CITY OF Billings

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

CITY COUNCIL
REGULAR BUSINESS MEETING
AGENDA

COUNCIL CHAMBERS **December 20, 2021** **5:30 P.M.**

CALL TO ORDER: Mayor Cole

PLEDGE OF ALLEGIANCE: Mayor Cole

INVOCATION: Councilmember Neese

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

MINUTES: December 13, 2021 (Pending)

COURTESIES:

PROCLAMATIONS:

COUNCIL REPORTS:

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 5, 6, 7, 8 and 9 ONLY. Speaker sign-in required. (Comments are limited to three (3) minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium. Comments on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For items not on this agenda, public comment will be taken at the end of the agenda.)

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

A. **Bid Awards:**

1. **W.O. 22-03: Contract No. 1 City Overlay.** (Opened 12/7/21) Recommend Schedule 1 and Schedule 2, Knife River; $1,215,246.90.

B. **Professional Services Contract** with A & E Design for a Multi-Generational Community Recreation Center in SBBURD; $244,436.

C. **Five-year Agreement** with Sky Gifts Billings, LLC, to operate the Airport's Gift Shop Concession.

D. **Development Agreement** with KSKC Properties, LLC.

E. **Amendment No. 1, W.O. 20-24: West End Storm System Improvements**, Professional Services Contract, DOWL; $297,861.

F. **Sponsorship** of the Billings Bench Water Association ARPA grant application to the State of Montana.

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

H. **Preliminary Minor Plat** of Hilltop Subdivision, 2nd Filing, Amended Lot 9A, Block 12. **Quasi-Judicial*

I. **Preliminary Minor Plat** of Terrace Estates Subdivision, 3rd Filing, Amended Lot 200 and Adjacent Parkland. **Quasi-Judicial*

J. **Preliminary Minor Plat** of Lenhardt Square Subdivision, 1st Filing, Lot 1A, Block 1. **Quasi-Judicial*

K. **Preliminary Major Plat** of Ridgeline Subdivision. **Quasi-Judicial*

L. **Preliminary Major Plat** of Annafeld Subdivision, 4th Filing. **Quasi-Judicial*

M. **Bills for the Week of:**

1. November 22, 2021

Recommended Motion: I move to approve the items of the Consent Agenda as submitted, with the exception of items moved for separation.

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION** approving the discontinued use of one-half of the east-west alley from South 28th Street to South 29th Street. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

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

Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the Resolution approving the discontinued use of one-half of the east-west alley from South 28th Street to South 29th Street, as recommended by staff.

3. **PUBLIC HEARING AND RESOLUTION** establishing business license fees for marijuana-related businesses. Staff recommends approval. (Action: approval or disapproval of staff recommendation)
   - *Presented by: Andy Zoeller, Finance Director*

   Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the Resolution establishing business license fees for marijuana-related businesses, as recommended by staff.

4. **PUBLIC HEARING AND FIRST READING AND ORDINANCE** amending Billings, Montana City Code (BMCC) Article 7-1800, Cable System Franchise. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
   - *Presented by: Stacy Tenney, Deputy City Attorney*

   Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the first reading ordinance amending Article 7-1800, BMCC, as recommended by staff.

5. **CDBG-CV AND CDBG ALLOCATIONS TO PARKS PROJECTS;** up to $1 million. Community Development Board (CD Board) and Parks, Recreation and Cemetery Board recommend approval. (Action: approval or disapproval of CD Board and Parks, Recreation and Cemetery Boards' Recommendation.)
   - *Presented by: Tam Rodier, Community Development Project Coordinator*

   Recommended Motion: I move to approve CDBG-CV and CDBG Allocations to Parks Projects; up to $1 million; as recommended by the CD Board and Parks, Recreation and Cemetery Board.

6. **FAST-TRACK APPLICATIONS FOR CDBG-CV PUBLIC SERVICES PROJECTS;** up to $15,000 per public service award. Community Development Board (CD Board) recommends approval. (Action: approval or disapproval of CD Board recommendation.)
   - *Presented by: Brenda Beckett, Community Development Division Manager*

   Recommended Motion: I move to approve fast-track applications for CDBG-CV funding; up to $15,000 per public service award, as recommended by the CD Board.

7. **TAX INCREMENT FINANCING ASSISTANCE** from Downtown Urban Renewal District for a pedestrian crossing upgrade; up to $15,000. 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 for a pedestrian crossing installation; up to $15,000; as recommended by the DBP Board.

8. **LAW AND JUSTICE CENTER/CITY HALL PROFESSIONAL SERVICES DESIGN CONTRACT**, Phase I, with JLG Architects; $195,000, plus $12,500 allowance for reimbursable expenses. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
   - *Presented by: Jessica Iverson, Building and Facilities Manager*

   Recommended Motion: I move to approve the Law and Justice Center/City Hall Professional Services Design Contract, Phase I, with JLG Architects; $195,000, plus $12,500 allowance for reimbursable expenses, as recommended by staff.

9. **OPIOID LITIGATION OPTIONS.**
   - *Presented by: Gina Dahl, City Attorney*

   Recommended Motion: I move to authorize the Mayor to execute any documents necessary to sign on to the MOU and settlement agreements with Distributors (McKesson Corporation, Cardinal Health, Inc., and Amerisource Bergen) and Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson.

   OR alternatively,

   Recommended Motion: I move to direct staff to pursue litigation against Distributors (McKesson Corporation, Cardinal Health, Inc., and Amerisource Bergen) and Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson.

PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium.)*

COUNCIL INITIATIVES:

ADJOURN:

Council Chambers are readily accessible to individuals with physical disabilities.

For more information or to make requests for special arrangements, please contact the City Clerk's Office at 657-8210 or e-mail bohlmand@billingsmt.gov, 72 hours prior to the meeting date.

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City Council Regular

Date: 12/20/2021

Title: W.O. 22-03: Contract No. 1 City Overlay, Bid Award

Presented by: Debi Meling

Department: Public Works

Presentation: No

RECOMMENDATION

Staff recommends the City Council award a contract for W.O. 22-03 Contract No. 1 City Overlay Schedule 1 and Schedule 2 to Knife River in the amount of $1,215,246.90.

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

The City overlay project is part of the on-going Street Preventative Maintenance Program supported by the City Council since 1985. Annually, staff identifies streets proposed for preventative maintenance that includes pavement patching, chip seal resurfacing, overlay resurfacing, and crack sealing. This contract includes two schedules. Schedule 1 will mill and overlay approximately 1.5 miles of Poly Drive (17th Street West to 13th Street West) and 4th Avenue North (North 27th Street to North 13th Street). Schedule 2 is an additional phase of work to remove and replace a portion of the deteriorated asphalt surface at Riverfront Park. A work location map for Schedule 1 is attached. The contract was advertised on November 19 and 26 and December 3, 2021, in The Yellowstone County News and on the City's website. Staff opened bids on December 7th, 2021, for W.O. 22-03 Contract No. 1 City Overlay. There were two bids received for Schedule 1 and three bids for Schedule 2. Knife River submitted the lowest responsible bid for Schedule 1 which is the overlay. Knife River also submitted the lowest responsible bid for Schedule 2 which is paving work at Riverfront Park.

ALTERNATIVES

City Council may:

- Award W.O. 22-03 Contract No. 1 City Overlay Schedule 1 and Schedule 2, to Knife River in the amount of $1,215,246.90; or,
- Do not award a contract and reject all bids. If the contract is not awarded, the streets and parks planned for maintenance will continue to degrade.

FISCAL EFFECTS

The following bids were received:

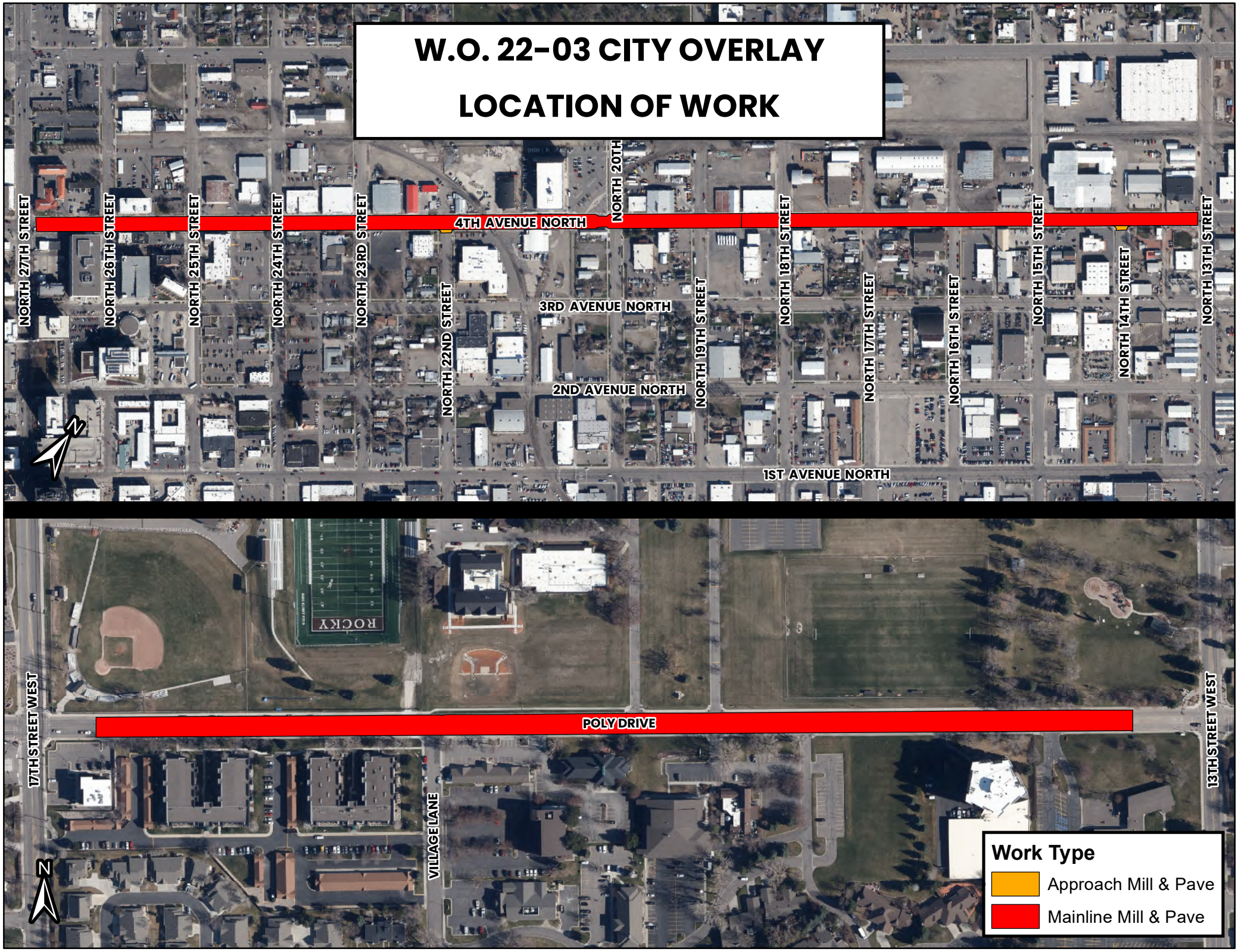
Contractor	Schedule 1: Overlay	Schedule 2: Riverfront Park	Total Combined Schedules
Knife River	$1,018,858.90	$196,388.00	$1,215,246.90
Askin Construction	No Bid	$199,687.02	$199,687.02

Riverside Contracting	$1,442,667.87	$431,700.00	$1,874,367.87

The project was budgeted in FY22 using Gas Tax, Arterial and Park District 1 funds. The amount budgeted for the Public Works PAVER project was $2,600,000.00. The remaining funds will be used for the chip seal portion of the program.

Attachments

Overlay Map


W.O. 22-03 CITY OVERLAY
LOCATION OF WORK
NORTH 27TH STREET
NORTH 26TH STREET
NORTH 25TH STREET
NORTH 24TH STREET
NORTH 23RD STREET
NORTH 22ND STREET
NORTH 20TH
NORTH 19TH STREET
NORTH 18TH STREET
NORTH 17TH STREET
NORTH 16TH STREET
NORTH 15TH STREET
NORTH 14TH STREET
NORTH 13TH STREET
4TH AVENUE NORTH
3RD AVENUE NORTH
2ND AVENUE NORTH
1ST AVENUE NORTH
N
ROCKY
17TH STREET WEST
13TH STREET WEST
POLY DRIVE
VILLAGE LANE
N
Work Type
Approach Mill & Pave
Mainline Mill & Pave

City Council Regular

Date:	12/20/2021
Title:	Multi-Generational Community Recreation Center Concept Design Phase - Consultant Contract
Presented by:	Mark Jarvis
Department:	Parks/Rec/Public Lands
Presentation:	No

RECOMMENDATION

Staff recommends Council approve the contract with A & E Design for concept design of the Multi-Generational Community Recreation Center.

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

In May 2019, A & E Design completed the South billings Aquatic & Recreation Center Master Plan & Feasibility Study. The focus of the study was to review the feasibility for a future indoor recreation center in the South Billings area. The goal of the plan was to create a framework for a multi-generational facility that best reflects the needs of the community, best practices for programming a recreation center, site visibility, and budget. The Master plan process took place over a nine-month period culminating with the selection of a preferred site and two program options. The primary outcomes of the Master Plan were to:

- Identify recreation programming for the South Billings Aquatic & Recreation Center specific to the City of Billings and the surrounding region based on community feedback.
- Select a site for the future facility.
- Determine a conceptual program layout and capital budget for the project.
- Organize program layout in a manner that allows for potential phasing based on funding available.
- Develop an operation pro forma range to evaluate the potential cost recovery for the program options and phases.

The master plan was presented to Council at the November 15th Work Session. On December 13th Council Business Meeting the master plan was adopted by resolution.

At a previous Work Session, Council directed staff to move forward with this project. A Request For Proposals (RFP) was sent out to solicit qualified consultants to build upon the master plan study and develop a design concept for a Multi-Generational Community Recreation Center. Two firms responded A & E Design of Billings and JLG Architects of Williston North Dakota. On October 13th a Selection Committee comprising representatives from Parks and Recreation, Public Works, Planning, School District 2, and South Billings Urban Renewal Association (SBURA) met to evaluate the proposals. A & E Design was selected as the top-ranked firm. Staff met with A & E Design to develop a scope of work and fee. The purpose of the Design Concept study is to take the information developed in the master plan and build upon it collecting more data and doing more analysis to determine the building configuration and size, the amenities included, construction budget, operating pro forma and cost recovery, potential donation opportunities and project timeline. A critical component of this study will be to solicit public engagement and determine the needs of the

community through public meetings, surveys and website access. This study will require 7 to 8 months to complete. The outcome of the study will be presented to Council for approval and further direction. Upon approval, the consultant will proceed with design development and construction documents with the goal of bidding the project in November of 2023. The fee for this phase of will be $244,436.00.

ALTERNATIVES

City Council may:

- Approve the contract for concept design with A & E Design for the Multi-Generational Community Recreation Center; or,
- Not Approve the contract and provide staff with additional guidance.

FISCAL EFFECTS

$250,000 was budgeted in FY 22 through the SBURA for this portion of the project.

City Council Regular

Date:	12/20/2021
Title:	Agreement with Sky Gifts Billings, LLC to Operate the Airport's Gift Shop Concession
Presented by:	Kevin Ploehn, Director of Aviation and Transit
Department:	Airport
Presentation:	No

RECOMMENDATION

Staff recommends that the City Council award the five-year Airport Gift Shop Concession Agreement to Sky Gifts Billings, LLC to operate the Airport's new Gift Shop Concession located in the new Terminal Concourse Expansion area.

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

Staff advertised for the opportunity for qualified concessionaires to submit proposals to operate the five-year Gift Shop Concession and a Request for Proposals (RFP) packet was sent to all interested parties. The RFP was advertised in the *Yellowstone County News* on October 8, 15, and 22, 2021 and posted on the City and Airport Websites on October 8 through November 19. This concession oversees the operation of the Airport's gift shop located on the new concourse expansion in the new Great Room area of the Airport Terminal Building. The proposals were evaluated according to a list of items that included revenues to the City, participation as a Disadvantaged Business Enterprise (DBE), experience and qualifications, store concept, build out and transition plan, customer service and operations plan, financial strength, and proposed capital investment to finish the space, decor, and equipment. Proposals were received Friday, November 19, 2021, from the following businesses vying for the opportunity to operate the Airport Gift Shop Concession:

PROPOSER	HEADQUARTERS
Sky Gifts Billings, LLC	Sioux Falls, SD
Tailwind MC, LLC	Wilmington, NC
Faber, Coe and Gregg of Florida, Inc.	Secaucus, NJ
Oakwells CR, Inc.	Winter Park, FL

While all proposals would have been able to meet the requirements to operate the gift shop, the proposal from Sky Gifts Billings, LLC was chosen by a selection committee consisting of three Airport staff members (Ploehn, Ketterling, and Herold) and two Aviation and Transit Board Members (Astle, and Tooley), which was formed to review and rank the proposals. Overall, the selection committee felt the concept provided by Sky Gifts did a better job of zeroing in on the Montana experience with its proposed merchandise selection. Additionally, Sky Gifts' revenue guarantee to the City was the strongest. The term of this Agreement will commence on January 1, 2022, for the sole purpose of ordering equipment, planning, and starting construction on the permanent Gift Shop premises. The Concession term of this Agreement will start on March 1, 2022, and terminate on February 28, 2027.

ALTERNATIVES

City Council may:

- Approve the five-year Airport Gift Shop Concession Agreement with Sky Gifts Billings, LLC; or
- Not Approve the five-year Airport Gift Shop Concession Agreement with Sky Gifts Billings, LLC and advise staff on how to proceed.

FISCAL EFFECTS

The Gift Shop Concession has historically generated approximately $840,000 to $920,000 in gross revenues from which the Concessionaire remits the percentage that was proposed to the City. This would generally result in revenues for the Airport between $168,000 to $190,000 annually, depending on the total annual gross revenues generated and the percentage of gross revenues offered by the Concessionaire. The Sky Gifts proposal guaranteed $225,000 for the first year, increasing each year to $280,000 by year five.

