be managed in a similar manner and could make use of the redevelopment and facilitation established through that management entity.

Framework Plan Recommendation: Housing

The Framework Plan states that housing should be a top priority and that the City should continue to work with builders and developers to encourage downtown housing through various methods. Specifically, the plan states that high-rise housing is to be located in the east transition zone and portions of the north transition zone.

The formation of an expanded tax increment district will help to raise funds that can be used for construction or rehabilitation of public infrastructure necessary to attract and retain housing in the area.

Framework Plan Recommendation: Priorities

The top priorities identified in the Framework Plan include the following:

- Development incentives, including business retention and recruitment
- Housing – demonstration projects
- Streetscape Kit of Parts – expand kit to include Minnesota Avenue
- Events Kit of Parts – Modern and safer traffic control devices may be needed
- Paring configuration adjustments – several one-way streets could be converted to 2-way
- 5th Avenue North Corridor preservation and enhancement

This amendment to the Plan and the urban renewal projects that it contemplates specifically address all six of these priorities.

SECTION 10 – CONFORMANCE TO THE GROWTH POLICY

One of the requirements of Montana's Urban Renewal Law (Title 7, Chapter 15, Parts 42 and 43) is that the urban renewal plan must conform to the community's growth policy. The Yellowstone County and City of Billings Growth Policy ("Growth Policy") refers to and promotes downtown redevelopment in a variety of ways. This amendment to the Plan is consistent with the current Growth Policy.

SECTION 11 – CERTAIN PLAN FEATURES AND FINANCIAL MATTERS

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

1. Most of the District contains no existing dwelling units or housing, and planned projects would not displace any persons from housing. Accordingly, there is no need to have a workable and feasible plan for substitute housing until and unless such a project is developed in the future.

2. This amended Plan conforms to the Growth Policy for the City as a whole and to the

Framework Plan.

3. This Modified Plan affords maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the Expanded North 27th Street District by private enterprise. It is unreasonable to expect that the district will be remain stabilized and/or redeveloped without substantial public support. Numerous properties within the area are dilapidated. As presently constituted, property in the district is not conducive to any sort of uniform or integrated development and, as presently existing, cannot compete with other areas of the City for substantial developments, particularly areas at the outskirts of the City. Experience has validated the foregoing facts and observations. This amended Plan is intended to facilitate the identification and construction of significant Urban Renewal Projects, which would not be possible without this Plan.

4. A sound and adequate financial program exists for financing projects, which include the sale and issuance by the City of the Bonds in an amount not to exceed the costs of the project, including administration costs and costs of issuance of the Bonds. Any approved Development Project will require commitments of substantial private financing that will provide the primary means for funding construction of the improvements.

5. This Expanded N. 27th Street District - 2008 may be modified at any time by the City Council as necessary to eliminate and prevent the development or spread of blighted areas, and encourage urban rehabilitation. The process for plan modification shall follow the procedures set forth in 7-15-4212 through 7-15-4219 MCA, with respect to initial adoption of this plan. For purposes of urban renewal district boundary changes only, the notice of public hearing, as described in 7-15-4215 MCA, may be mailed only to those owners whose properties are situated within the area of expansion or contraction of the Urban Renewal District boundaries. In cases where the boundaries are not modified, but the contents of the urban renewal plan are substantially modified, notification shall be mailed to all owners of property within the Urban Renewal District area.

SECTION 12 – TAX INCREMENT

Tax increment financing is necessary to encourage private reinvestment within the District, which will further encourage economic growth in the District and Downtown Billings, create substantial employment opportunities, and increase the tax base of the City and other taxing jurisdictions. The expanded North 27th Street District is hereby established as a tax increment financing urban renewal area within the meaning of the Act, and, in particular, Section 7-15-4282 through 7-15-4293 of the Act. This Section constitutes a tax increment provision within the meaning of the Act. In connection therewith:

1. For the purpose of calculating the incremental taxable value each year for the life of the district, the base taxable value shall be calculated as current base taxable value of the district plus the base taxable value of all real and personal property added to the district by this amended plan and as show in Exhibit B as of **January 1, 2008.**

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

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

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

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

SECTION 13 – CONCLUSIONS

The creation of this expanded North 27th Street Urban Renewal District will have a positive impact on Downtown Billings and no impact on the total taxable value flowing to the taxing entities from the now expired 1975 Urban Renewal District.

Expansion of the North 27th Street District is an essential first-step in completing what may be a number of urban renewal projects. If completed, mixed use projects approved within the first two years could stimulate over $30 million in new construction, and possibly as much as $15 million in re-sales and redevelopment. Approximately 500 new employees and new downtown residents could be located on the commercial and upper floors of possible mixed use projects. Thus, expansion of the district, in addition to further stabilizing the tax base, eliminating blight and providing renaissance to the CBD, will also bring new employees and residents to the CBD.