City Council Regular

Date: 12/20/2021

Title: Development Agreement with KSKC Properties, LLC

Presented by: Debi Meling

Department: Public Works

Presentation: No

RECOMMENDATION

Staff recommends that the City Council approve the Development Agreement with KSKC Properties, LLC.

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

At the September 12, 2011 meeting, City Council approved the annexation of Tract 1 of Certificate of Survey 1591 and Tract 1 of Certificate of Survey 1596. The property is located along the South Frontage Road east of the City County Drain. KSKC Properties, LLC desires to develop the property as a commercial development. As a condition of annexation, a Development Agreement is required prior to any site development outlining necessary public improvements. The Development Agreement outlines the off-site improvements necessary for development, including access to the site, construction of water and sanitary sewer, and storm drain. Specifically, the Development Agreement outlines potential Developer cost recovery for one-half of the cost of the water main through a City Compensation Agreement. The premise behind cost recovery of one-half of the water main cost is that the water main lies along the South Frontage Road and I-90 right-of-way corridor to the north. The South Frontage Road and I-90 corridor isn't available for development. In addition, the Development Agreement provides potential for South Tax Increment Finance District (TIFD) funds to be used up to one-half of the cost of the water main construction. The basis of using South TIFD funds is that the construction of the water main completes a water main loop that provides flow to existing properties as well as those types of industries targeted/desired by SBURA that require looped or redundant water mains and higher flows. Both the Compensation Agreement request and South TIFD fund request would be separate future Council actions from this Development Agreement action. Alternatively, staff included a provision in the Development Agreement to allow for City Council approval of the cost of the water main construction to be funded through a budget request consisting of combined City water funds and South TIFD funding.

The Development Agreement provides for City required off-site improvements should the property be developed without a subdivision plat. In summary, the Development Agreement for this Council action generally includes the following conditions or improvements:

- Construction of a water main in South Frontage Road by Developer
- Potential, but not guaranteed, funding mechanisms for reimbursement of a portion of water main costs to Developer:
    - South TIFD Funds
    - City Compensation Agreement Request
    - Alternate of City budget request consisting of South TIFD and City water funds

- Construction of a 10-foot-wide multi use trail along the south side of the South Frontage Road (north side of Developer Tract)
- Outlines requirements for serving property with sanitary sewer and storm drain
- Outlines requirements for a Traffic Impact Study

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

There are two requirements of the development agreement that would not be required upon site development. Section 5 requires the dedication of right-of-way. If the site develops without subdividing, the City would not be able to acquire right-of-way. Section 7 requires an easement for and construction of a multi-use trail on the south side of the Frontage Road. If the site develops without subdividing, the City would not be able to require this easement or the construction of the trail.

There is no financial impact in regards to the water line. Per this agreement, the developer is required to construct the water line. The agreement includes options for alternate funding, however, that funding would require future council action.

The financial impact of the remainder of the agreement is dependent on policy changes that may occur before development. If development occurs before any changes to the City's development policies, there would be no financial impact. If development occurs after City development policies change, the financial impact would be dependent on the changes.

Attachments

Development Agreement

Property Exhibit

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made this _____ day of _____, 20____, by and between KSKC Properties, LLC., P.O. Box 80601, Billings, Montana 59108 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:

> Tract 1 of Certificate of Survey No. 1591 and Tract 1 of Certificate of Survey No. 1596, Situated in the N 1/2 of Section 15, T 01S, R 26E, P.M.M., in the City of Billings, Yellowstone County, Montana
>
> Above referenced property is hereinafter referred to as "Developer Tracts"

WHEREAS, CITY has approved the Petition for Annexation by Resolution No. 11-19100 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.

WHEREAS, DEVELOPER is proposing to develop the Developer Tracts in phases over time.

The DEVELOPER intends to construct a development on Tract 1 of Certificate of Survey No. 1591 and Tract 1 of Certificate of Survey No. 1596 and submit a site plan review for each development on the Tracts for review and approval by the CITY. Individual building permits shall be obtained for each building within the Developer Tracts.

The DEVELOPER intends to develop the Developer Tracts in multiple phases; and

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 the South Frontage Road. The approach locations and geometry shall be approved by the Montana Department of Transportation and the CITY.

2. *Sanitary Sewer.* The Developer Tracts will be served by new sanitary service lines from the existing sanitary sewer main in South Frontage Road.

   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 a proposed water line in South Frontage Road.

   DEVELOPER is responsible to construct a 12-inch water main along the Developer Tracts frontage and along the frontage of Riverside Acreage Tracts Subdivision Tracts 3 through 7, inclusive. City staff will forward a Compensation Agreement to City Council for one-half of the cost of the water main construction and South Tax Increment Finance District Funds for one-half of the cost of the water main construction for Council approval. Alternatively, City staff may forward to City Council a budget approval request for the entire water line funded by City water funds and South Tax Increment Finance District funds. There are no guarantees that these funding requests will be approved by City Council.

   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 (2018). Storm drainage from the Developer Tracts will outfall to the 48-inch RCP storm drain, located adjacent to the South Frontage Road.

5. *Right-of-Way.* Public right-of-way will be dedicated to the City of Billings in accordance with the 2018 Billings Urban Area Long Range Transportation Plan and in accordance with the City of Billings Subdivision Regulations.

6. *Street Construction, Widening and Sidewalks.* The South Frontage Road right-of-way is MDT controlled. Any improvements to the South Frontage

Road will be at the discretion of MDT. Sidewalk will not required to be constructed as DEVELOPER will be required to construct a 10-foot-wide asphalt multi-use trail along the South Frontage Road.

7. *Multi-use Trail*. A 10-foot-wide asphalt multi-use trail along the South Frontage Road on the north side of the Developer Tracts will be required to be constructed at the expense of the DEVELOPER. The trail can be located within or outside of the South Frontage Road right-of-way on private property within a public easement. A second multi-use trail located along the south side of the Development Tracts will not be required to be constructed at the expense of the DEVELOPER.

   The development shall be responsible for the maintenance of the sidewalk and/or trail along the South Frontage Road on the north side of the Developer Tracts after construction. The development shall not be responsible for the maintenance of the sidewalk and/or trail located along the south side of the development after it is constructed.

8. *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 if development exceeds 500 trips/day. The preparation of the traffic impact study and any fees to mitigate impacts to future intersection improvements will be at the expense of the DEVELOPER.

9. *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, 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" KSKC Properties, 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 KSKC Properties, 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, parks and park 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, 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:

Tract 1 of Certificate of Survey No. 1591 (Document No. 1026729) and Tract 1 of Certificate of Survey No. 1596 (Document No. 1029099), Situated in the N 1/2 of Section 15, T 01S, R 26E, P.M.M., in the City of Billings, Yellowstone County, Montana, of which plat is on file and recorded at the Yellowstone County Clerk and Recorder's Office.

"DEVELOPER" KSKC Properties, 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 KSKC Properties, 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:_____

EXHIBIT A

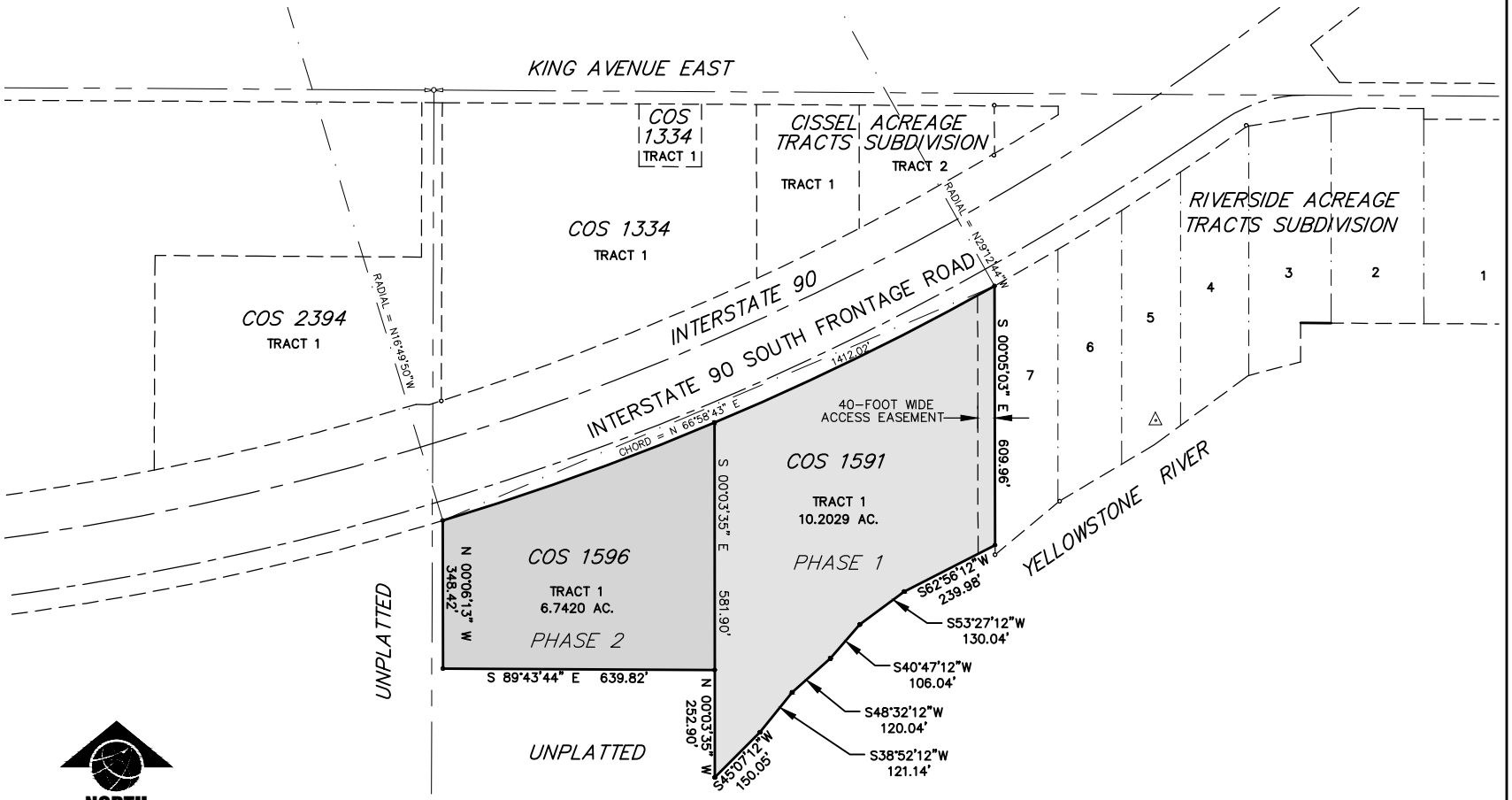
BEING TRACT 1, C.O.S. 1591 AND TRACT 1, C.O.S. 1596
LOCATED IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : KSKC PROPERTIES, LLC

JANUARY 2019

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA



NORTH

SCALE:1" = 400'

08099_03_DEVEL_AGREEMENT_EXHIBIT.DWG 08099.03 2/27/19 SEP

City Council Regular

Date:	12/20/2021
Title:	W.O. 20-24, West End Storm System Improvements, Contract Amendment No.1
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends the City Council approve a professional services contract amendment for W.O. 20-24, West End Storm System Improvements, to DOWL in the amount of $297,861.00.

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

On March 23, 2020, Council awarded a professional services contract with DOWL in the amount of $136,526.75 to proceed with Phase I of W.O. 20-24, West End Storm System Improvements. The intent of this project is to identify, design, and ultimately construct dedicated City of Billings storm drain pipe and/or open drain facilities on the West End to facilitate and manage storm drain runoff. Currently, the West End is served by trunk water and sewer mains, but no trunk storm drain mains. As development occurs and roads are improved, management of stormwater runoff has been difficult. This project will start the process of constructing storm drain trunk mains and drainage corridors in West Billings.

Phase I of this project provided an alignment and route evaluation of a defined City managed storm drainage corridor from the intersection of Rimrock and 54th to the Shiloh Drain along 48th Street West. In addition, Phase I included design and construction of miscellaneous minor drainage improvements at existing City maintained detention ponds on the West End. Phase II (this contract) will complete survey and capacity analysis of Phase I selected ditch and drain channel corridors, provide an evaluation of Rimrock Road drainage adjacent to 54th Street West, and provide a detailed design of pipe improvements in Grand Avenue from 54th Street West to 48th Street West. It is anticipated that a Phase III contract will be implemented in the future to provide construction administration services and additional West Billings stormwater evaluations. The contract amount for Phase II is $297,861.00.

ALTERNATIVES

The Council may:

- Approve a contract amendment for W.O. 20-24: West End Storm System Improvements, to DOWL in the amount of $297,861.00 ; or,
- Not approve a contract amendment. If not approved, the City will be unable to proceed with continued west Billings stormwater planning efforts at this time.

FISCAL EFFECTS

Work for W.O. 20-24: West End Storm System Improvements, Contract Amendment No. 1 was budgeted in FY22 using stormwater funds. There are sufficient funds to award this contract.

Attachments

WO2024, West End Storm, DOWL, Contract Amendment#1

AMENDMENT NO. 1

TO

CONTRACT FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES

CITY OF BILLINGS WORK ORDER 20-24,

WEST END STORM SYSTEM IMPROVEMENTS

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

DOWL
222 N. 32nd Street, Suite 700
Billings, Montana 59101
Hereinafter designated the Contractor

WITNESSETH:

WHEREAS, the City and Contractor have entered into a contract dated April 7, 2020, for Contractor to provide preliminary design professional services to the City for Work Order 20-24, and;

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

WHEREAS, the City has authority to contract for professional 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:

Exhibit A is amended to include the following design services:

SEE ATTACHED

TOTAL INCREASE THIS AMENDMENT:

Contract Amendment #1	**$297,861.00**
Original Contract Amount	$136,526.75
Total W.O. 20-24 Contract	$434,387.75

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

CONSULTANT

NAME: Wade Irion, P.E.

BY: _____

TITLE: Water Resources Practice Lead

DATE: 11/30/2021

CITY OF BILLINGS, MONTANA

BY: _____

TITLE: _____

DATE: _____

WO 20-24 - West End Storm Drain System Improvements
Contract Amendment #1

Scope of Services

The following tasks will be performed by DOWL (Engineer) for the above reference project. The attached exhibit illustrates the geographic area of focus for the various tasks of Phase II. The following scope of work includes eight primary tasks: 1) Phase II Project Management, 2)Big Ditch/Snow Ditch Coordination, 3) Grand Peaks Lift Station & Outfall Final Design and Construction Documents, 4) Snow Ditch Capacity Evaluation & Recommended Improvements, 5) Big Ditch Survey and Cleaning Details, 6) Rimrock Road Drainage Alternatives, 7) 54th Street to Snow Ditch Storm Drain Design and 90% Construction Documents, and 8) Baseline Drain Investigation & Inspection Plan. Any item not specifically discussed or as otherwise noted are assumed to be a City of Billings (City) responsibility or beyond the services included in this scope of work.

Task 1000 – Phase II Project Management

1) Perform general project management including project setup, contracting, project planning, resource planning, scheduling, and project status updates. The budget for this task accounts for all major tasks below and is assumed to extend to the 90% construction plan deliverable date on December 31, 2022.
2) Coordination and project status updates with the City of Billings.
3) Compile and review available information, documents, and studies.
4) Prepare monthly progress reports for the City, detailing the work completed each month. The monthly progress reports will be completed and submitted with each monthly invoice.

Task 1000 Deliverables:

1. ***Monthly Progress Reports***

Task 1100 – Big Ditch/Snow Ditch Coordination

1) Attend a follow-up meeting with Russ Cummins to discuss using the Snow Ditch as a stormwater outfall.
2) Coordination meetings with City of Billings on next steps.
3) Coordination with Greg Kindsfather, Russ Cummins and Nicole Seward to facilitate a meeting with the Big Ditch board of directors.
4) Develop map exhibits for meeting with the Big Ditch board of directors.
5) Coordination meeting with City of Billings on presentation to the Big Ditch Board.
6) Present project findings to the Big Ditch at their annual meeting at Laurel Country Club.
7) Review City of Billings draft language for the joint-use agreement.
8) Follow-up meetings with the City of Billings on Big Ditch agreement.

Task 1100 Deliverables:

1. ***Meeting Summaries***
2. ***Map Exhibits***

Task 1200 – Grand Peaks Lift Stations & Outfall

DOWL previously developed 60% design plans for the Grand Peaks Lift Stations project assuming an outfall to the east along Grand Avenue, as part of the Phase I Contract. Task 1100 represents the scope of additional work to advance the 60% plans to final design based on a new outfall along 52nd Street to the Big Ditch as well as other minor changes to the preliminary design. DOWL will develop "bid-ready" construction plans and project manual and provide minor support through the bidding process.

Task 1300 – Snow Ditch Capacity Evaluation

Task 1301 – Snow Ditch Survey

1. Verify existing control or survey and provide values for at least three semi-permanent control monuments (e.g. rebar and cap, nail glued into concrete, etc.). Survey temporary or naturally-occurring ground control points (GCPs) for drone image processing.

2. Survey cross sections for a +/- 10,200 ft. corridor along the Snow Ditch from the unloader at Big Ditch to the spillway into Shiloh Drain at Central Avenue. Cross sections will range from 100-ft to 200-ft frequency as needed to fully define capacity constraints. This estimate assumes no more than 100 total cross sections will be needed. Perform drone mapping of the Snow Ditch corridor when conditions are favorable, i.e. leaf-off tree conditions, little or no flowing or ponding water, and no drifted snow. Delays caused by winter conditions in collection of this data could cause a shift in the early deliverable date for this Task.

3. Key structures will be surveyed along the Snow Ditch, including the Big Ditch Unloader, culverts, drop chutes, inflow culverts, bridges, flumes, and the downstream spillway structure. Based on initial assessments from aerial imagery, DOWL has identified approximately 30 key structures from google earth aerial imagery. Structure data collection will include opening sizes, invert or flow-line elevations, and critical structure horizontal and vertical geometry. Key structures are assumed to require 5-25 points per structure, depending on structure complexity. Each structure will have at least two photos taken from different perspectives.

4. Process data and develop basemap for the Snow Ditch Corridor.

Task 1302 – Snow Ditch Hydraulic Analysis

1) Review Shiloh Road As-Built Construction Drawings to better understand the Snow Ditch outfall to Shiloh Drain.
2) Perform a field assessment of the Snow Ditch, document erosion areas, constriction points, and stormwater inflow locations.
3) Conduct flow measurements in the Snow Ditch for one season of operation for the purpose of validating initial estimates of typical flows and capacity constraints. One flow measurement location will be just below the Big Ditch Unloader and the other will be along Central Avenue, just upstream of the outfall structure. These flow measurements will be used to define typical flow levels as well as flow surges due to stormwater runoff.
4) Develop a HEC-RAS hydraulic model of the Snow Ditch to determine existing capacity along its length to identify capacity constraints. Verify model accuracy through measurements of actual flows.
5) Utilize the existing ASSA model to determine stormwater runoff contributing to the irrigation flows in Snow Ditch. This modeling will consider runoff from adjacent developments and agricultural lands in projecting current and future runoff during representative 2 and 10-year storm events.
    a. Delineate drainage sub-basins contributing runoff to Snow Ditch.
    b. Determine runoff properties of the drainage basins.
    c. Determine runoff from adjacent developments, with flow adjustment to reflect retention/detention facilities.
    d. Verify model accuracy through flow measurement during actual storm event(s).
6) Determine available ditch capacity for stormwater runoff assuming no improvements.
7) Evaluate 3 to 5 alternatives for increasing capacity in the Snow Ditch to provide additional stormwater conveyance capacity.
8) Draft a technical memorandum summarizing the evaluations and submit to City for review.
9) Present findings to the Big Ditch Board. Address concerns of the Big Ditch Board, as appropriate. DOWL has assumed the City of Billings will take lead on coordination with the Big Ditch.

Task 1302 Deliverables:

1. ***Preliminary Memorandum of Snow Ditch Capacity Evaluation***
2. ***Final Memorandum of Snow Ditch Capacity Evaluation***

Task 1400 – Big Ditch Survey & Cleaning Details

Task 1401 – Big Ditch Survey

1. Verify existing control or survey and provide values for at least three semi-permanent control monuments (e.g. rebar and cap, nail glued into concrete, etc.). Survey temporary or naturally-occurring ground control points (GCPs) for drone image processing.

2. Survey cross sections for a +/- 6,400 ft. corridor along the Big Ditch from the intersection with 48th Street to the Shiloh Road Crossing. Cross sections will range from 150-ft to 300-ft frequency as needed to fully define capacity constraints. This estimate assumes not more than 40 total cross sections will be needed. Perform drone mapping of the Snow Ditch corridor when conditions are favorable, i.e. leaf-off tree conditions, little or no flowing or ponding water, and no drifted snow.

3. Key structures or constrictions will be surveyed along the Big Ditch, including culverts, drop chutes, inflow culverts, bridges, flumes, buildings, trees, fence lines, and the downstream spillway structure. Based on initial assessments from aerial imagery, DOWL has identified approximately 10 key structures from aerial imagery. Structure data collection will include opening sizes, invert or flow-line elevations, and critical structure horizontal and vertical geometry. Key structures are assumed to require 5-25 points per structure, depending on structure complexity. Each structure will have at least two photos taken from different perspectives.

4. Process data and develop basemap for the Big Ditch Corridor.

Task 1402 – Develop Cleaning Plan, Quantities, and Details

1) Review survey data and photos to determine cleaning needs for the individual reaches along the Big Ditch.
2) Develop a plan view exhibit highlighting the Big Ditch Stationing and the individual reaches to be cleaned. DOWL has assumed up to four reaches will be identified.
3) Develop cross-section views to illustrate cleaning requirements and to estimate the quantity of sediment to be removed.
4) Develop a typical detail for spoil of the removed sediment on the ditch bank for those areas where the material does not need to be hauled away.
5) Provide sediment quantities and preliminary cost estimate for cleaning each reach, including haul quantities versus the quantity to be spoiled on the ditch bank.

Task 1402 Deliverables:

1. ***Ditch Reach Plan View Exhibit and Cross Section Cleaning Details***
2. ***Quantities and Preliminary Cost Estimate***

Task 1500 – Rimrock Road Outfall Alternatives

Task 1500 – Stormwater Modeling

1) Evaluate Alternative 1 – Storm drain system directly down 54th Street, with no detention storage. This model has already been developed as part of West Billings Stormwater Development Plan. Review model and update using consistent conditions as other alternatives.

a. Size stormwater infrastructure along 54th Street, Grand Avenue, and 48th Street to the Snow Ditch, just below the Big Ditch crossing.
    i. Size for future roadway corridor only.
    ii. Verify pipe size using the various "check storms" with development discharge.
    iii. Size the 54th and Grand storm drain assuming no detention storage control of the runoff from the Rimrock Road Corridor.
    iv. Determine stormwater flow contribution to the Snow Ditch.

2) Evaluate Alternative 2 – Storm drain system down 58th Street, discharging into a regional detention pond below High Ditch and then running east along the south boundary of Cottonwood Park into 54th Street.
    a. Develop a conceptual layout of a regional detention pond that will fit the current terrain below High Ditch. Determine the maximum practical storage volume for this regional pond.
    b. Develop ASSA model with new storm drain layout.
        i. Size upstream storm drain infrastructure to the regional detention pond.
    c. Evaluate potential storage needs to reduce flows discharging into the 54th Street storm system. DOWL will evaluate the sensitivity of detention storage size on the size of the downstream storm drain piping.
    d. Define the range of potential stormwater inflows into the Snow Ditch with the range of detention storage ponds.
3) Evaluate Alternative 3 – Storm drain system down Rimrock Road to the west, discharging into the 62nd Street Ponds
    a. Layout storm drain system and size pipes to handle the controlling flow.
    b. Identify any downstream impacts and required improvements to accommodate the additional stormwater flows.
    c. Size the 54th and Grand storm drain assuming no contribution from the Rimrock Road Corridor.
    d. Determine contributing flows to the Snow Ditch under this option.
4) Develop preliminary cost estimates for each of these alternatives. Cost estimate will include infrastructure along Rimrock Road, 54th Street, Grand Avenue, portions of the 48th Street corridor before discharging into Snow Ditch, and Snow Ditch improvements.
5) Develop summary memo of the alternatives evaluation and present findings to City of Billings.
6) Coordination meeting with City of Billings for selection of preferred alternative to advance to 90% design of the storm system on 54th, Grand, and 48th Street.

Task 1500 Deliverables:

1. ***Plan view exhibit of the alternative stormwater management plans***
2. ***Conceptual Layout of the Regional Detention Pond***
3. ***Preliminary Cost Estimate for each alternative***

Task 1600 – 54th & Rimrock to Grand and 48th Storm Drain - Preliminary Design

Task 1601 – Coordination with Landowners & Ditch Company

It is assumed that the City of Billings will take the lead in any coordination with landowners and ditch companies for this project. DOWL will provide support to the City and have assumed the following services:

1) Support for landowner meetings.
    a. Assume production of up to three exhibits.
    b. Attend one landowner meeting including prep time and meeting minutes.
2) Support for High Ditch and Big Ditch coordination
    a. Assume production of up to four exhibits.
    b. Assume attending two landowner coordination meetings including prep time and meeting minutes.

Task 1602 – Survey & Mapping

1) Set mapping control along the 54th Street, Grand Avenue, and 48th Street corridor for collection of drone mapping.
2) Design survey will be completed using a small, unmanned aircraft system (i.e. drone). DOWL will use terrestrial GPS survey methods to establish horizontal and vertical control and ground control points that will be used to georectify an orthomosaic image and terrain mapping derived from drone obtained aerial imagery. A minimum of five ground control points will be set for each mapping segment. Drone mapping will be completed by a licensed FAA Part 107 remote pilot, and FAA regulations will be followed. Flight approval will be obtained using the LAANC system. The horizontal and vertical datums for this project shall be approved by the City. The plans will use aerial imagery from the drone mapping as a background, and key elevations will be obtained from the collected topographic data. Utility locates will be requested prior to the drone survey using the One-Call service, and the located private utilities will be drawn from the drone imagery. Limited conventional GPS survey will be used to collect features and utilities that couldn't be collected by the drone, such as in areas under tree cover, elevations of water valves, and other vertical elements like power poles.
3) DOWL will supplement existing topographic data already collected as well as verify drone topography in highly vegetated areas to develop a basemap for the proposed project. Survey will include cross sections throughout the 54th Street corridor from Rimrock Road to Grand Avenue, the Grand Avenue corridor between 54th Street and 48th Street and 48th Street between Grand Avenue and Snow Ditch tie-In. Key facilities include culverts, fire hydrants, and power poles. The survey width will be extended roughly 5-ft beyond the proposed right-of-way limits on both sides of the roadway.
4) Establish survey control for construction following preliminary design decisions that will establish the location of construction features. Control will be intervisible, established

outside of planned construction, and spaced at approximately 500 ft. intervals along the project corridors. DOWL anticipates establishing 10 total control points for construction.

5) Unless directed otherwise by the City, the following coordinate system parameters will be used:
    a. Montana State Plane (NAD83-2011) with horizontal units expressed in international feet.
    b. Vertical datum will be NAVD88 with GPS elevations derived from GEOID12A and vertical units expressed in U.S. survey feet.

   Provide coordinate listings of benchmarks and control stations for new and existing survey control in the design plans.
6) Coordinate with the City and private utility companies for the location, type, and size of their utilities within the project corridor. This survey request will supplement existing utility survey data collected in the Phase I project. Utility information for the project as a whole will be determined through utility-provided atlas mapping, Montana One Call, and surface features as marked or indicated by the respective owners. DOWL will notify the City of any non-responsive utility companies.

Task 1602 Deliverables:

1. Base Map for Construction Drawings

Task 1603 – Preliminary Design

1) Utility Research & Coordination
    a. Acquire from the City all available as-builts, water and sewer service line records, CCTV inspections, and other information and studies as applicable. Incorporate available information into design drawings and specifications.
    b. Coordinate the evaluation of potential private utility conflicts, including overhead and underground power, cable TV, natural gas, telephone, and communications. Send preliminary construction plans to private utilities for review and comment.
    c. Coordinate with PUD for design of any required water system modifications that result from the installation of the storm drain system. It is expected that this task will only include minor relocation of select hydrants and small laterals. Utility conflicts will be identified in the 30% construction plans and design details will be incorporated in the 90% construction plans.
2) Geotechnical Investigation
    a. Review available geotechnical information provided by the City and research/review regional geology, soil survey, site setting, and topography.
    b. Conduct a limited site investigation including borings, piezometer installations, and laboratory testing for the project:
        i. Facilitate and drill five borings along the storm-drain pipe corridor to depths of about 10 feet and one boring near the existing Big Ditch crossing to a depth of approximately 30 feet. Arrange for single-lane closure traffic control during exploration. Complete two (2) bore holes as

piezometers for groundwater monitoring. Assume monitoring wells will be checked two times per month throughout the project duration.

ii. Perform laboratory testing including classification (gradation & Atterberg Limits), moisture content, Proctor, consolidation, and corrosion tests.

iii. Provide foundation and bedding recommendation around the storm drain crossing under the Big Ditch.

c. Prepare a Geotechnical Investigation memorandum including review of the existing data, recommended surfacing thickness to match existing, subsurface exploration logs, laboratory test reports, and groundwater depth. One (1) hard copy and one (1) PDF copy of the memo will be issued to the City.

3) Final Storm Drain Design

a. DOWL will evaluate a storm drain alignment along 54th Street between Rimrock and Grand Avenue, Grand Avenue between 54th to 48th Street, and 48th Street from Grand Avenue to the Snow Ditch tie-In, based on the selected alternative from the three (3) alternatives evaluated. The alignment will be located fully within City right-of-way. DOWL has assumed that there will be no impacts to the irrigation ditches along 54th Street and Grand Avenue.

b. Develop a conceptual roadway design for 54th Street, Grand Avenue, and 48th Street to anticipate future roadway drainage needs. Utilize this conceptual roadway design to determine appropriate locations for inlets and manholes.

c. Update existing stormwater models to reflect final design of the storm drain alignment including appropriate location of manholes and future inlets. Update storm drain pipe size and system performance as appropriate to represent 10-year and 100-year storms, for both the interim design and full buildout conditions.

4) Develop a Preliminary Storm Drainage Design memorandum summarizing the basis of design.

Task 1603 Deliverables:

1. ***Geotechnical Memorandum***
2. ***Preliminary Storm Drainage Design Memorandum***

Task 1604 – 30% Construction Plans & Review Meeting

1) DOWL will develop a 30% storm drain construction plan set. The construction plans will include the 54th Street, Grand Avenue, and 48th Street Storm Drainage system discharging into the Snow Ditch.

a. Information to be conveyed on Plan Sheets:

i. Proposed storm drain horizontal and vertical alignment (plan and profile)

ii. Existing right-of-way

iii. Existing utilities

b. Plan Sheets:

i. Cover & Note Sheets

ii. Storm Drain Plan & Profile Sheets (12)

iii. Big Ditch Crossing Plan and Profile Sheet (1)

iv. Preliminary Detail Sheets (3)

c. Assemble preliminary quantities and opinion of probable construction cost
d. DOWL will perform Quality Assurance and Quality Control during the preliminary design and prior to the preliminary plan review meeting.

2) Conduct a plan review meeting with City staff to discuss the 30% Construction plan package. Document the City's comments from the plan review meeting and distribute to the City.
3) Identify required utility relocations along 54th Street, Grand Avenue, and 48th Street. Distribute preliminary construction plans to the affected private utility companies. One (1) copy of the preliminary plans will be sent to each private utility company for their review and comment.
4) Submit construction plans to Big Ditch Board and assist the City with a coordination meeting to discuss. DOWL has assumed the City will take the lead on coordination with the Big Ditch.

Task 1604 Deliverables:

1. ***30% Construction Plans Package***
2. ***Opinion of Probable Construction Costs***
3. ***30% Review Meeting Minutes***
4. ***Utility Company Submittals***

Task 1605 – 90% Construction Plans and Review

1) Address the City's 30% Construction Plan comments in the 90% Construction Plans, including modifications to the plan, profile, details and grading.
2) Include input on existing and proposed private utilities as provided by the private utility companies. The scope of services does not include design or engineering for the relocation of private utilities.
3) Develop demolition plans to identify items to be removed or adjusted.
4) Develop 90% Construction Plans for the City's review. Plans will include:
    a. Cover Sheet (1)
    b. Sheet Index, Legend and Note Sheet (1)
    c. Survey Control Sheet (2)
    d. Demolition Sheets (3)
    e. Storm Drain Plan & Profile Sheets (12)
    f. Big Ditch Crossing Plan and Profile Sheet (2)
    g. Snow Ditch Improvement Details (4)
    h. Miscellaneous Detail Sheets (5)
    i. Grand Peaks Pump Stations Detail Sheets (6)
5) Perform Quality Assurance and Quality Control during the final design and prior to 90% Construction Plan submittal.
6) Prepare a water system impact design report for the City, and as required for Montana Department of Environmental Quality (MDEQ) approval. Submit construction documents, the design report, and related checklist materials for approval by MDEQ. All MDEQ review fees will be paid by the City.

7) Construction stormwater permits shall be the responsibility of the construction Contractor and are excluded from this scope of work.
8) Develop a Pre-Final project manual. The project manual will include project specifications and special provisions based on the current edition of the Montana Public Works Standard Specifications (MPWSS) and City of Billings 2021 Standard Modifications to the MPWSS.
9) Prepare a 90% Construction Plan Opinion of Probable Construction Cost.
10) Submit 90% Construction Plans Package and Opinion of Probable Cost to City for review.
11) One (1) copy of the 90% Construction Plans will be sent to each private utility company for their review and comment.

Task 1605 Deliverables:

1. ***90% Construction Plans***
2. ***90% Project Manual***
3. ***90% Opinion of Probable Construction Cost***
4. ***Water System Impact Design Report***
5. ***MDEQ Submittal Package***

Task 1700 – Baseline Drain Preliminary Investigation

1) Meeting and field review with Paul Bromenshenk and Charlie Yegen regarding the baseline drain, location, access points, and potential for use as a storm drain outfall. DOWL has assumed time to meet with and complete a field visit with one other individual who may be familiar with the Baseline Drain.
2) Gather information about location and access points of the Baseline Drain and coordinate with TruPipe to develop a plan for a CCTV inspection of the pipeline. Provide CCTV plan, requirements, and initial cost estimate to the City.

Task 1700 Deliverables:

1. ***Baseline Drain Inspection Plan and Cost Estimate***

City Council Regular

Date:	12/20/2021
Title:	Billings Bench Water Association (BBWA) Grant Sponsorship
Presented by:	Andy Zoeller, Finance Director
Department:	Finance
Presentation:	No

RECOMMENDATION

Staff recommends that City Council approve the sponsorship of the Billings Bench Water Association ARPA grant application to the State of Montana.

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

The State of Montana has established, through its ARPA funds, a grant program that allows Local Governments to apply for eligible irrigation projects. The Billings Bench Water Association (BBWA) is asking the City of Billings to sponsor their application for a tunnel project within Billings. While the City does not own the ditch, nor have any responsibility for maintenance, our citizens and infrastructre will benefit from a properly maintained canal. Failure within this section of the canal could cause significant flooding to downtown and east Billings. Proper maintenance to the canal is essential for safety of the citizens of Billings and users of the canal.

The BBWA Main Canal runs through the center of the City of Billings and passes through a tunnel in the rims, just north of North 15th Street. The southern 600 linear feet of the 1,800 foot long tunnel is what is termed the 'timber set' section of the tunnel. This section of the tunnel is constructed of a concrete base with short concrete stem walls on the sides and timber beams and posts that support the sidewall/roof of the section. These timber beams/posts are not a permanent support structure, which the BBWA themselves have been periodically replacing ones that are deteriorated. This section of the tunnel is in need of a significant replacement effort of the posts/beams that is at a cost that the BBWA could not cover with their typical maintenance fees.

Irrigation grant applications are due by January 14, 2022 and are limited to a maximum award of $500,000.

BBWA Board President Jim Stott and the project engineer Greg Reid will be available for any questions.

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve the sponsorship of the grant application

FISCAL EFFECTS

Grant awards are limited to $500,000. If grant funding is awarded to the BBWA, all additional costs above the grant award will be the responsibility of the BBWA.