Mixed use development within the Expanded District ties in favorably with and actually stimulates the remodeling plans that are currently underway for several downtown properties. Additionally, like any major new development, the anticipated Stockman Bank construction at 4th Avenue North and North Broadway will have a stimulating effect on the surrounding area. Specific examples of this are:

1. It will tie the CBD to the medical corridor located immediately to the north of the development.
2. The Billings Clinic has purchased the Underriner property to the north and west of the Library. The Clinic's plans at this point have not been determined; however, the development proposed in this amended Plan will enhance and encourage future development by this group.

3. The Framework Plan encourages the development of the 5th Avenue North corridor. An enhanced Library, as accomplished by projects described in this Plan, will provide an excellent entrance to this corridor.
4. Future redevelopment and revitalization of structures like the Northern Hotel and the Babcock Theatre Building are enabled by this district.
5. This expanded district may assist with the completion of and continued modernization of City owned downtown parking structures.

In conclusion, expansion of the North 27th Street Urban Renewal District to include the property described in this amended Plan will have a positive effect on the CBD and the City.

RESOLUTION NO. 18-10750

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

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

(1) To carry out and effectuate the purposes and provisions of this part and part 43;

(2) To undertake and carry out urban renewal projects within the municipality, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this part and part 43, and to disseminate blight clearance and urban renewal information;

(3) To organize, coordinate, and direct, within the municipality, the administration of the provisions of this part and part 43 as they apply to such municipality in order that the objective of remedying blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most effectively;

(4) To exercise all or any part or combination of powers granted in this part or part 43; and

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

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

WHEREAS, development of TIF (Tax Increment Financing) Policies would be in the best interest of the City.

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

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

CITY OF BILLINGS TAX INCREMENT FINANCE POLICY

1. PERMITTED USES OF TIF FUNDS. TIF funds may be used for costs outlined in MCA, Title 7, Chapter 15, Part 42, Section 88. Urban Renewal Plans adopted by the City may limit what TIF funds may be spent on in any Urban Renewal District. Eligible costs may include, but are not limited to:
   a. Land acquisition and assemblage, demolition and removal of structures, relocation of occupants, analysis to determine needs of an urban renewal area, administrative cost for redevelopment activities.
   b. Public infrastructure, including, but not limited to: streets, storm drains, parking, public buildings, water and sewer lines, sidewalks, utility connections.
   c. Private infrastructure with public benefit, including, but not limited to, building façades, windows, doors, fire suppression or alarm systems, storm drainage, environmental remediation, parking, and ADA access.

2. FINANCIAL ASSISTANCE THROUGH TIF. All financial assistance must be approved by the City Council prior to any activity receiving funding. Financial assistance should be requested prior to beginning construction. All activity (design and construction) must be completed prior to issuance of TIF funds from the City Finance Department. Financial thresholds and assistance tools are as follows:
   a. A minimum of $\geq$ $5 of private investment for every $1 of public investment is the preferred threshold to be met for each TIF application. The City Council reserves the right to approve any application that does not meet this minimum. The City Council also may make exceptions for projects of less than $100,000, and for publicly owned projects, properties or facilities.
   b. Grants may be made for uses listed in Part 1 above benefitting any government owned-land or buildings and for profit and non-profit businesses.
   c. Bonding may be available at the discretion of the City Council.
   d. All TIF grants will be formalized by a development agreement that must be signed by the grantee before the City will reimburse eligible expenses.

3. URD MANAGEMENT. Each URD in the City of Billings will be managed as follows:
   a. Each URD should maintain a non-profit advisory board to make recommendations to the City Council regarding TIF expenditures. Unless specifically authorized by a Memorandum of Understanding (MOU) referenced in 3(b) below, a majority of board members must own or lease property within the district, or must represent such owner or lessee, and may include representation from residential or commercial property owners or lessees. Advisory Boards must carry insurance for their members and provide proof of insurance to the City.
   b. A MOU must be executed between the advisory board and the City Council that defines the board's roles, responsibilities, authority, and processes, including for hiring and maintaining board support staff. The MOU must

contain language addressing conflict of interest situations for board members whose property may directly benefit from a TIF expenditure and for board support staff. The MOU also must include language that if there is the appearance of a conflict of interest the issue will be reviewed by City legal staff before moving forward.

c. Training for all URD advisory boards will be conducted biannually in coordination with City staff and URD support staff. The training must include, but is not limited to: review of URD and TIF laws, Administrative Rules, ethics, conflicts of interest, meeting management, and maintenance of minutes and records.

d. URD financial reporting will be consistent across all URDs and be set by coordination between the City Finance Director and the Planning and Community Services Director, and URD support staff.

e. TIF application review and City Council staff report preparation will be conducted by the Planning and Community Services Department Director, in coordination with the Assistant City Administrator, Finance Director, and URD support staff.