No costs will be incurred by the City of Billings other than some minimal administrative staff time.

Date: 12/20/2021
Title: Grant Application Submittal for an AmeriCorps VISTA Project
Presented by: Carly Collins
Department: Planning & Community Services
Presentation: No

RECOMMENDATION

City staff and the Community Development Board recommends 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 the submission of an application for AmeriCorps Volunteer in Service to America (VISTA) resources for FY2022-2023. 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 of healthcare access and expansion including a COVID-19 impact survey.

Approval for the application 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, Chinook Horses, Family Promise, Billings Continuum of Care, and Adaptive Performance Center. Staff is preparing 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), as well as Summer Associates who may participate in prioritized direct service activities including those that address summer learning loss, food distribution to children and families, and the recruitment and training of community-based volunteers.

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.

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. Not approving the grant application would deprive the Billings community of valuable and in some cases critical support for existing and new programs to help fight homelessness and provide services for low income members of the community. Support for these services would be much more challenging to access outside the established AmeriCorps VISTA program.

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

The AmeriCorps VISTA project is consistent with previous and ongoing projects managed by the City's Community Development Division. There is an ongoing need for AmeriCorps VISTA members to execute poverty-impact initiatives via capacity building efforts at local agencies, as demonstrated by a consistent number of VISTA Host Site Proposals submitted by new organizations each year. City Staff has extensive experience in developing and managing the project including through ongoing recruitment, administration, and fiscal management of the project. AmeriCorps VISTA projects are examples of how the City can partner with various service organizations in order to continue making a difference working to alleviate poverty and homelessness.

City Council Regular

Date:	12/20/2021
Title:	Amended Lot 9A, Block 12, Hilltop Subdivision, 2nd Filing - Preliminary Minor Plat
Presented by:	Monica Plecker
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

Staff recommends conditional approval of the preliminary plat of Amended Lot 9A, Block 12 Hilltop Subdivision, 2nd Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

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

On November 15, 2021, Sanderson Stewart, applied for preliminary subsequent minor plat approval for Amended Lot 9A, Block 12 Hilltop Subdivision, 2nd Filing. The proposed subdivision creates 2 lots for residential development. There is currently one house on the property, the second lot will provide a lot for an additional home. The subject property is generally located on the 600 Sapphire Avenue. The property is zoned Suburban Neighborhood (N3).

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

The applicant is not requesting a variance from the subdivision regulations.

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 protect public health and safety, prior to final plat approval, the applicant will submit all required drawings and specifications for the water system to the County Water District of Billings Heights for review and approval prior to construction. The applicant will submit all required drawings and specifications for the sanitary sewer and storm drainage system to City of Billings Engineering Division for review and approval prior to construction.
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.

PROCEDURAL HISTORY

- Pre-application meeting April 22, 2021
- Completeness and Sufficiency review submitted July 23, 2021
- Preliminary plat application submitted to Planning Division October 22, 2021. Delayed for additional information, application submittal moved to November 15, 2021.
- Preliminary plat to City Council December 20, 2021
- 35 working-day preliminary plat review period ends January 7, 2022

PLAT INFORMATION

General location:	600 Sapphire Avenue
Legal Description:	Lot 9A, Block 12, Hilltop Subdivision, 2nd Filing
Owner/Subdivider:	Shaun Marks
Engineer and Surveyor:	Sanderson Stewart
Existing Zoning:	N3
Existing land use:	Residential
Proposed land use:	Residential
Gross and Net area:	17,078 square feet / 17,078 square feet
Proposed number of lots:	2
Lot size:	Max: 9,753 square feet Min.: 7,325 square feet
Parkland requirements:	There is no parkland requirement as this is a minor plat.

STAKEHOLDERS

A public hearing is not scheduled for the City Council meeting; however nearby property owners may attend the City Council meeting. 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 January 7, 2022. 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

This plat will have no fiscal impacts on the City/County Planning Division.

Attachments

Findings of Fact
Proposed Plat
SIA Draft
Mayors Letter

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary subsequent minor plat of Amended Lot 9A, Block 12 Hilltop Subdivision, 2nd Filing. 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 County Water District of Billings Heights. Currently, the property has access to a water line in Sapphire Avenue or Crestline Drive. They will stub a water connection into the main water line in either line upon development of the new lot. New water connections will be reviewed and approved by the County Water District of Billings Heights before installation. They will also meet the requirements of Montana Department of Environmental Quality (MDEQ). **(Condition #1)**

b. **Sewer -** Sanitary sewer service will be provided by the City of Billings. The property is currently served by an existing sanitary sewer main that is within Sapphire Avenue. 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. **(Condition #1)**

c. **Storm water** – There are no anticipated changes to the Storm Water drainage with the addition of one lot. At the time of development on the lot with the review of a building permit, 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. **(Condition #1)**

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 have access from Sapphire Avenue and Crestline Drive. Sapphire Avenue is a paved road, Crestline Drive is a gravel surface road. The new not will take access from Crestline Drive. The existing house on the lot has access from Sapphire Avenue. No additional right of way or construction is anticipated with this subdivision. Road construction is included in the Waiver or Right to Protest future SID's should the road be paved.

f. **Emergency services** – The Billings Police and Fire Department will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1605 Saint Andrews Drive (Station #6). There is an existing fire hydrant on the north west corner of the intersection of Sapphire Avenue and Crestline Drive.

   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** – Because this is a two-lot minor only adding one additional home there will be minimal effect on the school system.

h. **Parks and Recreation** – There is no parkland requirement for this subdivision.

i. **Mail Delivery -** The United States Postal Service (USPS) already has a route in this 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. Billings Heights Neighborhood Plan

The Billings Heights Neighborhood Plan, adopted in 2006, identifies this area for low density residential development. The subdivision meets the following goals of the Heights Neighborhood Plan:

Issue: Urban Sprawl

Goal: Encourage infill housing.

Objectives: To preserve and conserve resources and curb urban sprawl. This subdivision will be building houses in an already established neighborhood and subdivision, reducing sprawl to new land.

Issue: Residential Development

Goal: To provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Maintain similar housing in established neighborhoods.

Objectives: To encourage infill development and housing development that meets residents' desire to have similar housing within their neighborhood.

This subdivision provides low-density residential single-family development in a neighborhood with existing low-density single-family development.

3. 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.

4. 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 lot is 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 from Crestline Drive for the new lot. The existing house on the property has access from Sapphire Avenue.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Amended Lot 9A, Block 12 Hilltop Subdivision, 2nd Filing 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 Amended Lot 9A, Block 12 Hilltop Subdivision, 2nd Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, December 20, 2021

_____

William A. Cole, Mayor

PRELIMINARY AMENDED PLAT OF LOT 9A OF
THE AMENDED PLAT OF LOTS 10–16 OF BLOCK 4, LOTS 3 & 4 OF
BLOCK 5, LOTS 2–13 OF BLOCKS 10 & 11, AND BLOCKS 12 & 13
OF

HILLTOP SUBDIVISION, SECOND FILING

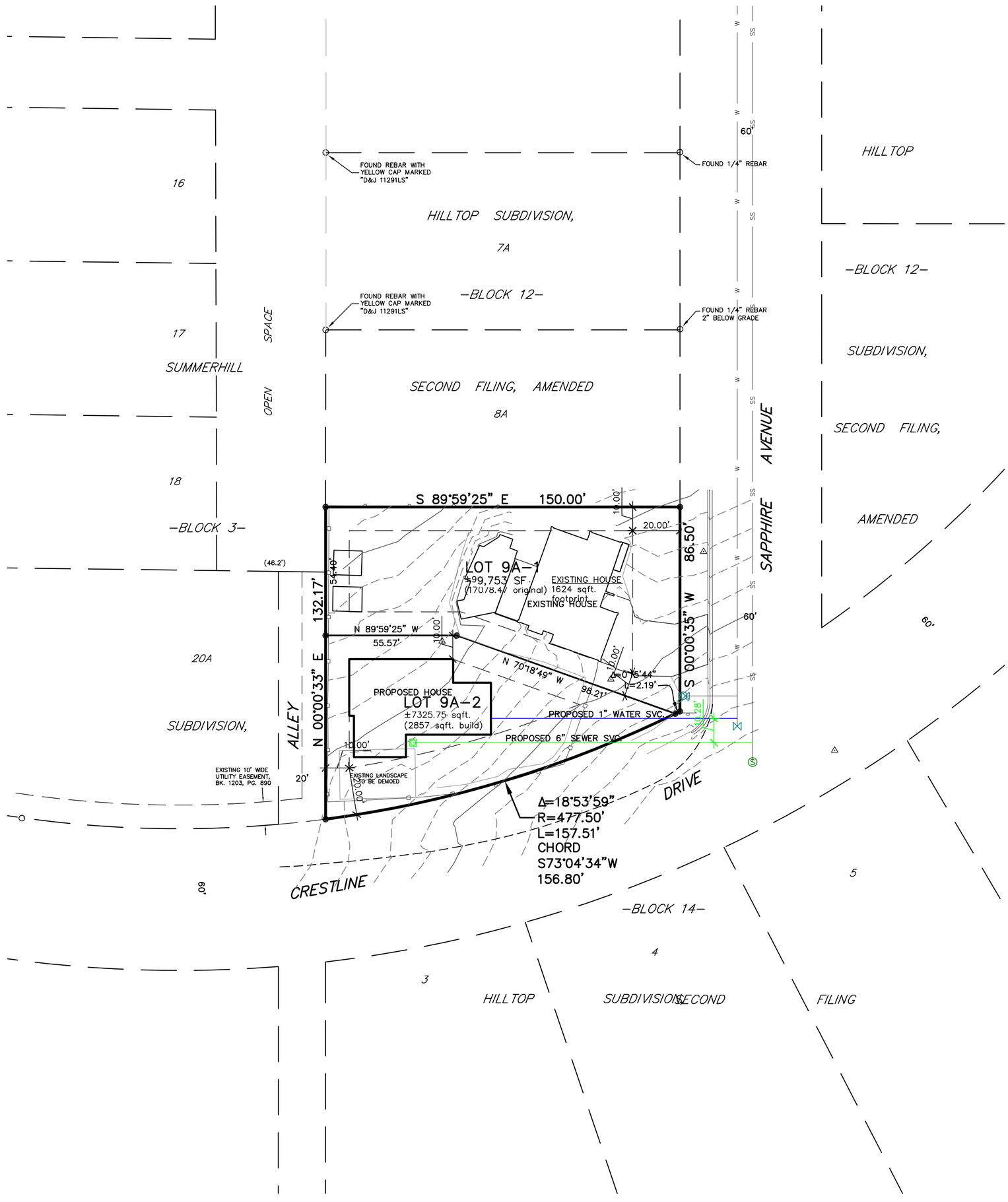
SITUATED IN THE NW1/4 OF SECTION 27, T. 1 N., R. 26 E.,
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

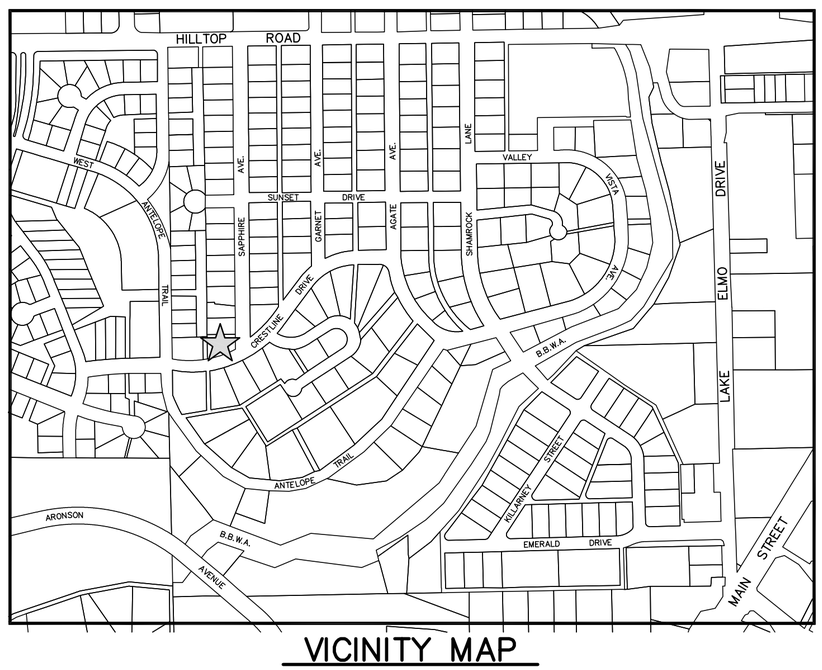
PREPARED FOR : SHAUN MARKS

PREPARED BY : SANDERSON STEWART

JUNE, 2021

BILLINGS, MONTANA





VICINITY MAP
NOT TO SCALE

NORTH

30 15 0 30 60

SCALE:1" = 30'

PLAT DATA

GROSS AREA	=	17029 SQ. FT. (0.3921 Acres)
NET AREA	=	17029 SQ. FT. (0.3921 Acres)
NUMBER OF LOTS	=	2
MINIMUM LOT SIZE	=	7326 SQ. FT. (0.2239 Acres)
MAXIMUM LOT SIZE	=	9753 SQ. FT. (0.1682 Acres)
LINEAL FEET OF STREETS	=	NA
PARKLAND REQUIREMENT	=	NA
PARKLAND DEDICATION	=	NA
EXISTING ZONING	=	N3 – SUBURBAN NEIGHBORHOOD
SURROUNDING ZONING:	=	N3 – SUBURBAN NEIGHBORHOOD
EXISTING LAND USE	=	RESIDENTIAL
PROPOSED LAND USE	=	RESIDENTIAL

Return to:
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59101

SUBDIVISION IMPROVEMENTS AGREEMENT
for
AMENDED PLAT OF LOT 9A OF THE AMENDED PLAT OF LOTS 10-16 OF BLOCK 4, LOTS 3 & 4 OF BLOCK 5, LOTS 2-13 OF BLOCKS 10 & 11, AND BLOCKS 12 & 13 OF HILLTOP SUBDIVISION, SECOND FILING

Table of Contents

I.	Variances		SIA-2
II.	Property Conditions and Information for Lot Purchasers		SIA-2
III.	Transportation		SIA-3
	A.	Streets	SIA-3
	B.	Sidewalks	SIA-3
	C.	Street Lighting	SIA-3
	D.	Traffic Control Devices	SIA-4
	E.	Access	SIA-4
	F.	Billings Area Bikeway and Trail Master Plan	SIA-4
	G.	Public Transit	SIA-4
IV.	Emergency Services		SIA-4
V.	Storm Drainage		SIA-5
VI.	Utilities		SIA-5
	A.	Water	SIA-5
	B.	Sanitary Sewer	SIA-6
	C.	Power, Telephone, Gas, and Cable Television	SIA-6
VII.	Parks/Open Space		SIA-6
VIII.	Irrigation		SIA-6
IX.	Soils/Geotechnical Study		SIA-6
X.	Phasing of Improvements		SIA-6
XI.	Financial Guarantees		SIA-6
XII.	Legal Provisions Applying to Subdivider		SIA-7

Return to:
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59101

SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS

FOR

AMENDED PLAT OF LOT 9A OF THE AMENDED PLAT OF LOTS 10-16 OF BLOCK 4, LOTS 3 & 4 OF BLOCK 5, LOTS 2-13 OF BLOCKS 10 & 11, AND BLOCKS 12 & 13 OF HILLTOP SUBDIVISION, SECOND FILING

THIS AGREEMENT is made and entered into this ____ day of _____, 20___, by and between **SHAUN MARKS**, whose address for the purpose of this agreement is 2424 1st Avenue South, Billings, MT, 59101, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the Amended Plat of Lot 9A of the Amended Plat of Lots 10-16 of Block 4, Lots 3 & 4 of Block 5, Lots 2-13 of Blocks 10 & 11, and Blocks 12 & 13 of Hilltop Subdivision, Second Filing, hereafter referred to as "the subdivision", located in the City of Billings, Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

WHEREAS, at a regular meeting conducted on the ___ day of _____ , 20___, the City Council conditionally approved a preliminary plat of the Subdivision; and

WHEREAS, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to the subdivision upon the filing of the amended 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

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 this subdivision is being built near prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

C. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.

D. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

E. 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.

F. 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.

G. 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.

III. TRANSPORTATION

A. Streets

The subdivision is adjacent to Crestline Drive and Sapphire Avenue. Both streets are developed rights-of-way. No street improvements are anticipated at this time for the subdivision but is included in the Waiver of Right to Protest Future Special Improvement Districts.

B. Sidewalks

No sidewalk improvements are anticipated at this time for the subdivision but is included in the Waiver of Right to Protest Future Special Improvement Districts.

C. Street Lighting

No street lighting exists along South Frontage Road in the vicinity of the subdivision. No new street lighting will be required as a result of the 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

Lot 9A-1 has an existing access from Sapphire Avenue, being adjacent along the entire east line of Lot 9A-1.

Lot 9A-2 requires an access from Crestline Drive, being adjacent along the entire south line of Lot 9A-2.

F. Billings Area Bikeway and Trail Master Plan

No additional improvements are anticipated at this time for the subdivision relating to the Billings Area Bikeway and Trail Master Plan.

G. Public Transit

No additional improvements are anticipated at this time for the subdivision relating to public transit.

IV. EMERGENCY SERVICE

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.

V. STORM DRAINAGE

No additional improvements are anticipated at this time for the subdivision relating to storm drainage.

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 or the Heights Water District. 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 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 and the County Water District of Billings Heights.

A. Water

Lot 9A-1 has an existing service connection to the main water line in Sapphire Avenue.

At the time of development, the owner of Lot 9A-2 shall install a 1” water service connection to the main water line in either Sapphire Avenue or Crestline Drive.

B. Sanitary Sewer

Lot 9A-1 has an existing service connection to the main sanitary sewer line in Sapphire Avenue.

At the time of development, the owner of Lot 9A-2 shall install a 6" sanitary sewer service connection to the main line in Sapphire Avenue.

C. Power, Telephone, Gas, and Cable Television

Lot 9A-1 has existing service already provided.

Service to Lot 9A-2 will be provided from existing facilities. No additional new easements are required for the private utilities.

VII. PARKS/OPEN SPACE

Pursuant to MCA 76-3-621(3)(d), there is no parkland requirement for a subdivision in which only one additional parcel is created.

VIII. IRRIGATION

There are no active agricultural facilities within the subdivision.

IX. SOILS/GEOTECHNICAL STUDY

Lot 9A-1 is already developed at this time. A project/building specific Geotechnical report may be required at the time of development of Lot 9A-2.

X. PHASING OF IMPROVEMENTS

No public improvements are required at this time by the Subdivider.

XI. FINANCIAL GUARANTEES

All required improvements will be financially guaranteed or constructed prior to recording of the final plat.

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.

XII. 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"

Shaun Marks

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 Shaun Marks, known to me to be the person who executed the foregoing instrument and acknowledged to me that he/she executed the same.

Notary Public in and for the State of Montana

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

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:

The Amended Plat of Lot 9A of the Amended Plat of Lots 10-16 of Block 4, Lots 3 & 4 of Block 5, Lots 2-13 of Blocks 10 & 11, and Blocks 12 & 13 of Hilltop Subdivision, Second Filing

"SUBDIVIDER"

_____
Shaun Marks

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 Shaun Marks, known to me to be the person who executed the foregoing instrument and acknowledged to me that he/she executed the same.

_____
Notary Public in and for the State of Montana

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

CITY OF
Billings
MAYOR'S OFFFICE

December 20, 2021

Shaun Marks
2424 1st Avenue South
Billings, MT 59101

Dear Applicant:

On December 20, 2021, the Billings City Council conditionally approved the preliminary plat of Amended Lot 9A, Block 12 Hilltop Subdivision, 2nd Filing, subject to the following conditions of approval:

1. To protect public health and safety, prior to final plat approval, the applicant will submit all required drawings and specifications for the water to the County Water District of Billings Heights for review and approval prior to construction. The applicant will submit all required drawings and specifications for the sanitary sewer and storm drainage system to City of Billings Engineering Division for review and approval prior to construction.

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 any 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:	12/20/2021
Title:	Amended Lot 200, Terrace Estates Subdivision, 3rd Filing - Preliminary Minor Plat
Presented by:	Monica Plecker
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

Staff recommends the City Council conditionally approve the preliminary plat of Amended Lot 200 and Adjacent Parkland, Terrace Estates Subdivision, 3rd Filing, and adopt the Findings of Fact as presented in the staff report.

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

On November 15, 2021, Pinpoint Land Surveys submitted to the Planning Division an application for Amended Lot 200 and Adjacent Parkland, Terrace Estates Subdivision, 3rd Filing, minor preliminary plat. This plat has property that is located both in Yellowstone County and the City of Billings, therefore, both governing bodies will review the plat. The purpose of this subdivision is to create 4 lots and complete a land swap with the City of billings to exchange parkland with the new design and reconfiguration of the subdivision. The parkland will be a trade of land, the developer will trade some land for city park and the City of Billings will trade some park land to the developer. With completion of the land swap, the City of Billings will gain 0.05 acres or 2,178 square feet of park land. The parkland was dedicated to the city in the original subdivision. Since then, the developers have de-annexed the subdivision and are vacating the plat. Parkland cannot be vacated, therefore, there is a need to arrange a land swap. This plat does not complete or approve the land swap, instead, it creates a condition of approval that the land swap and annexation requirements are met prior to final plat approval. The property is generally located on the north side of Alkali Creek Road and west of Strawberry Avenue. The land is zoned Large Lot Suburban Neighborhood (N4).

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

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 protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management.
2. To protect public health and safety, prior to final plat approval, the applicant will pay the required fee to use the existing pressurized fire hydrant owned by the City of Billings as outlined in County Resolution No. 19-53.
3. To protect the public interest in public lands, prior to final plat approval, the applicant will coordinate with City of Billings Legal Department in coordination with City of Billings

Parks, Recreation and Public Lands (PRPL), to exchange parkland with land from the applicant. The applicant will provide all paperwork required by City Legal and PRPL that includes but is not limited to, legal land descriptions, amount of land in the exchange and any other documentation needed for the process to go before the City Council.

4. To avoid pieces of County lots being within the City limits and pieces of City park land being in the County, prior to final plat approval or at the same time as final approval, the applicant will coordinate the annexation and de-annexation process with the Planning Department to get exchanged pieces of land within the correct jurisdiction.
5. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.
6. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
7. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, including laws regarding moving houses onto or off the property, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting June 24, 2021
- Preliminary plat application submitted to Planning Division November 15, 2021
- Preliminary plat to Yellowstone County Board of County Commissioners December 14, 2021
- Preliminary plat to City of Billings December 20, 2021
- 35 working-day preliminary plat review period ends January 7, 2022.

PLAT INFORMATION

General location:	North side of Alkali Creek Road and west of Strawberry Avenue
Legal Description:	Terrace Estates Subdivision, 3rd Filing, Lot 200
Owner/Subdivider:	Jim Boyer
Engineer/Surveyor:	Pinpoint Land Surveys
Existing Zoning:	N4
Existing land use:	Undeveloped Subdivision
Proposed land use:	Large lot residential
Gross and Net area:	47.527 acres / 46.713 acres
Proposed number of lots:	4
Max. lot size:	18.566 acres
Min. lot size:	2.917 acres
Parkland requirements:	There is no required parkland dedication as this

is a minor subdivision, however, there is an existing City of Billings Park within this subdivision. The landowner has proposed to the city a land swap which would increase the parkland by .05 acres.

STAKEHOLDERS

A public hearing is not scheduled for the City Council meeting; however nearby property owners may attend the City Council meeting. The Planning Division has received no public comments or questions regarding the proposed subdivision.

ALTERNATIVES

In accordance with state law, the City Council has 35 working days to act upon this major preliminary plat. The 35 working day review period for the proposed plat ends on January 7, 2022. 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

This plat will have no fiscal impacts on the City/County Planning Division.

SUMMARY

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. Negative effects that are identified become the subdivider's responsibility to mitigate. Various departments, private service/utility providers and the affected school district/s, have 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.

Attachments

Findings of Fact

Proposed Plat

SIA Draft

Parkland Exchange

Mayors Letter

FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Amended Lot 200, Terrace Estates Subdivision, 3rd Filing. 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), the Yellowstone County Subdivision Regulations (YCSR) and City of Billings.

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health and safety (76-3-608 (3) (a) MCA) (Section 3.2 (H) (2) YCSR)

1. Effect on agriculture and agricultural water users' facilities

The subject property is vacant land that is not used for crop production or any current residential purposes. There are no water rights or shares for water to the proposed lots. This proposed subdivision will have minimal impact on water users' facilities. Alkali Creek does bisect the land where this subdivision is located. In the SIA under the heading 'Conditions that Run with the Land', there is a paragraph to warn future lot purchasers that there is a chance that Alkali Creek may overtop the banks causing flooding on property.

2. Effect on local services

a. **Water and Septic** – The applicant is proposing to have wells for each lot in this proposed subdivision. The systems will meet the standards set forth in Section 4.9 YCSR, Montana Administrative Rules, Title 17, Chapter 36. They will be required to receive MDEQ approval for any water system prior to final plat. **(Condition #1)**

The applicant is proposing to have septic systems for each lot in this proposed subdivision. The systems will meet the standards set forth in Section 4.8 YCSR, Montana Administrative Rules, Title 17, Chapter 36. They will be required to receive MDEQ approval for any septic systems prior to final plat. **(Condition #1)**

The maintenance and operation of water and septic systems will be the responsibility of the property owners.

b. **Streets and roads** – The proposed subdivision will not be building any roads. All access will be from Alkali Creek Road. The applicant is dedicating additional right of way for Alkali Creek Road as required by subdivision regulation for road widths.

c. **Fire and Police services** – The property is within BUFSA jurisdiction. Because this is a 4-lot minor there is a requirement for a fire suppression to be available for use within the subdivision. They can either build a 10,000 gallon underground dry hydrant system or use existing pressurized fire hydrants within the ½ road mile. There are existing City of Billings pressurized fire hydrants within ½ road mile. In the SIA the applicant is planning to use the pressurized City of Billings fire hydrants. There is a requirement to pay a fee to the county for using the City of Billings fire hydrants. Those fees are set aside and are

available for the fire department having jurisdiction to purchase equipment for use in the BUFSA area. Those fees are to be paid prior to final plat. **(Conditions #2)**

The Yellowstone County Sheriff's Department will provide law enforcement services to this subdivision.

d. **Solid Waste disposal** – The Billings Landfill has capacity for solid waste disposal. Solid waste will be collected and disposed of by a private garbage collection company. Each lot owner will be responsible for arranging for collection.

e. **Storm water drainage** – Storm water drainage for new lots shall satisfy Section 4.7, Yellowstone County Subdivision Regulations and the requirements of MDEQ.

Because there is no anticipated major development on these lots the storm water will be allowed to continue to drain as it has historically done.

f. **School facilities** – The proposed subdivision is located within School District #2. Alkali Creek Elementary, Castle Rock Middle School, and Skyview High School. With four large lots there will be noticeable added burden to the school system.

g. **Parks and recreation** – This proposed subdivision is not required to provide parkland. Yellowstone County Subdivision Regulations Section 10.8 A. A Minor Subdivision is not required to provide parkland.

This portion of Terrace Estates Subdivision was within the city limits. The de-annexation resolution (No. 17-10674) was recorded March 12, 2018. There is an existing City of Billings park within the subdivision that was not part of the de-annexation. With this proposed new plat, the applicant is proposing to do some land trading with the City of Billings Parks Department. Some of the existing parkland is planned to go to the developer and in exchange some of the existing non-park land is going to the City of Billings Parks Department. The current amount of parkland within this subdivision is 17.343 acres. After the land exchange there will be 17.393 acres, the City of Billings will gain 0.05 acres, 2,178 square feet of park land. See Attachment A. The applicant will need to work with the City of Billings Parks Department and Legal Department to legally exchange the land between the City of Billings and the applicant. **(Condition #3)**

With the exchange of land between the City of Billings and the applicant, there will be land from the City that will need to be de-annexed to not have a county subdivision with pieces of the City attached to lots. Land from the applicant to the city will need to be annexed into the City park to have the city park entirely in the City limits. All this will need to take place prior to final plat or at the same time as the final plat. **(Condition #4)**

h. **Postal Service –** The proposed lots are large and may or may not be subdivided in the future. Future lot owners will coordinate with the USPS to determine what type of box is to be used and for its location to ensure safety for the mail delivery person.

i. **Historic features** – No known historic or cultural assets exist on the site.

j. **Phasing of Development** - The applicant is not proposing to develop this subdivision in phases.

3. Effects on the natural environment

The development will use noxious weed control measures to prevent the spread of noxious weeds to adjacent developed or agricultural land. Prior to final plat approval, the applicant will apply for and obtain a weed management plan with the County Weed Department. That plan will be submitted with final plat approval. **(Condition #5)**

There are no apparent or known natural hazards on the property.

4. Effects on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. A paragraph in the 'Conditions that Run with the Land' section of the SIA warns future lot owners of the likely presence of wildlife in the area and their potential to damage residential landscaping.

5. Effects on public health and safety

Plans and designs for the water and septic system will be reviewed and approved by MDEQ prior to final plat approval to ensure public health and safety.

Fire and emergency services are provided for this proposed subdivision from Billings Fire Department as part of the BUFSA and the Yellowstone County Sheriff's department.

B. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified? (76-3-603 MCA) (Chapter 9, YCSR)

An environmental assessment was not required for this subdivision according to Yellowstone County Subdivision Regulations, Section 9.2 C. 3 b, the proposed subdivision is in a zoned area of the county.

C. Does the subdivision conform to the Yellowstone County 2008 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan Update? [BMCC 23-302.H.4.]

1. **Yellowstone County - 2008 Growth Policy**

The subdivision is consistent with the following goals of the Growth Policy:

- Goal: Controlled weed populations. (p. 9)

The developer shall complete a weed management plan and shall provide a re-vegetation plan for any ground disturbed by development.

2. 2018 Billings Urban Area Long Range Transportation Plan

This subdivision is outside the 2018 Billings Urban Area Long Range Transportation Plan. The subject property maintains the road system as existing in the area.

3. Billings Area Bikeway and Trail Master Plan (BBTMP)

This subdivision is within the BBTMP. There are no identified trails running through this County subdivision. There is a future trail proposed in the City park that is within this subdivision. There is a proposed short-range bike land along Alkali Creek Road. This development will not be required to build any trail as part of the subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act (MSPA) and to local subdivision regulations? [MCA 76-3-608 (3) (b) and Section 3.2 (3) (a) YCSR]

The proposed subdivision meets the requirements of the MSPA, the YCSR and BSR. The subdivider and the local government have complied with the subdivision review and approval procedures that are set forth by local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? [Section 4.8 (C) and 4.9 (C), YCSR]

The subdivider must meet the requirements the Yellowstone City-County Health Department prior to final approval. MDEQ requirements apply to all lots that are less than 20 acres in size.

F. Does the proposed subdivision meet any applicable Zoning Requirements? [Section 3.2 (H) (3) (e), YCSR]

The proposed subdivision is in County zoning. The subdivision is zoned Large Lot Suburban Neighborhood, N4.

G. Does the subdivision provide for necessary planned utilities? [MCA 76-3-608 (3) (c) and Section 3.2 (H) (3) (b), YCSR]

Should the private utility companies require easements the applicant will be required to coordinate the easements needed with the private utility companies.

H. Does the proposed subdivision provide for Legal and Physical Access to all lots? [MCA 76-3-608 (3) (d) and Section 3.2 (H) (3) (c) (d), YCSR]

Legal and physical access will be provided for the new proposed lots from Alkali Creek Road.

CONCLUSIONS OF FINDINGS OF FACT

- This subdivision does not create adverse impacts that warrant denial of the subdivision.
- Impacts to agriculture, agriculture water user facilities, local services, public health and safety, the natural environment, and wildlife should be minimal, and can be mitigated by reasonable conditions of final plat approval.

- The subdivision conforms to some of the goals of the Growth Policy.
- The applicant has complied with the MSPA, YCSR and BSR processes and the subdivision conforms to the law requirements.

RECOMMENDATION

The Planning Division recommend conditional approval of the preliminary plat of Amended Lot 200, Terrace Estates Subdivision, 3rd Filing, to the City of Billings and adopt the Findings of Fact as presented in the staff report.

PRELIMINARY PLAT OF

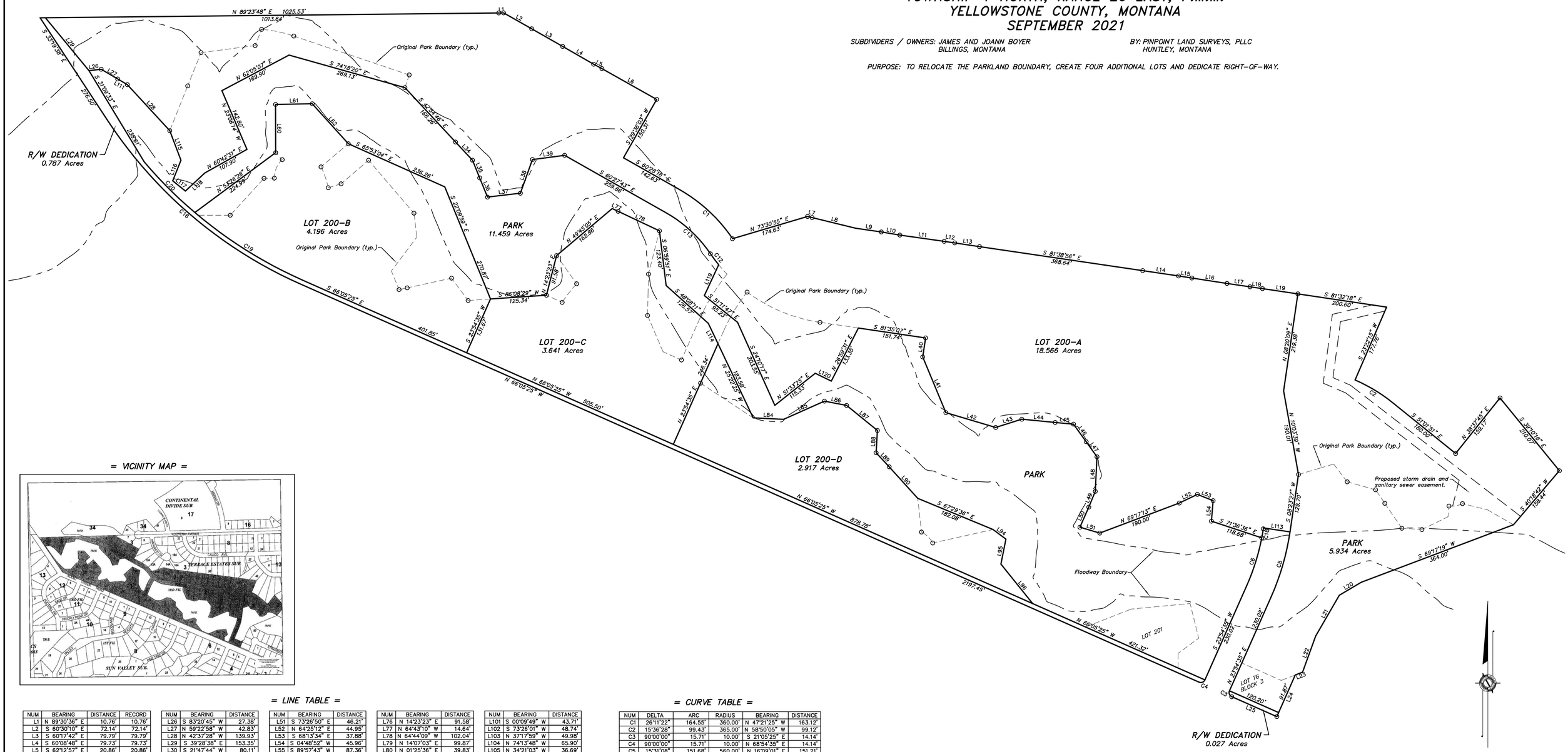
AMENDED PLAT OF LOT 200 AND ADJACENT PARKLAND OF THE AMENDED PLAT OF BLOCK 1, BLOCK 2 AND PORTION OF BLOCK 3, TERRACE ESTATES SUBDIVISION, THIRD FILING

LOCATED IN THE S1/2 OF SECTION 20,
TOWNSHIP 1 NORTH, RANGE 26 EAST, P.M.M.
YELLOWSTONE COUNTY, MONTANA
SEPTEMBER 2021

SUBDIVIDERS / OWNERS: JAMES AND JOANN BOYER
BILLINGS, MONTANA

BY: PINPOINT LAND SURVEYS, PLLC
HUNTLEY, MONTANA

PURPOSE: TO RELOCATE THE PARKLAND BOUNDARY, CREATE FOUR ADDITIONAL LOTS AND DEDICATE RIGHT-OF-WAY.