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

CITY OF BILLINGS

BY: William A Cole
William A. Cole, Mayor

CITY OF BILLINGS SEAL YELLOWSTONE COUNTY, MONTANA

ATTEST

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk

Montana Rescue Mission

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is entered into as of_____, 2021 by and between the Downtown Billings Partnership, Inc., an I.R.C. S501(c)(4) Montana nonprofit corporation ("DBP"), The City of Billings, Montana, a municipality of the State of Montana ("City"), and Montana Rescue Mission, LLC, a Montana limited liability company ("Developer"). DBP, the City and Developer shall each be referred to herein as a "party" and shall collectively be referred to as the "parties."

RECITALS

WHEREAS, DBP is the entity responsible for administration of Tax Increment Financing ("TIF") funds for the City; and

WHEREAS, on or about December 31, 2020, Developer submitted a Funding Application (defined below) to DBP requesting a TIF grant for a project to renovate, rehab, and remodel property located at 2804/2822/2902 Minnesota Avenue in downtown Billings (the "Property" as further defined below); and

WHEREAS, on or about March 26, 2021, DBP's Board of Directors approved the Application for a TIF grant; and

WHEREAS, on April 26, 2021, the City of Billings City Council approved a reimbursement grant using TIF funds to Developer in an amount of up to $420,000 (the "TIF Grant") to be dedicated to qualified expenditures for the Project (defined below) and to be disbursed as described in this Agreement; and

WHEREAS, the parties wish to enter into a development agreement, in accordance with DBP's TIF Funding Criteria (defined below), to establish the terms and conditions under which DBP will allocate the TIF Grant funds to Developer from the City in accordance with the DBP agreement with the City regarding urban renewal in Downtown Billings,

NOW, THEREFORE, the parties agree as follows:

SECTION 1
SUBJECT OF AGREEMENT AND DEFINITIONS

1.1 Effect of Recitals. The foregoing Recitals are true and correct and are incorporated into the terms and conditions of this Agreement.

1.2 Purpose of Agreement. The purpose of this Agreement is to set forth the terms and conditions of the TIF Grant to Developer to effectuate the urban renewal project for certain real property located at 2804/2822/2902 Minnesota Avenue in Billings, Montana, and legally described on the attached Exhibit A (the "Property"). This Project will eliminate blight and compliment and further the objectives of the Expanded North 27th Street Urban Renewal District and Urban Renewal Plan.

DRAFT

1.3 The Funding Application. The DBP and the City have approved the TIF Grant based on Developer's Downtown Tax Increment Financing Application attached hereto as Exhibit B ("Funding Application"), subject to the terms and conditions of this Agreement. The Funding Application includes a preliminary estimated cost of construction of Developer's Improvements (the "Preliminary Developer's Budget")

1.4 TIF Grant Funding Criteria. The term “TIF Funding Criteria” shall mean the Tax Increment Financial Assistance Program criteria for urban renewal projects in the Expanded North 27th Street Urban Renewal District as set forth in the attached Exhibit C.

1.5 Developer's Improvements. The term "Developer's Improvements” shall mean the improvements described on Exhibit B to be constructed by Developer on the Property pursuant to this Agreement and as described in Section 5.

1.6 Conceptual Design Drawings. The term "Conceptual Design Drawings" shall mean the conceptual preliminary depictions of the Developer's Improvements attached hereto as Exhibit B.

1.7 Project. The term "Project" shall mean the Property as improved by the Developer's Improvements.

1.8 Definitive Documents. The term "Definitive Documents' shall mean this Agreement and all Exhibits attached or to be attached hereto.

SECTION 2
PROPERTY

2.1 Ownership. The Property, described on Exhibit A, is owned by the Montana Rescue Mission, LLC.

SECTION 3
CONDITIONS PRECEDENT

3.1 Conditions Precedent. The DBP's and the City's obligation to be bound by this Agreement with Developer is subject to satisfaction or written waiver of each of the following conditions to the reasonable satisfaction of DBP ("Conditions Precedent”):

a) Developer has presented DBP proof of ownership of the Property by proof of title insurance reflecting Developer as the fee owner of the Property, subject only to liens and encumbrances satisfactory to DBP.

b) Developer has obtained financing and provided the DBP with proof of financing in the form of commitment letters or loan documents, for the construction of Developer's Improvements in accordance with the Funding Application within the time period set forth in the Performance Schedule (as defined in Section 6).