= VICINITY MAP =

= LINE TABLE =

NUM	BEARING	DISTANCE	RECORD
L1	N 89°30'36" E	10.76'	10.76'
L2	S 60°30'10" E	72.14'	72.14'
L3	S 60°17'42" E	79.79'	79.79'
L4	S 60°08'48" E	79.73'	79.73'
L5	S 62°12'57" E	20.86'	20.86'
L6	S 60°36'16" E	140.64'	140.64'
L7	S 76°33'35" E	10.43'	10.43'
L8	S 76°13'21" E	100.13'	100.13'
L9	S 81°47'35" E	58.25'	58.25'
L10	S 80°21'36" E	41.85'	41.85'
L11	S 81°56'46" E	100.13'	100.13'
L12	S 81°31'04" E	23.86'	23.86'
L13	S 81°23'42" E	56.10'	56.10'
L14	S 81°29'53" E	81.07'	81.07'
L15	S 81°14'02" E	30.09'	30.09'
L16	S 81°13'45" E	79.59'	79.59'
L17	S 81°40'00" E	51.93'	51.93'
L18	S 81°36'37" E	28.04'	28.04'
L19	S 81°35'46" E	80.06'	80.06'
L20	S 59°20'23" W	57.03'	57.03'
L21	S 30°05'13" W	105.27'	105.27'
L22	S 19°56'26" W	86.03'	86.03'
L23	S 68°40'08" W	17.56'	17.56'
L24	S 23°51'28" W	101.87'	101.87'
L25	S 66°05'25" E	110.21'	110.21'

NUM	BEARING	DISTANCE
L26	S 83°20'45" W	27.38'
L27	N 59°22'58" W	42.83'
L28	N 42°37'28" W	139.93'
L29	S 39°28'38" E	153.35'
L30	S 21°47'44" W	80.11'
L31	S 82°32'22" W	121.99'
L32	S 21°45'11" W	39.00'
L33	S 18°34'50" W	30.02'
L34	S 43°02'11" E	55.60'
L35	S 22°03'05" E	42.64'
L36	S 22°06'32" E	46.41'
L37	N 83°16'30" E	74.02'
L38	N 19°36'34" E	79.99'
L39	N 82°29'50" E	72.61'
L40	S 08°27'16" W	43.07'
L41	S 22°33'45" E	134.83'
L42	S 73°24'54" E	116.15'
L43	N 72°33'46" E	61.38'
L44	S 84°29'04" E	74.87'
L45	S 84°39'58" E	41.20'
L46	S 35°44'38" E	48.46'
L47	S 35°33'32" E	41.43'
L48	S 02°48'24" W	77.58'
L49	S 22°27'49" W	38.08'
L50	S 23°43'49" W	49.03'

NUM	BEARING	DISTANCE
L51	S 73°26'50" E	46.21'
L52	N 64°25'12" E	44.95'
L53	S 68°13'34" E	37.88'
L54	S 04°48'52" W	45.96'
L55	S 89°57'43" W	87.36'
L56	S 42°25'57" W	111.91'
L57	S 89°07'38" W	23.12'
L58	N 24°26'55" E	63.14'
L59	S 42°56'24" E	21.53'
L60	S 00°11'12" E	107.84'
L61	S 88°57'22" W	82.11'
L62	N 42°02'20" W	120.39'
L63	N 49°41'22" E	80.02'
L64	S 50°51'54" E	58.43'
L65	S 49°21'48" W	81.11'
L66	S 73°03'24" W	29.93'
L67	N 06°53'22" W	53.93'
L68	N 36°52'04" E	94.88'
L69	N 22°33'31" W	44.95'
L70	S 78°08'19" W	18.53'
L71	S 77°37'51" W	101.58'
L72	S 40°13'11" E	120.29'
L73	N 36°28'31" W	62.19'
L74	N 65°31'15" W	38.63'
L75	S 35°20'22" E	77.32'

NUM	BEARING	DISTANCE
L76	N 14°23'23" E	91.58'
L77	N 64°43'10" W	14.64'
L78	N 64°44'09" W	102.04'
L79	N 14°07'03" E	99.87'
L80	N 01°25'36" E	39.83'
L81	N 01°15'47" E	52.78'
L82	N 23°08'42" W	88.29'
L83	N 65°56'11" W	44.92'
L84	S 87°09'53" E	68.04'
L85	N 65°57'05" E	100.05'
L86	S 78°59'35" E	50.38'
L87	S 50°55'29" E	88.88'
L88	S 03°19'49" W	50.05'
L89	S 43°03'04" E	42.82'
L90	S 42°05'35" E	95.22'
L91	S 06°16'51" E	75.82'
L92	N 77°23'54" E	138.00'
L93	S 67°29'36" E	182.08'
L94	S 53°22'11" E	36.00'
L95	S 11°19'43" W	57.00'
L96	S 38°49'13" E	135.12'
L97	N 68°36'10" E	123.99'
L98	N 84°36'15" E	131.99'
L99	S 13°52'14" E	79.99'
L100	S 53°36'48" W	57.00'

NUM	BEARING	DISTANCE
L101	S 00°09'49" W	43.71'
L102	S 73°26'01" W	48.74'
L103	N 37°17'59" W	49.98'
L104	N 74°13'48" W	65.90'
L105	N 34°21'03" W	36.69'
L106	N 86°12'13" W	44.97'
L107	S 63°52'29" W	65.04'
L108	S 05°12'36" W	24.01'
L109	N 76°01'35" W	57.63'
L110	N 60°14'26" W	67.06'
L111	N 59°34'36" W	25.19'
L112	N 68°45'42" E	33.63'
L113	S 81°36'33" E	60.00'
L114	N 25°22'25" W	50.53'
L115	S 20°40'16" E	70.74'
L116	S 21°48'05" W	49.44'
L117	S 50°57'52" E	36.45'
L118	N 47°04'57" E	59.55'
L119	N 24°48'34" E	76.16'
L120	S 63°55'29" E	40.04'
L121	S 81°32'18" E	15.03'
L122	S 81°32'18" E	185.57'

= CURVE TABLE =

NUM	DELTA	ARC	RADIUS	BEARING	DISTANCE
C1	26°11'22"	164.55'	360.00'	N 47°21'25" W	163.12'
C2	15°36'28"	99.43'	365.00'	N 58°50'05" W	99.12'
C3	90°00'00"	15.71'	10.00'	S 21°05'25" E	14.14'
C4	90°00'00"	15.71'	10.00'	N 68°54'35" E	14.14'
C5	15°31'08"	151.68'	560.00'	N 16°09'01" E	151.21'
C6	12°56'00"	112.86'	500.00'	N 17°26'35" E	112.63'
C7	37°15'13"	35.76'	55.00'	N 45°55'15" W	35.13'
C8	14°10'31"	102.76'	415.36'	S 30°59'50" W	102.50'
C9	14°36'59"	121.27'	475.36'	S 31°13'05" W	120.94'
C10	28°22'23"	178.27'	360.00'	S 67°23'48" E	176.46'
C11	9°34'33"	60.17'	360.00'	S 48°25'20" E	60.10'
C12	4°52'49"	30.66'	360.00'	S 36°42'08" E	30.65'
C13	26°11'22"	137.13'	300.00'	N 47°21'25" W	135.94'
C14	9°09'43"	52.77'	330.00'	S 37°49'38" W	52.71'
C15	48°16'28"	46.34'	55.00'	S 23°08'48" W	44.98'
C16	32°45'47"	571.82'	1000.00'	S 49°42'32" E	564.06'
C17	14°05'11"	73.76'	300.00'	N 78°17'15" W	73.57'
C18	2°35'08"	22.56'	500.00'	N 09°41'01" E	22.56'
C19	16°28'30"	284.67'	990.00'	S 57°51'10" E	283.69'
C20	9°16'38"	160.30'	990.00'	S 44°58'36" E	160.13'

= SITE DATA =

Number of Lots: 4
Maximum Lot Area: 18.566 Acres
Minimum Lot Area: 2.917 Acres
Area of Parkland: 17.393 Acres
Linear Feet of Streets: N/A
Total Gross Area: 47.527 Acres
Total Net Area: 46.713 Acres
Existing and Proposed Zoning: N4
Existing Land Use: Agriculture
Proposed Land Use: Residential

SCALE: 1" = 100'

0 100 200 300

1/4 SEC.	SECTION	TOWNSHIP	RANGE	SHEET NO.
SE	20	1 NORTH	26 EAST	1 of 1
SW	20	1 NORTH	26 EAST	

DRAWING PATH: C: \... \20027-Boyer\Mscad\20027PP02.dwg
DATE DRAWN: 09/10/21 REVISED: 11/09/21

PINPOINT LAND SURVEYS, PLLC
1318 FLORIAN AVENUE
HUNTLEY, MONTANA 59037
(406) 373-9856

Return to:
James W. Boyer
2810 Central Avenue – Suite C
Billings, MT 59102

SUBDIVISION IMPROVEMENTS AGREEMENT

Amended Plat of Lot 200 and Adjacent Parkland of the Amended Plat of Block 1, Block 2 and Portion of Block 3, Terrace Estates Subdivision, 3rd Filing

Table of Contents

I.	Variances	Page 1
II.	Conditions that Run with the Land	Page 2
III.	Transportation	
	A. Streets	Page 3
	B. Traffic Control Devices	Page 3
	C. Access	Page 3
	D. Billings Area Bikeway and Trail Master Plan (BABTMP)	Page 3
IV.	Emergency Services	Page 3
V.	Storm Drainage	Page 3
VI.	Utilities	
	A. Water	Page 3
	B. Sanitary Sewer	Page 4
	C. Power, Telephone, Gas, and Cable Television	Page 4
VII.	Parks/Open Space	Page 3
VIII.	Irrigation	Page 4
IX.	Weed Management	Page 4
X.	Soils/Geotechnical Study	Page 5
XI.	Financial Guarantees	Page 5
XII.	Legal Provisions	Page 5

SUBDIVISION IMPROVEMENTS AGREEMENT

Amended Plat of Lot 200 and Adjacent Parkland of the Amended Plat of Block 1, Block 2 and Portion of Block 3, Terrace Estates Subdivision, 3rd Filing

This agreement is made and entered into this ____ day of _____, 2021, by and between **James W. Boyer and JoAnn Boyer**, whose address for the purpose of this agreement is 2810 Central Avenue – Suite C, Billings, Montana 59102, hereinafter referred to as "Subdivider," and **YELLOWSTONE COUNTY**, Montana, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, the plat of Amended Plat of Lot 200 and Adjacent Parkland of the Amended Plat of Block 1, Block 2 and Portion of Block 3, Terrace Estates Subdivision, 3rd Filing, located in Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 2021, the Board of Planning recommended conditional approval of a preliminary plat of Amended Plat of Block 1, Block 2 and Portion of Block 3, Terrace Estates Subdivision, 3rd Filing; and

WHEREAS, a Subdivision Improvements Agreement is required by the County prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to Amended Plat of Lot 200 and Adjacent Parkland of the Amended Plat of Block 1, Block 2 and Portion of Block 3, Terrace Estates Subdivision, 3rd Filing 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 Yellowstone County Subdivision Regulations, the rules, regulations, policies, and resolutions of Yellowstone County, 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. No variances from the strict interpretation of the County's Subdivision Regulations (Chapter 11, YCSR) are requested for this subdivision:

II. CONDITIONS THAT RUN WITH THE LAND

A. Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers and gardens. The Montana Fish, Wildlife and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or threat to public health and safety.

B. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.

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. Lot owners should be aware that a portion of this property lies within the floodplain/floodway, as depicted on the FEMA maps for this area. Please be advised that special development restrictions may apply within these specified areas.

E. Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent owners.

F. When required by road improvements, any fences in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way at no expense to the County and any relocation outside of the public right-of-way shall be subject to securing and recording easements.

G. Future maintenance of all public (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision.

III. TRANSPORTATION

The subdivider agrees to guarantee all improvements for a period of one (1) year from the date of final acceptance by Yellowstone County.

A. Streets

- This subdivision is adjacent to Alkali Creek Road, a paved county road. An additional strip of land will be dedicated for Alkali Creek Road to meet arterial requirements and provide area for the Yellowstone County bridge replacement project. No further street improvement work is required or proposed.

B. Traffic Control Devices

- No traffic control devices will be installed at this time.

C. Access

- Access to all lots within this subdivision shall be from Alkali Creek Road. Each lot will be required to obtain approach permits from the Yellowstone County Public Works Department.

D. Billings Area Bikeway and Trail Master Plan (BABTMP)

- There is a proposed short range bike lane on Alkali Creek Road.

IV. EMERGENCY SERVICES

This subdivision is not required to provide additional fire protection facilities, as it is a minor subdivision creating four additional lots. There is a pressurized fire hydrant at the northwest corner of the intersection of Alkali Creek Road and Sandstone Trail. The hydrant is approximately 300 feet from the southeast corner of this subdivision.

V. STORM DRAINAGE

Storm drainage facilities are not proposed for this subdivision. The areas within this subdivision generally drain to Alkali Creek. These drainages will not be modified by this subdivision and will be allowed to flow as they have historically done.

VI. UTILITIES

A. Water

- This subdivision will be served by individual on-site wells. The systems shall meet the standards set forth in Montana Administrative Rules, Title 17, Chapter 36 (Subdivisions/Onsite Subsurface Wastewater Treatment).

Approval of the systems must be obtained from the Montana Department of Environmental Quality prior to the submittal of the final plat application.

B. Septic System

- This subdivision will be served by individual on-site septic systems. The systems shall meet the standards set forth in Montana Administrative Rules, Title 17, Chapter 36 (Subdivisions/Onsite Subsurface Wastewater Treatment). Approval of the systems must be obtained from the Montana Department of Environmental Quality prior to the submittal of the final plat application.

C. Power, Telephone, Gas, and Cable Television

- This subdivision will be served with power, telephone gas and cable television via facilities within Alkali Creek Road right-of-way.

VII. PARKS/OPEN SPACE

- This subdivision surrounds parkland encompassing 17.343 acres. As part of this subdivision, there will be a boundary relocation around the parkland. The boundary relocation will result in a parkland area of 17.393 acres. The land exchange with the parklands must be approved by the City of Billings. Exhibit A is attached hereto to clarify the areas to be exchanged as well as right-of-way dedication areas.

VIII. IRRIGATION

- Amended Plat of Lot 200 and Adjacent Parkland of the Amended Plat of Block 1, Block 2 and Portion of Block 3, Terrace Estates Subdivision, 3rd Filing is not served by any irrigation facilities.

IX. WEED MANAGEMENT

All noxious weeds on the latest Yellowstone County Noxious Weed List shall be controlled on all properties in the subdivision.

- A Weed Management Plan will be filed and updated as needed for approval by the Yellowstone County Weed Department. Said weed management plan shall contain the noxious weeds being addressed and the plan for the control of those weeds. All associated cost for noxious weed control is the responsibility of the owner of record.

- A revegetation plan shall be submitted as part of the management plan. A seeding recommendation can be obtained from the Yellowstone County Weed Department pursuant to Section 7-22-2152, MCA. The Yellowstone County Weed Department reserves the right to revise these recommendations based on the required site inspection.

X. SOILS/GEOTECHNICAL STUDY

- Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.

XI. FINANCIAL GUARANTEES

No public improvements are proposed for this subdivision. Therefore, no financial guarantees are necessary.

XII. LEGAL PROVISIONS

A. Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by Yellowstone County.

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 apply to and shall be binding on the heirs, personal representatives, successors and assigns 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.

G. Subdivider agrees to create any required (or expansion of existing) RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

"SUBDIVIDERS"

_____ _____

James W. Boyer Date

_____ _____

JoAnn Boyer Date

STATE OF MONTANA)

: ss

County of Yellowstone)

This instrument was acknowledged before me on this _____ day of _____, 2021, by James W. Boyer and JoAnn Boyer.

_____

Notary Public in and for the State of Montana

This agreement is hereby approved and accepted by Yellowstone County this _____ day of _____, 2021.

"COUNTY"
COUNTY OF YELLOWSTONE
MONTANA

County of Yellowstone
Board of County Commissioners

By: _____
Chairman

_____
Commissioner

_____
Commissioner

Attest: _____
County Clerk and Recorder

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 _____, _____, _____ and _____, known to me to be the Board of County Commissioners and the County Clerk and Recorder, respectively, of Yellowstone County, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of Yellowstone County, Montana.

_____
Notary Public in and for the State of Montana

Waiver of Right to Protest

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 Rural Special Improvement Districts (RSID's), for a period of no more than twenty years from the recording of this waiver, which Yellowstone County 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:

Amended Plat of Lot 200 and Adjacent Parkland
of the
Amended Plat of Block 1, Block 2 and Portion of Block 3, Terrace Estates Subdivision, 3rd Filing

_____ _____

James W. Boyer Date

_____ _____

JoAnn Boyer Date

STATE OF MONTANA)
: ss
County of Yellowstone)

This instrument was acknowledged before me on this _____ day of _____, 2021, by James W. Boyer and JoAnn Boyer.