DRAFT

c) Developer has prepared and submitted a detailed budget setting forth the final estimated cost of construction of Developer's Improvements ("Developer's Budget"). When completed, the Developer's Budget will be made a part of this Agreement and will be appended as Exhibit E.

d) Developer has prepared and submitted final design drawings ("Design Drawings") and construction documents for the Developer's Improvements (collectively, the "Final Plans") in accordance with the terms of this Agreement and the Final Plans have been reviewed and approved by DBP and the City and the estimated cost of the approved design is within Developer's Budget. When completed and approved, the Final Plans will be made a part of this Agreement and will be attached as Exhibit F.

e) Developer has provided DBP with proof of zoning compliance and approval by any necessary governmental entities.

f) Developer has executed the Agreement no later than 150 business days following the City Council's approval.

3.2 Satisfaction of Conditions. DBP and DBP's representatives, agents and consultants will work with the Developer to obtain satisfaction of the Conditions Precedent.

3.3 Termination for Failure of Conditions. If the Conditions Precedent are not satisfied or waived within 90 business days of the date of this Agreement, then any party may terminate the Definitive Documents by written notice to the others and upon such termination the parties shall have no further liability to one another, however, Developer shall remain responsible for indemnifying DBP and the City in accordance with Section 5.12.

SECTION 4:
GRANT AND RELEASE OF FUNDS

4.1 Use of TIF Grant Funds. The TIF Grant funds which are the subject of this Agreement shall be used only for urban renewal activities, including the renovation and rehabilitation of the Property, in accordance with the Definitive Documents and the Urban Renewal Law of the State of Montana, §§7-15-420l., et seq., Mont. Code Ann.

4.2 Grant of Funds. City, as recommended by DBP, agrees to grant to Developer the TIF Grant in an amount of up to a maximum of $420,000 from funds in the City's Fund 203 account, release of which shall be conditioned upon satisfaction of the conditions precedent set forth in Section 3.1 above, the conditions set forth in this Section 4, and the Developer's obligations, covenants and warranties set forth in this Agreement and the Definitive Documents.

4.3 Availability of TIF Grant Funds. TIF funds are not available to be encumbered (committed) to the Project by the City until they are received as unencumbered TIF funds.

a) Subject to the availability of unencumbered TIF funds, City agrees that, starting January 1st after the Project is complete and occupied, it will encumber TIF funds to reimburse Developer for the Project during the fiscal years following completion of the Project according to the requirements of this Agreement. Reimbursements will not be

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greater than $420,000 in total. During the reimbursement period, two disbursements of $210,000 will occur in FY 24 and 25. The deadline for the reimbursement period to start is June 30, 2023. Furthermore, reimbursement is subject to the Women's Shelter building located at 2520 1st Ave N being sold to a privately owned tax paying entity.

(In the event unencumbered TIF funds are not available to the City to meet the foregoing schedule, the City may continue to fully encumber, in its sole discretion, to the Project available unencumbered TIF funds until the full TIF Grant is encumbered to the Project.)

b) Developer reimbursements shall be limited to only those funds that have been encumbered to Project by the City. Notwithstanding anything to the contrary, the payment of the Developer reimbursements is hereby expressly made subordinate in all respects to any and all bonds issued by the City pursuant to the Resolution No. [20-10878] adopted by the City Council of Billings on [June 22, 2020], as amended and supplemented, and the Development reimbursements are a Subordinate Obligation thereunder.

c) Reimbursements will be made to Developer as explained in Section 4.2 and restricted to TIF funds that have to date been encumbered to the Project.

4.4 Release of Funds following Project Completion. DBP will release the TIF Grant funds approved by the City to the Developer upon the Developer's completion of Developer's Improvements and the Project, determined as follows:

a) Developer has substantially completed construction of Developer's Improvements in accordance with the Funding Application, as supplemented by the Budget and Design Drawings, and the deadline set forth in Section 6.

b) Developer has submitted all paid invoices showing the completion and lien-free status of all expenditures related to this Project and Property, including evidence that all construction liens have been satisfied and/or released.

c) Project costs shall be paid and proof of payment shall be provided in an amount consistent with the Funding Application, as supplemented by the Budget, and this Agreement.

d) The Project satisfies the public benefit provisions of the Funding Application and the TIF Funding Criteria.

e) Developer has received a Certificate of Occupancy from the City for the Project.

f) Developer has received from DBP a Certificate of Satisfaction as defined in Section 5.8 below.

g) Reimbursement cannot begin before the January 1st following the completion of the Project, as defined in Sections 3, 4, 5, and 6 of this Agreement.

4.5 Satisfaction of Project Completion Conditions. DBP and DBP's representatives, agents and consultants may assist the Developer to obtain satisfaction of the conditions for

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completion of the Project set forth in Section 4.4 (where applicable).

4.6 Extent of Commitment. DBP and the City shall have no obligation for any costs associated with the Project which exceed the amount of the TIF Grant funds approved in accordance with this Agreement.

SECTION 5:
DEVELOPERS IMPROVEMENTS AND COVENANTS

5.1 Construction of Developer's Improvements. Developer agrees to construct and develop the Developer's Improvements, at its sole cost and expense, consistent with the Design Drawings and the other Definitive Documents.

5.2 Architects and Contractors. Developer will have the right to select its architects, contractor and other subcontractors and consultants in its sole discretion. Developer will require all architects, engineers, or other professional consultants to maintain professional liability insurance in an insurable amount not less than $1,000,000 combined single limit, covering all professional activities performed by them in connection with the Developer's Improvements. Further, Developer shall require its contractor to maintain broad form commercial general liability insurance in an insurable amount of not less than $1,000,000 combined single limit, covering all work performed by contractor in connection with the Developer's Improvements. Developer shall demonstrate proof of coverage to DBP upon request by providing a Certificate of Insurance.

5.3 Insurance. Developer shall maintain fire and casualty insurance covering the Project and the Developer's Improvements in an amount commensurate with the replacement cost of the Project during development and construction of the Project and until issuance of the Certificate of Satisfaction. DBP may, in its sole discretion, recommit funds for reconstruction of the Project in the event Developer determines to reconstruct the Project.

5.4 DBP Access. DBP and DBP’s representatives, agents and designees will have the right, at reasonable times and upon reasonable notice to the Developer, to enter upon the Property, in connection with inspection of construction of Developer's Improvements. Upon reasonable notice and request, DBP shall have access to all records and contracts pertaining to the Project. Developer shall keep and maintain accounting records for the Project, and shall make the same available to DBP upon request, including but not limited to all purchase orders, invoices, statements, payment documents, and journals and ledgers related to the Project.

5.5 Governmental Permits. Before commencement of construction of Developer's Improvements, Developer shall obtain all necessary land use, building and other governmental permits. Developer shall maintain all necessary land use, building and other governmental permits during construction of the Project.

5.6 Local, State and Federal Laws. Developer shall carry out the construction of the Developer's Improvements in conformity with all applicable local, state and federal laws.

5.7 Prohibition Against Transfer. Prior to the issuance by DBP of the Certificate of Satisfaction, Developer shall not, except as permitted by this Agreement, without the prior approval of DBP, transfer its interest in the Property or the buildings or structures on the Property. Notwithstanding the foregoing, this prohibition shall not apply to:

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a) The transfer of the Property effective after issuance of the Certificate of Satisfaction; or

b) Transfers of property involving transactions in place prior to the date of this Agreement; or

c) The leasing of space in the Developer's Improvements.

5.8 Certificate of Satisfaction. After substantial completion of Developer's Improvements as determined by DBP, DBP shall furnish Developer with a Certificate of Satisfaction of this Agreement upon written request therefore by the Developer, substantially in the form of Exhibit H. Upon issuance of the Certificate of Satisfaction, Developer and the Property shall be fully relieved of all obligations and restrictions under this Agreement, excluding the obligations to indemnify City and DBP in Sections 4.6, 5.12, 5.13 and 5.14. DBP shall not unreasonably withhold, condition or delay the Certificate of Satisfaction. Such Certificate of Satisfaction shall be a conclusive determination of satisfactory completion of the construction of the Developer's Improvements required by this Agreement as to the Property and such Certificate shall so state. No Certificate of Satisfaction shall constitute a Certificate of Occupancy or evidence thereof under the building permit or codes of the City of Billings.

5.9 No Speculation. Developer represents that its interest in the Property is for redevelopment and not for speculation in land holding.

5.10 Environmental History. To the best of Developer's knowledge, the Property does not contain any hazardous substances found in violation of applicable laws and all mandatory requirements of applicable law with respect to environmental hazards or hazardous substances have been complied with by Developer.

5.11 Compliance with Definitive Documents. Developer has received, reviewed, and approved the Definitive Documents and shall be bound by the terms of the Definitive Documents.

5.12 Control/Indemnification. Developer shall have sole control and responsibility for the construction of the Project. Developer will indemnify, defend and hold the DBP, the City, and their directors, officers, officials, employees and agents harmless for, from and against any and all claims, damages, costs, liabilities and losses arising out of or related in any way to the use, condition, construction or development of the Property, the Project, or the Developer's Improvements, including without limitation to any claims for personal injury, property damage, or for liability to any contractor or its subcontractors, agents or employees.

5.13 Taxes/Assessments. Developer shall pay all applicable taxes, special assessments, and other assessments on the Property and the Developer's Improvements, if any, when due.