_____

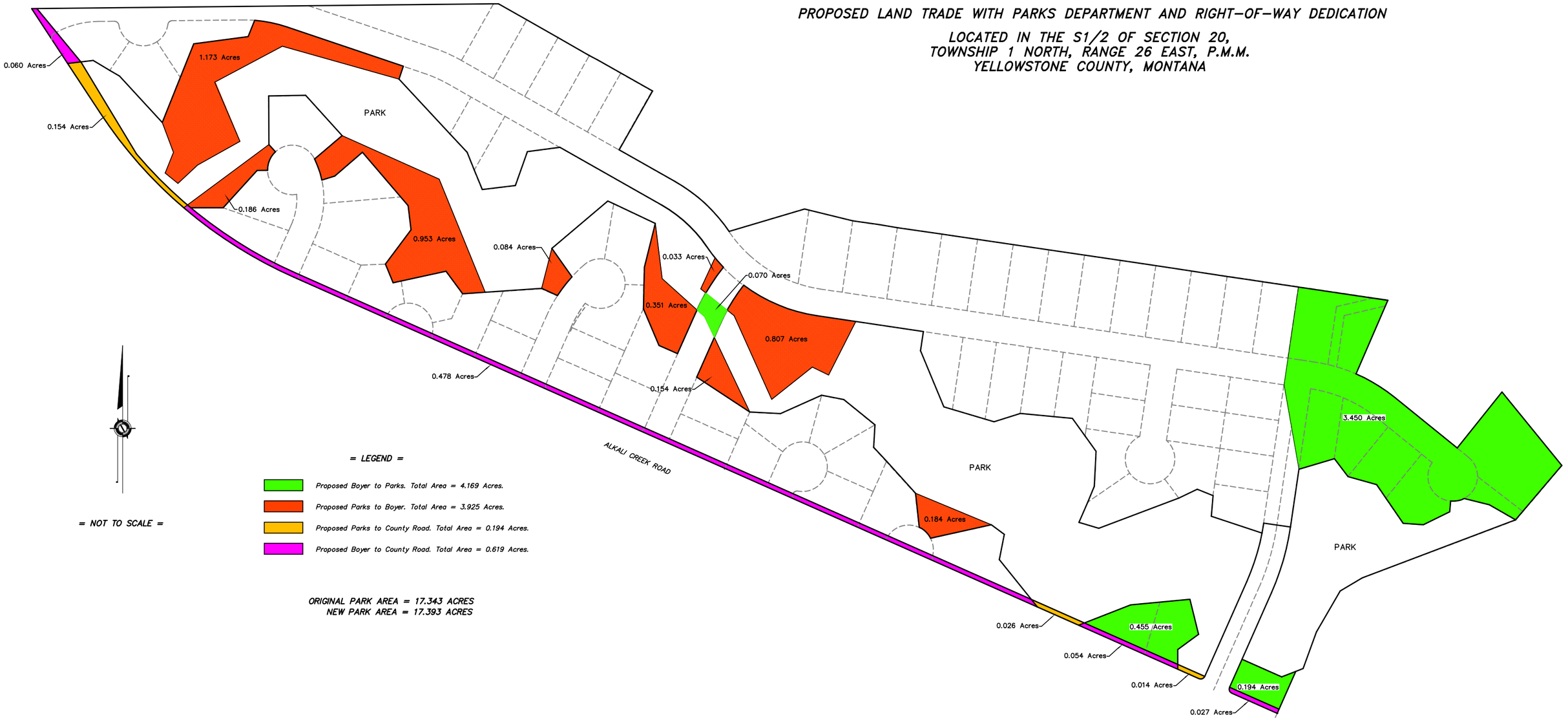
Notary Public in and for the State of Montana

= EXHIBIT A =

= PORTION OF TERRACE ESTATES SUBDIVISION, 3RD FILING =

PROPOSED LAND TRADE WITH PARKS DEPARTMENT AND RIGHT-OF-WAY DEDICATION

LOCATED IN THE S1/2 OF SECTION 20,
TOWNSHIP 1 NORTH, RANGE 26 EAST, P.M.M.
YELLOWSTONE COUNTY, MONTANA



= LEGEND =

- Proposed Boyer to Parks. Total Area = 4.169 Acres.
- Proposed Parks to Boyer. Total Area = 3.925 Acres.
- Proposed Parks to County Road. Total Area = 0.194 Acres.
- Proposed Boyer to County Road. Total Area = 0.619 Acres.

ORIGINAL PARK AREA = 17.343 ACRES
NEW PARK AREA = 17.393 ACRES

= NOT TO SCALE =

1/4 SEC.	SECTION	TOWNSHIP	RANGE	SHEET NO.
SE	20	1 NORTH	26 EAST	1 of 1
SW	20	1 NORTH	26 EAST	

DRAWING PATH: C:\...\20027-Boyer\Mscad\Park Swap.dwg
DATE DRAWN: 02/11/21 REVISED: 11/09/21

PINPOINT LAND SURVEYS, PLLC
4820 McGIRL ROAD
BILLINGS, MONTANA 59105
(406) 373-9856

December 20, 2021

Jim Boyer
2810 Central Avenue
Billings, MT 59102

CITY OF
Billings
MAYOR'S OFFFICE

Dear Applicant:

On December 20, 2021, the Billings City Council conditionally approved the preliminary plat of Ridgeline Subdivision, subject to the following conditions of approval:

1. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management.
2. To protect public health and safety and provide, prior to final plat approval, the applicant will pay the required fee to use the existing pressurized fire hydrant owned by the City of Billings as outlined in Resolution No. 19-53.
3. To protect the public interest in public lands, prior to final plat approval, the applicant will coordinate with City of Billings Legal Department in coordination with City of Billings Parks, Recreation and Public Lands (PRPL), to exchange parkland with land from the applicant. The applicant will provide all paperwork required by City Legal and PRPL that includes but is not limited to, legal land descriptions, amount of land in the exchange and any other documentation needed for the process to go before the City Council.
4. To avoid pieces of County lots being within the City limits and pieces of City park land being in the County, prior to final plat approval or at the same time as final approval, the applicant will coordinate the annexation and de-annexation process with the Planning Department to get exchanged pieces of land within the correct jurisdiction.
5. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.
6. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
7. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, including laws regarding moving houses onto or off the property, and the laws and Administrative Rules of the State of Montana.

Should you have any questions please contact Dave Green at (406) 247-8666 or by email at greend@billingsmt.gov

Sincerely,

_____
William A. Cole, Mayor

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

City Council Regular

Date:	12/20/2021
Title:	Amended Lot 1A, Block 1, Lenhardt Square Subdivision, 1st Filing , Preliminary Minor Plat
Presented by:	Monica Plecker
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

Staff recommends conditional approval of the preliminary plat of Amended Lot 1A, Block 1, Lenhardt Square Subdivision, 1st Filing to the City Council, and adoption of the Findings of Fact as presented in the staff report.

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

On November 15, 2021, Sanderson Stewart, agent for Michael Stock, applied for preliminary minor plat approval for Amended Lot 1A, Block 1, Lenhardt Square Subdivision, 1st Filing. The proposed subdivision creates 4 new lots for residential development. The subject property is generally located on the east side of South 44th Street West and south of Monad Road. The property is zoned Planned Unit Development (PUD).

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

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 to determine what type of deliver system is preferred and to locate and provide 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.

PROCEDURAL HISTORY

- Pre-application meeting October 7, 2021
- Preliminary plat application submitted to Planning Division on November 15, 2021
- Preliminary plat to City Council December 20, 2021
- 35 working-day preliminary plat review period ends January 7, 2022

PLAT INFORMATION

General location:	East side of South 44th Street West and south of Monad Road
Legal Description:	Lot 1A, Block 1, Lenhardt Square Subdivision, 1st Filing
Owner/Subdivider:	Michael Stock
Engineer and Surveyor:	Sanderson Stewart
Existing Zoning:	PUD
Existing land use:	Vacant
Proposed land use:	Residential
Gross and Net area:	7.111 acres; 7.111 acres
Proposed number of lots:	4
Lot size:	Max: 96,703 square feet Min: 62,726 square feet
Parkland requirements:	Parkland dedication requirements for this proposed plat were met with the original subdivision platting.

STAKEHOLDERS

A public hearing is not scheduled for the City Council meeting; however nearby property owners may attend the City Council meeting. The Planning Division has received no public comments or questions regarding the proposed subdivision.

ALTERNATIVES

In accordance with state law, the City Council has 35 working days to act upon this major preliminary plat. The 35 working day review period for the proposed plat ends on January 7, 2022. 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

This plat will have no fiscal impacts on the City/County Planning Division.

SUMMARY

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. Negative effects that are identified become the subdivider's responsibility to mitigate. Various City departments, private service/utility providers and the affected school district/s, have 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.

Attachments

Findings of Fact

Proposed Plat

SIA Draft

Mayors Letter

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Amended Lot 1A, Block 1, Lenhardt Square Subdivision, 1st Filing. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), 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.H.2.]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently vacant land within a PUD. Perimeter ditches and drains shall remain in place and not be altered by the subdivider or subsequent owners. The subdivision should not affect agricultural water users' facilities.

2. Effect on local services

a. **Utilities** – Water service will be provided by the City of Billings. New individual services will be provided to all the lots, and new fire hydrants will be installed as required by the City Fire Department. The water service for this subdivision comes from a 24-inch water service in King Avenue West. There are water lines within South 44th Street West that will provide service to these four lots. Any needed extension of those water lines will be installed by the subdivider to meet the requirements of the City of Billings Engineering Department regulations. The subdivider will install all new water lines in the local streets and individual services for each lot in accordance with design standards, specifications, rules and regulations of the City of Billings Engineering/Public Works Department and MDEQ. This is outlined in the SIA under the heading VI Utilities, A, Water.

   Sanitary sewer service will be provided by connecting to the existing City of Billings' sewer mains. There is an existing 18-inch sanitary sewer located in South 44th Street West. This line will be extended to the proposed subdivision. The subdivider will install connections to the individual lots as required by City Public Works. All new services shall be installed in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ. This is outlined in the SIA under the heading VI Utilities, B, Sanitary Sewer.

   Private utility companies will provide services to the subdivision. Eight-foot-wide easements on the lot frontage have been requested and will be provided by the subdivider for the private utility companies to install the needed infrastructure.

   Stormwater – Stormwater drainage for the public streets is proposed to be provided by curb and gutters that discharge into storm water pipes. These and all other 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 Department.

b. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.

c. **Streets** – Improvements to South 44th Street West and Monad Road to complete a vehicular route to the intersection of Monad Road and Shiloh Road are currently being constructed under Private Contract No. 766.

The City of Billings is currently considering intersection improvements at the intersection of King Avenue West and South 45th Street West. Improvements would be done in accordance with this subdivision waiver through a SID.

In accordance with the Lenhardt Square master plan there will be a bike trail constructed on the west and north side of Monad Road beginning where it intersects with South 44th Street West.

The sidewalks will be installed by the home builder on a lot-by-lot basis, as lots develop. The developer will also install all ADA required ramps at the intersections within the proposed subdivision. This information is all in the SIA under the heading Transportation.

d. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 54th St. West and Grand Ave. (Station #7). The subdivision is located within the ambulance service area of American Medical Response (AMR).

e. **Schools** –School District #2 provides educational services to elementary through high school students. Schools serving these students are Meadowlark Elementary, Ben Steele Middle School, and West High School. At the time of the writing of this staff report all schools are shown as being over capacity.

f. **Parks and Recreation** – This subdivision is part of a master planned development. The parkland requirements have been met with the previous filing of the subdivision.

g. **Mail Delivery -** The United States Postal Service will provide postal service to the subdivision and has indicated that centralized mailbox units will be required as were installed for the previous filings of this subdivision. The developer will need to coordinate mailbox locations with the postal service. **(Condition #1)**

3. Effect on the natural environment

The subject property is currently vacant land with the proposed use of large housing developments being place on the parcels. The property is not located within any floodplain. During development, storm water pollution prevention best management

practices are required to be used and monitored to prevent erosion on exposed ground. Overall, the effect on the natural environment should be minimal.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. There is a paragraph in the SIA that warns future lot owners of the presence of deer in the area, which may cause damage to their landscaping. This subdivision should have a minimal effect on wildlife and wildlife habitat.

5. Effect on the public health, safety and welfare

There will 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 23-302.H.1.]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA.

C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2014 Transportation Plan, and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-302.H.4.]

1. City of Billings 2016 Growth Policy

The proposed subdivision is consistent with the following goals of the Growth Policy:

> **Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):** Neighborhoods that are safe and attractive and provide essential services are much desired (p.8). Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels. (p.8)
>
> **Home Base (healthy, safe and diverse housing options)** A mix of housing types that meet the needs of a diverse population is important. (p.9) Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings.

2. West Billings Plan

The proposed subdivision is consistent with the following goals of the West Billings Plan.

> **PLANNED GROWTH GOAL 1** - Establish Development Patterns that Use Land More Efficiently
>
> Policy A: Promote efficient utilization of land within the West Billings planning area by promoting well designed, more pedestrian friendly, urban development patterns with a mix of uses and an efficient, creative use of land.

Policy K: Increase residential densities within the West Billings planning area by approving requests for residential zoning that are consistent with this plan.

3. 2018 Billings Urban Area Long Range Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2018 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

4. Billings Area Bikeway and Trail Master Plan (BABTMP)

The proposed subdivision is within the jurisdiction of the Billings Area Bikeways and Trail Master Plan. A proposed Long-Range Bike Lane is proposed along Monad Road connecting to Georgina Drive out to South 48th Street West. This subdivision will be installing a bike trail along Monad Road.

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.H.3.a.]

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.H.3.e.]

The subject property is located within Planned Unit Development zoning. The lot frontages conform to the requirements of this zone. Other building setbacks and structure specific requirements will be reviewed for compliance at the time of building permit review.

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.H.3.b.]

The subdivider will provide utility easements as requested by private utility companies on the face of the plat.

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.H.3.c.]

Legal and physical access is provided to the proposed will be from South 44th Street West and Monad Road. New internal accesses will provide circulation to individual lots.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Amended Lot 1A, Block 1, Lenhardt Square Subdivision, 1st Filing 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, West Billings Plan and does not conflict with the Transportation or Bikeway/Trail Plans.

- 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 to City Council that the preliminary plat of Amended Lot 1A, Block 1, Lenhardt Square Subdivision, 1st Filing be conditionally approved and adopt the Findings of Fact as presented in the staff report.

PRILIMINARY PLAT OF AMENDED LOT 1A, BLOCK 1,

LENHARDT SQUARE SUBDIVISION, FIRST FILING

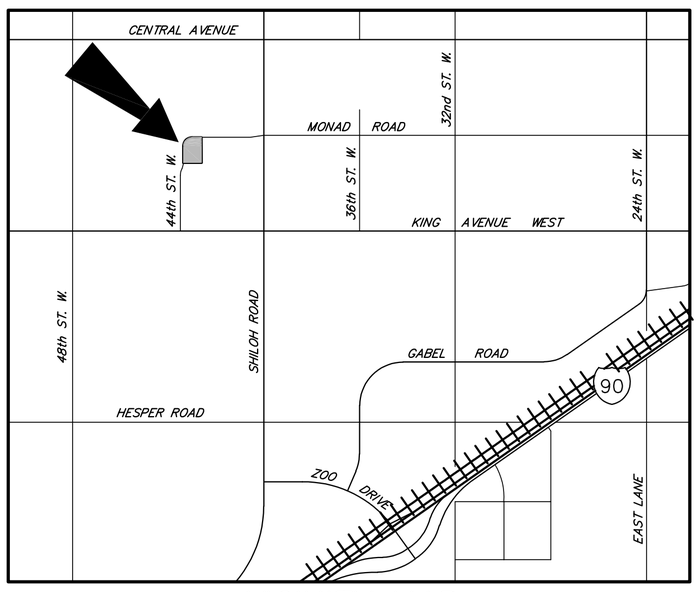
SITUATED IN THE SE1/4 OF SECTION 10, T. 1 S., R. 25 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : STOCK LAND PROPERTIES, INC.

OCTOBER, 2021

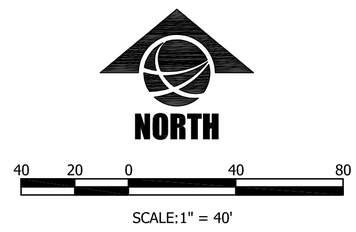
PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA



VICINITY MAP

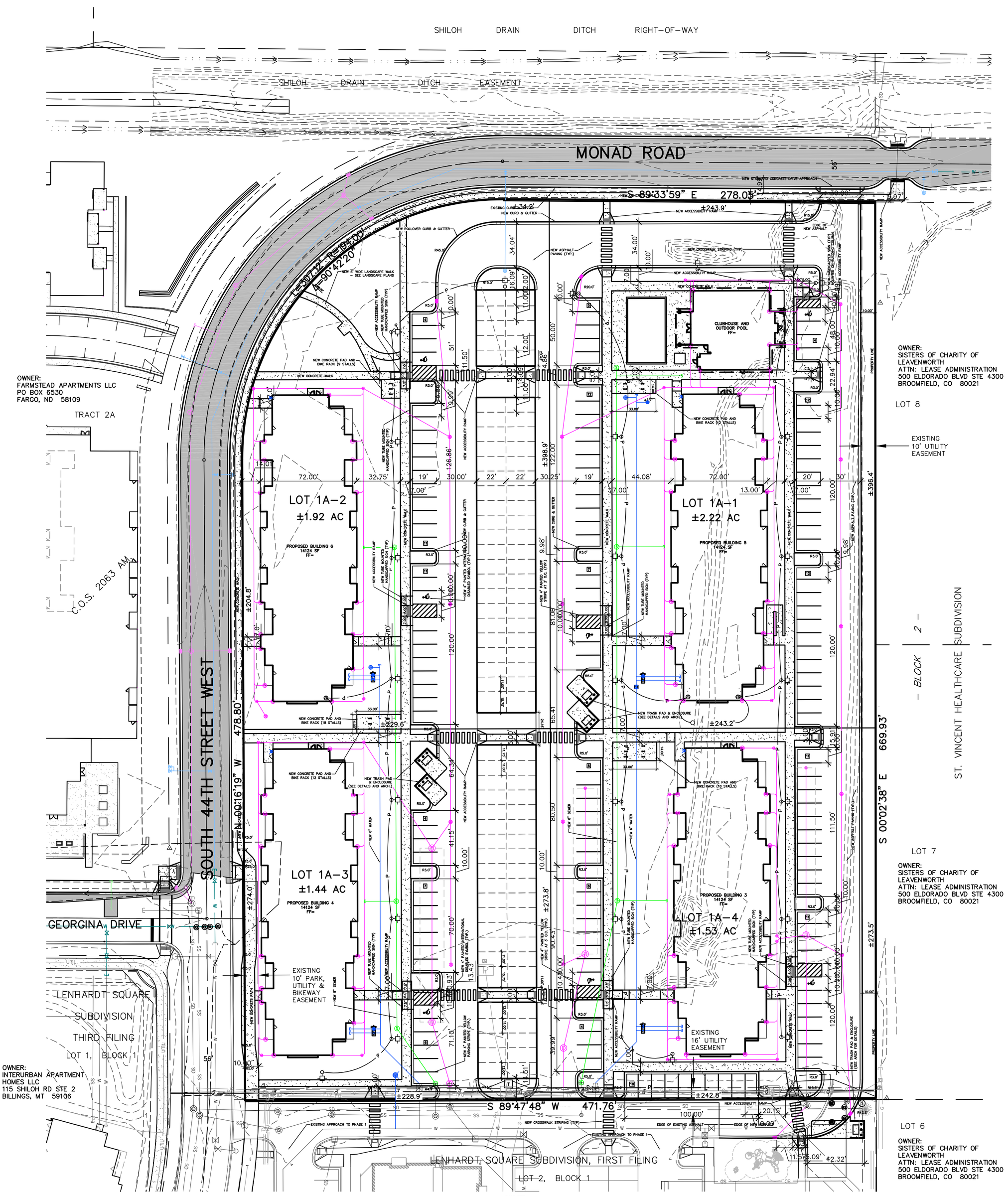
NOT TO SCALE



SCALE:1" = 40'