5.14 No Tax Protest. Developer shall not protest, or attempt in any way to avoid or dispute, any property taxes, special improvement district assessments, and other assessments on the Property for three (3) years from the date on the Certificate of Occupancy, without prior written consent of DBP, which consent shall not be unreasonably withheld. In the event Developer believes that a property tax or other assessment of the Project is unreasonable, it may request DBP's written consent to protest such assessment to the appropriate authority.

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SECTION 6:

SCHEDULE OF PERFORMANCE

6.1 Deadline. A Schedule of Performance of construction of Developer's Improvements is attached as Exhibit G and incorporated herein (the "Performance Schedule"). Developer shall proceed expeditiously to complete construction of the Project in accordance with the Performance Schedule. All construction work for the Project shall be completed by the completion date set forth in the Performance Schedule of January 1, 2022. Developer will be excused for delays resulting from the following circumstances: an act of God or public enemy, fire; storm; wind; flood; earthquake; epidemic; explosion; lightning; continuous loss of power of other utilities for more than thirty days; nuclear radiation; geological or archeological condition; quarantine restrictions; riot or public discord; act of terrorism; Criminal damage; the suspension of the national or state banking system due to financial crises; a union strike, unanticipated pre-existing but undiscovered conditions; or appeal of governmental permits.

SECTION 7:

WARRANTIES

7.1 Developer Representations and Warranties. Developer Warrants and represents that the information and documentation provided pursuant to Sections 3.1 and 5 are accurate and complete and that Developer will promptly notify DBP of any changes in such information and documentation.

7.2 Joint Representations and Warranties. The following representations and Warranties are made by each party to the others as of the date hereof:

a) Authority. Each party has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate this transaction.

b) Actions. All requisite action has been taken by each party in connection with the entering into of this Agreement, the instruments referenced herein, and the consummation of this transaction. No further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority or other party is required.

c) Due Execution. The individuals executing this Agreement and the instruments referenced herein on behalf of each party and the partners, officers or trustees of each party, if any, have the legal power, right, and actual authority to bind each party to the terms and conditions of those documents.

SECTION 8:

DEFAULTS AND REMEDIES

8.1 Default/General. Subject to the extensions of time set forth in Section 6, and subject to the notice and opportunity to cure provisions contained in this Agreement, the failure or delay by any party to perform any term or provision of this Agreement constitutes a default; however, if the defaulting party commences to cure such default within 60 days after receipt of a notice specifying the default, and thereafter diligently prosecutes such cure to completion, then such party

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shall not be deemed to be in default. The injured party shall give written notice of default to the defaulting party, specifying the default. The injured party may not institute proceedings, whether judicial or otherwise, against the party in default until 60 days after giving such notice. Any failure or delay by any party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any rights or remedies or deprive such party of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

8.2 Rights and Remedies. Subject to the provisions of Section 8.1 hereof, in addition to its other rights or remedies, if Developer fails to cure a default or withdraws from the Project for any reason, DBP and City shall have no obligation to release grant funds to Developer. If the Developer fails to cure a default, or withdraws from the Project for any reason, after funds have been released for the Project, Developer shall repay City the amount of any funds released to Developer for the Project. Either party may seek any legal or equitable remedy to cure, correct or remedy any default, to recover any damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement in accordance with the terms of this Section 8.

8.3 Rights and Remedies Not Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are not cumulative, and the exercise by any party remedies provided in this Section 8 shall preclude the exercise by it, at a different time, of any other rights or remedies for the same default.

8.4 Dispute Resolution. In the event a dispute arises, whether due to a default or the interpretation of any term of this Development Agreement, the complaining party shall deliver notice of the matter in dispute to the other party at the address and in the manner provided for in Section 9.1 hereof. Each party shall within 7 calendar days thereafter designate a representative to address the matter, which representatives shall attempt, in good faith, to resolve the disputed matter within 7 calendar days of the last designation of a representative.

In the event the designated representatives are unable, despite their good faith efforts, to timely resolve the disputed matter within fourteen calendar days of the initial notice thereof, then, and in that event, either any party may request in writing that the matter be resolved through informal mediation. Informal mediation must be completed within 14 calendar days of the request.

If the matter remains unresolved after mediation, or if the mediation is not timely completed - either party may demand binding arbitration in accordance with § 8.5. A complaining party who refused or failed to timely participate in the informal mediation (i) may not seek binding arbitration (ii) waives any demand, claim, or relief from the other party, and (iii) releases the other party from the complaining party's demand, claim, or relief.

8.5 Arbitration. In the event of any dispute arising between the parties to this Agreement, and the conditions of § 8.4 have been met, any such dispute shall be submitted to binding arbitration as provided herein. The parties shall select an independent and unbiased arbitrator who is not affiliated directly or indirectly with either party within ten days after any party demands arbitration. If the parties fail to select, or cannot agree upon, an arbitrator within this time, then either party may apply to the District Court of Yellowstone County pursuant to §27-5-211 et

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seq. of the Montana Uniform Arbitration Act for an order appointing an arbitrator. Such applications may be made at any time after the ten-day period has expired. Upon application to the court for an arbitrator, the Court shall select a single arbitrator, who shall render his/her decision no later than 60 days after his/her appointment. If the arbitrator requests a hearing prior to rendering his/her decision, such hearing shall be held in Yellowstone County, Montana within 30 days of the arbitrator's appointment. The arbitrator's decision shall be binding on both parties. Each party shall bear its own expenses associated with the arbitration but shall share equally the costs of the arbitrator.

8.6 Authorized mediators/arbitrators. Any formal mediation or arbitration shall select one of the following as the mediator and/or arbitrator unless all are either conflicted or unable to serve: (i) Charles Cashmore (CCashlaw@aol.com); (ii) Russell Fagg (rfagg@icloud.com); (iii) Greg Murphy (greg.murphy10@gmail.com); (iv) Mike Anderson (manderson@a-llaw.com).

8.7 Waiver. Upon written agreement of both parties, any provision of this Section 8 may be waived. Unless waived, the terms of this Section 8 shall be strictly applicable to any dispute between the parties hereto.

SECTION 9:
GENERAL PROVISIONS

9.1 Notices. All notices or other communications required or permitted hereunder must be in writing, and must be personally delivered (including by a professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below. All notices sent by mail will be deemed received 2 (two) days after the date of mailing and all notices sent by other means permitted herein shall be deemed received on the date delivered. Notices will be sent as follows:

Developer: Montana Rescue Mission, LLC
Attn: Matt Lundgren
Address: 2902 Minnesota Ave
Billings, MT 59101
Telephone: (406) 259-6079
Email: mattl@billingslf.org

City: The City of Billings, Montana
Attn: Gina Dahl, City Attorney
Address: 20 North 27th Street
Billings, MT 59101
Telephone; (406) 657-8205
Email: dahlg@billingsmt.gov

DBP: Downtown Billings Partnership, Inc.
Attn: Mehmet Casey
Address: 116 N 29th Street Suite A
Billings, MT 59101

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Telephone (406) 294-5060
Email: mehmetc@downtownbillings.com

9.2 Nonliability of Officials and Employees. No director, officer, member, official, employee or agent of Developer, DBP or the City shall be personally liable to any party or any successor-in-interest thereto, in the event of any default or breach by any party or for any amount which may become due to any party or its successor, or any obligations under the terms of this Agreement.

9.3 Headings. Any title of the several parts and sections of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

9.4 Time of Essence. Time is of the essence of this Agreement. All obligations of the parties to one another shall be due at the time specified by the Agreement, or as the same may be extended by mutual agreement of the parties in writing.

9.5 Construction/Governing Law, and Venue. The parties and their respective advisors believe that this Agreement is the product of all of their efforts, that it expresses their agreement and that it should not be interpreted in favor of or against any party. The parties further agree that this Agreement will be construed to effectuate the normal and reasonable expectations of sophisticated parties. The parties hereto expressly agree that this Agreement will be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Montana. Any action in law or equity, or judicial proceeding for the enforcement of this Agreement or any of the provisions contained herein, shall be instituted and maintained only in Thirteenth Judicial District Court for Yellowstone County, Montana.

9.6 Severability. If any clause, sentence or any other portion of the terms and conditions of this Agreement become illegal, null or void for any reason, or held by any court of competent jurisdiction to be so, the remaining portion will remain in full force and effect.

9.7 No Partnership. Neither anything in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Agreement.

9.8 Government Rights. Except as provided herein, by making this Agreement, DBP and the City are not obligating themselves or any other agency with respect to any discretionary action relating to the development of the Property or development, operation and use of the improvements to be constructed on the Property, including but not limited to, condemnation, comprehensive planning, re-zoning, variances, environmental clearances or any other governmental agency approvals which are or may be required.

9.9 Non-Waivers. No Waiver of any breach of any covenant or provision contained herein will be deemed a Waiver of any preceding or succeeding breach thereof, or of any other covenant or provision contained herein. No extension of time for performance of any obligation or act will be deemed an extension of the time for performance of any other obligation or act except those of the waiving party, which will be extended by a period of time equal to the period of the

delay.

9.10 Entire Agreement/Counterparts. This Agreement, together with the Definitive Documents, integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or the predecessors in interest with respect to all or any part of the subject matter hereof. This Agreement may be signed by counterparts.

9.11 Successors. This Agreement shall be binding upon and inure the benefit of the parties, their successors and assigns.

DOWNTOWN BILLINGS PARTNERSHIP ("DBP")

By: _____

Its: President

STATE OF MONTANA)
:
County of Yellowstone)

This record was acknowledged before me on _____, 2021 by _____, as President of Downtown Billings Partnership.

_____
Notary Public for the State of Montana

THE CITY OF BILLINGS, MONTANA ("CITY")

By: _____
Its: Mayor

By: _____
Its: City Clerk

STATE OF MONTANA)
:
County of Yellowstone)

This record was acknowledged before me on _____, 2021 by _____ and _____ as Mayor and City Clerk of the City of Billings, Montana.

_____

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Notary Public for the State of Montana

MONTANA RESCUE MISSION, LLC, a Montana limited liability company ("DEVELOPER")

By: _____

Its: _____

STATE OF MONTANA)
:
County of Yellowstone)

This record was acknowledged before me on _____, 2021 by _____ as _____ of Downtown Properties, LLC, a Montana limited liability company.

_____
Notary Public for the State of Montana

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EXHIBITS

Exhibit A Legal Description

Exhibit B Funding Application (floor plans and conceptual designs included)

Exhibit C TIF Funding Criteria (City TIF Resolution & Scoring Criterion)

Exhibit D DBP Board Minutes and City Council Minutes, showing approval of the grant funds

Exhibit E Developer's Final Budget, supplied by contractor

Exhibit F Final Construction Drawings, submitted for permit

Exhibit G Performance Schedule

Exhibit H Certificate of Satisfaction

Exhibit I W-9, completed and signed at time of Development Agreement

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Exhibit A - Legal Description

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Exhibit B - Funding Application

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Exhibit C - TIF Application Criteria

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Exhibit D - DBP Board Minutes and City Council Minutes

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Exhibit E - Developer's Final Budget

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Exhibit F - Developer's Final Drawings

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Exhibit G - Performance Schedule

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Exhibit H - Certificate of Satisfaction

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Exhibit I - Tax ID Number and Certification

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City Council Regular

Date:	04/26/2021
Title:	Resolution setting fees for massage and spa facility license
Presented by:	Andy Zoeller, Finance Director
Department:	Finance
Presentation:	No

RECOMMENDATION

Staff recommends City Council approve the resolution adopting application and renewal fees for the Massage and Spa Facility License.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

City Council held first reading of the Massage and Spa Facility License Ordinance on 4-12-2021. The ordinance requires fees associated with the license to be adopted by resolution. The attached resolution will set the fee for initial application at $25.00 until 6/30/2022 when the fee will be increased to $55.00. This will match the current business license fee, which has a base amount of $55.00. All annual renewals will also be $55.00.

ALTERNATIVES

City Council may:

- Approve the resolution; or,
- Amend the rate provided in the resolution; or,
- Not Approve the resolution and the rate would be $0.00

FISCAL EFFECTS

The reduced rate for the first year will offset the application costs incurred by business owners, as they are required to pay for a background check as part of their application. There are, an estimated, 70 facilities in Billings that may have to submit the application. The estimated lost revenue associated with the reduced rate is $2,100.00 in the General Fund.

Attachments

Resolution Establishing Fees for Massage and Spa Facility License

RESOLUTION 21-_____

A RESOLUTION ESTABLISHING FEES TO BE CHARGED FOR MASSAGE AND SPA FACILITY LICENSE, TO BECOME EFFECTIVE IMMEDIATLY

WHEREAS, Section 7-1906 Billings, Montana City Code provides that the City Council shall establish the fees to be charged for the licensure of massage and spa facilities in Billings; and

WHEREAS, the licensure fee shall be paid at the time the application is submitted; and

WHEREAS, the fees are required to cover the costs of application review and license administration; and

WHEREAS, the City Council has duly considered the matter.

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

1. MASSAGE AND SPA FACILITY LICENSE FEE: The licensure fee to be charged by the City of Billings is hereby established below.

	Submitted on or before 6/30/2022	Submitted after 6/30/2022
Initial Application Fee	$25.00	$55.00
Annual Renewal Fee	$55.00	$55.00

Only the application fee will be paid upon submission of the application. Renewal fees will be charged annually upon renewal of the license.

2. TERM OF FEES The above fees shall continue in full force and effect until changed by the City Council by subsequent resolution.

3. DISPOSITION OF COLLECTIONS. Monies collected from assessment shall be paid to the Finance Department.

4. NOTICE OF HEARING. On Monday, April 26th at 5:30 p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is hereby directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the Yellowstone County News.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the 26th day of April, 2021.

CITY OF BILLINGS

By: _____
William A. Cole, Mayor

ATTEST:

By: _____
Denise R. Bohlman, City Clerk