PLAT DATA

GROSS AREA	= 7.111 Ac.
NET AREA	= 7.111 Ac.
NUMBER OF LOTS	= FOUR
MINIMUM LOT SIZE	± 1.44 Ac.
MAXIMUM LOT SIZE	± 2.22 Ac.
LINEAL FEET OF STREETS	= 0
PARKLAND REQUIREMENT	= NONE REQUIRED
PARKLAND DEDICATION	= NONE
EXISTING ZONING	= PUD
SURROUNDING ZONING:	
NORTH	= PUD
SOUTH	= PUD
EAST	= PUD
WEST	= PUD
EXISTING LAND USE	= VACANT
PROPOSED LAND USE	= RESIDENTIAL, MULTI-FAMILY



Remit to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT LOT 1A, BLOCK 1, LENHARDT SQUARE SUBDIVISION, FIRST FILING AMENDED

CITY OF BILLINGS

Table of Contents

I.	Variances		SIA-2
II.	Property Conditions and Information for Lot Purchasers		SIA-2
III.	Transportation		SIA-3
	A.	Streets	SIA-3
	B.	Sidewalks	SIA-4
	C.	Street Lighting	SIA-4
	D.	Traffic Control Devices	SIA-4
	E.	Access	SIA-5
	F.	Billings Area Bikeway and Trail Master Plan	SIA-5
	G.	Public Transit	SIA-5
IV.	Emergency Services		SIA-5
V.	Storm Drainage		SIA-6
VI.	Utilities		SIA-6
	A.	Water	SIA-7
	B.	Sanitary Sewer	SIA-7
	C.	Power, Telephone, Gas, and Cable Television	SIA-8
VII.	Parks/Open Space		SIA-8
VIII.	Soils/Geotechnical Study		SIA-8
IX.	Irrigation		SIA-8
X.	Financial Guarantees		SIA-9
XI.	Legal Provisions Applying to Subdivider		SIA-9

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENTS DISTRICTS LOT 1A, BLOCK 1, LENHARDT SQUARE SUBDIVISION, FIRST FILING AMENDED

THIS AGREEMENT is made and entered into this____day of_____, 20_, by and between **SREI-Lenhardt, LLC,** whose address for the purpose of this Agreement is 115 Shiloh Road, Suite 2, Billings, Montana 59106, hereinafter referred to as "Subdivider;" and the **CITY OF BILLINGS**, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the plat of Lot 1A, Block 1, Lenhardt Square Subdivision, First Filing, Amended, located in Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

WHEREAS, at a regular meeting held on the ____ day of_____, 20__, the City Council approved, subject to certain conditions, a preliminary plat of Lenhardt Square Subdivision, First Filing, and

WHEREAS, a Subdivision Improvements Agreement is required by the City prior to approval of the final plat; and

WHEREAS, the provisions of this agreement shall be effective and applicable to the plat of Lot 1A, Block 1, Lenhardt Square Subdivision, First Filing, Amended, upon 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

Subdivider has requested, and the City grants, the following variances by the City Council from the strict interpretation of the City Subdivision Regulations as listed in Billings, Montana, City Code, BMCC.

Subdivider requests no variances.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

A. Lot owners will be required to construct that segment of the required five-foot-wide boulevard-style sidewalk that fronts their property at the time of lot development. If the 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 this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department do not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

C. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the Geotechnical Assessment performed for Lenhardt Square Subdivision, First Filing, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical investigation prior to construction. Assessment and mitigation, if any, of these conditions shall be the responsibility of the lot owner.

D. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

E. 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.

The City of Billings is currently considering intersection improvements at the intersection of King Avenue West and South 44th Street West that would be done in accordance with this waiver and through an SID.

F. 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.

G. 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.

H. Lot owners should be aware that agricultural activities could be present on surrounding properties. Any impacts associated with agricultural activities and any issue arising therefrom is the responsibility of the lot owners.

I. Lot owners should be aware that there is a planned development zoning agreement, a master plan agreement, covenants, and design guidelines that govern the development and use of the property, and that their lots will be subject to requirements as set forth in said documents. The Lenhardt Square Conceptual Master Plan is attached with this subdivision improvements agreement for reference.

III. TRANSPORTATION

A. Streets

1. Improvements to South 44th Street West and Monad Road to complete a vehicular route to the intersection of Monad Road and Shiloh Road are currently being constructed under Private Contract No. 766.

2. The City of Billings is currently considering intersection improvements at the intersection of King Avenue West and South 44th Street West that would be done in accordance with this waiver and through an SID.

   In accordance with the Lenhardt Square Master Plan, a bike trail shall be constructed on the west and north side of Monad Road beginning where it intersects with 44th Street West. Appropriate signage and street markings shall be installed to designate the place where the trail crosses from the east side of 44th Street West to the west side of Monad

Road when both trails have been constructed. A boulevard sidewalk shall continue along the east and south side of Monad Road from the point where 44th Street West intersects with Monad Road.

B. Sidewalks

City and the Subdivider agree that the developer will install accessibility ramps at time of private contract construction. Individual lot owners will be responsible for the construction of the five-foot wide boulevard sidewalks adjacent to their lot at the time of lot construction.

C. Street Lighting

Construction or installation of streetlights shall not be required at this time; however, in accordance with the contract for the street improvements, the Subdivider shall include conduits across 44th Street West and at all of their street crossings on the east side of 44th Street West at the time of street and sidewalk construction to accommodate the future wiring of street lights for each development. The parties agree that one or more streetlights, as approved by the City, will be installed near the median curb at the King Avenue/44th Street West intersection when the median is installed as part of construction improvements. City and Founders agree that streetlights near the median will be installed by the developer of Tract 4A-1 when that tract is developed. The streetlights will be installed by the property owners association and when street lights are installed, a street light maintenance district must be set up and approved by the City prior to installation of said streetlights.

D. Traffic Control Devices

1. The Subdivider shall furnish and install all necessary traffic control devices adjacent to the subdivision. Traffic control devices shall include all necessary signing, striping, and channelization device to properly complete the implementation of the proposed street construction.

2. All traffic control and street improvements will be as outlined in the previously approved traffic accessibility study provided to the City by the Subdivider with Lenhardt Subdivision, First Filing. Any significant change of anticipated use of any lot from that estimated in the original traffic accessibility study would require an update of the traffic analysis and recommendations.

E. Access

One full access to the subdivision will be provided on 44th Street West. In addition, one access shall be allowed to Monad Road for Lot 1A, Block 1, internal connectivity shall be provided between lots at the time of site development Design of all accesses shall be reviewed and approved by the City Engineering Department.

F. Billings Area Bikeway and Trail Master Plan

A 10-foot-wide bikeway shall be extended on the east side of 44th Street West and Monad Road at the time of lot developments. These bikeway improvements shall be approved by the City of Billings.

G. Public Transit

Currently, MET Transit does not service this area. No improvements with regards to MET Transit vehicles are anticipated at this time.

IV. EMERGENCY SERVICES

Primary access to this subdivision will be provided from one location on King Avenue (44th Street West), and along Monad Road to the intersection of Monad Road and Shiloh Drive.

The City will provide emergency service. Fire hydrants shall be provided at each street intersection, and at intermediate locations where distances exceed 500 feet. Appropriate turn arounds will be located on any street in excess of 150 feet.

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.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division.

A storm drain system, including curb and gutter, inlets, and storm drain piping, will be provided for all public streets within the subdivision. Storm drain services will be provided to each separate lot. All lots will be required to store storm drainage on their specific lot as set forth in the City of Billings *Stormwater Management Manual.*

VI. UTILITIES

All new development shall be served by public sewer facilities and public water service. Water and sanitary sewer lines shall be sized and installed in conformance with the City design standards and specifications, and the rules and regulations of the City of Billings.

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The Subdivider shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department, Distribution and Collection Division. The extension/connection of/to water mains and sanitary sewers are 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 appropriate application fees in effect at the time shall be submitted with the applications.

It is acknowledged that the properties subject to the Subdivision Improvements Agreement shall be subject to the appropriate water and wastewater local and interior construction fees in effect at the time of payment. Fees shall be paid for the lots in each phase as applied for in the extension application and as per the preceding paragraph above.

The Subdivider 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. Subdivider shall be solely responsible for payment of system development, or other fees associated with development of the subdivision.

The developer/owner acknowledges that the subdivision shall be subject to the applicable system development fees in effect at the time new 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 and regulations of, and as approved by the City of Billings Public Works Department, Fire Department, and the Montana Department of Environmental Quality.

A. Water

The subdivision is served by a tie-in to the 24-inch main in King Avenue. Appropriately sized mains and services have been or are being installed in the internal streets and will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with its own separate water service. All water construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality, and will be approved by the Public Works Department, Distribution and Collection Division.

Improvements noted herein shall include, but not be limited to, any and all interim improvements that may be deemed necessary due to phased or partial construction.

B. Sanitary Sewer

It is anticipated that the subdivision would be served by a tie-in to the 18- inch sanitary sewer main installed in 44th Street West Appropriately sized mains and services have been or are being installed and will provide service to the individual lots within the subdivision. All sanitary sewer construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality, and will be approved by the Public Works Department, Distribution and Collection Division.

Improvements noted herein shall include, but not be limited to, any and all interim improvements that may be deemed necessary due to phased or partial construction.

C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power, and cable television lines shall be placed in designated easements outside of the right-of-way and shall be installed underground prior to surface improvements. The location of all such facilities shall be subject to approval of the city engineer.

VII. PARKS/OPEN SPACE

The Montana Subdivision and Platting Act covers park dedication requirements and waiver of such requirements for planned unit developments. Additionally, the City of Billings municipal code covers parkland dedication of minor subdivisions. The permanent allocation of land for park and recreational uses in this subdivision and other parts of the Lenhardt Square planned unit development will be in accordance with the planned development and master plan agreements for Lenhardt Square.

City and Subdivider agree the homeowner's association established for the property will be responsible for the maintenance of the linear park easements throughout the subdivision. Development of the linear parks shall be the responsibility of individual lot owners and the time of lot development but shall be in accordance with the planned development agreement and master plan agreement for Lenhardt Square.

VIII. SOILS/GEOTECHNICAL STUDY

The Subdivider has performed a preliminary geotechnical analysis for this property with the original Lenhardt Square Subdivision, First Filing.

It is recommended that owners, purchasers, realtors, builders or developers fully familiarize themselves with the information contained in this report prior to any design or construction

IX. IRRIGATION

The owner of any shares in the irrigation district serving the subdivision or its transferee may elect to retain the shares, transfer such shares to a property owners association, or transfer such shares back to the irrigation district. Founders specifically reserve in favor of themselves or their transferees, and do not waive or abandon irrigation and drainage easements for the conveyance of water and collection of wastewater wherever irrigation or drainage ditches are currently located or historically have been located in the subdivision. All easements shall continue as long as irrigation is conducted on the property and as long as any such easement may reasonably be necessary to convey or drain water in the future for the benefit of the property or any nearby property.

X. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider or its transferee shall install and construct the improvements required under this Agreement by private contracts secured by one or more letters of credit or letters of commitment to lend funds from a commercial lender or other means permitted under City regulations. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contracts, and the improvements shall be installed as approved by the City Engineering Department and Public Works Department, Collection and Distribution Division.

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 any 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 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 effective on the date first above written.

"SUBDIVIDER"

SREI-Lenhardt , LLC.

By:_____

Its:_____

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 foregoing instrument as the _____ of **SREI-Lenhardt, LLC** and acknowledged to me that he/she 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 _____
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:

Lenhardt Square Subdivision, First Filing

Signed and dated this _____ day of _____, 20___.

SUBDIVIDER" **SREI-Lenhardt, LLC**

By: _____

Its: _____

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 **SREI-Lenhardt, LLC**, the person who executed the forgoing instrument 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 _____
Printed name: _____
Residing at: _____
My commission expires: _____

CITY OF
Billings
MAYOR'S OFFFICE

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

December 20, 2021

Michael Stock
115 Shiloh Road, Suite 3
Billings, MT 59102

Dear Applicant:

On December 20, 2021, the Billings City Council conditionally approved the preliminary plat of Amended Lot 1A, Block 1, Lenhardt Square Subdivision, 1st Filing, 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 to determine what type of deliver system is preferred and to locate and provide 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 any 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:	12/20/2021
Title:	Ridgeline Subdivision - Preliminary Major Plat
Presented by:	Monica Plecker
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

The Planning Board recommends to City Council and Board of County Commissioners that the preliminary plat of Ridgeline Subdivision be conditionally approved and adopt the Findings of Fact as presented in the staff report.

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

On October 1, 2021, Performance Engineering, applied for preliminary major plat approval for Ridgeline Subdivision. The proposed subdivision creates 11 lots for residential and commercial development. The subject property is generally located on the northeast corner of the intersection of King Avenue West and South 48th Street West. The property is zoned PND, builders will follow the PND when developing the lots. This property is part of an already approved Planned Neighborhood Development and phased annexation plan. The Development Agreement between the City and Developer outlines the timeline for approval of the phasing. This preliminary plat is for the property in its entirety. As such, the City will be the approving body and the Board of County Commissioners will also acknowledge the plat and terms of development. The phased nature of the annexation is why both the City Council and Board of County Commissioners are involved in the review and approval of this plat.

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

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 protect public health and safety, prior to final plat approval, the applicant will submit all drawings and specifications for water systems, sewer systems and stormwater systems to the City of Billings Engineering Department for review and approval prior to installation.
2. To protect public health and safety, prior to final plat approval, the applicant will submit all drawings and specifications for fire hydrants and their locations to the City of Billings Fire Department for review and approval prior to installation.
3. 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.
4. 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.

5. 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.

PROCEDURAL HISTORY

- Pre-application meeting April 15, 2021
- Preliminary plat application submitted to Planning Division on October 1, 2021
- Departmental review meeting October 14, 2021
- Preliminary plat resubmittal October 21, 2021
- Planning Board plat review November 9, 2021
- Planning Board public hearing November 23, 2021
- Preliminary plat to City Council December 20, 2021
- Preliminary plat to Board of County Commissioners December 21, 2021
- 60 working-day preliminary plat review period ends December 30, 2021

PLAT INFORMATION

General location:	Northeast corner of the intersection of King Avenue West and South 48th Street West
Legal Description:	COS 983 Parcel 2G1, 2H1, 2C and 14
Owner/Subdivider:	Kelly Coleman
Engineer and Surveyor:	Performance Engineering
Existing Zoning:	PD
Existing land use:	Farmland
Proposed land use:	Residential/Commercial
Gross and Net area:	65.317 acres / 57.635 acres
Proposed number of lots:	11
Lot size:	Max: 16.11 acres Min.: 10,001 square feet
Parkland requirements:	Parkland dedication requirement is 5.310 acres. The applicant is proposing to have 5.334 acres. The parkland will be private parks maintained by the subdivision.

STAKEHOLDERS

A public hearing was held by the Planning Board on November 23, 2021. Staff gave a presentation about the proposed subdivision to those in attendance. Board President Woody Woods asked for question from the board to the staff, there were none.

President Woods then opened the public hearing to those wishing to speak in favor, or opposition of the proposed subdivision. Sharon Wetsch, a property owner whose land is completely surrounded by the proposed subdivision, stood to speak in opposition of the

proposed subdivision.

Ms. Wetsch asked clarifying questions about the access. She stated she's gone to the zoning commission and doesn't agree that there should be high density development next to her. She has water rights and wildlife enjoys her property. Most trees on her property are on the west side. She is worried about her road access changing in any way. She is working to put solar power to her house and two shops. She believes high rise apartments will interfere with the solar access. Ms. Wetsch stated she would like to buy property south of her home for a community garden. Ms. Wetsch feels safety in the area is going to become an issue. Lenhardt square has 770 new units, this project will be about 300 new units. She is worried about police protection, worried about drug and crime activity, worried about light and noise pollution. Ms. Wetsch believed there would be housing around her, she never expected just townhouses and high-rise apartments. She doesn't see any reason to plat this type of development and adamantly objects to being hemmed in with nothing but apartments. Wishes to have it sent back and re-platted. Feels it's unexpected from the people located along Georgina.

Mr. Craig Dalton, Performance Engineering, agent for the applicant, addressed some concerns. Mr. Dalton mentioned being a good neighbor and that they had reached out to Ms. Wetsch from the beginning of the project. With the Planned Development and code requirements they are required to have NX zoning along the principle arterials. That guided how the property was laid out. They have laid out the subdivision to help provide a small amount of buffer around Ms. Wetsch's home. Mr. Dalton said the NX2 zoning will allow a two-story height maximum building. The current proposal is to construct four-unit townhomes which will not affect Ms.Wetsch's solar services. Her easement is her easement and she will have access always and the landowner is required to keep it there. Traffic is a problem in this part of Billings and will continue to get worse with more development. A traffic study was conducted, and they are working with MDT and the Public Works Department to address the issues. At minimum, a traffic signal will be installed at the intersection of 48th Street West and King Avenue West. The developer is participating in the intersection improvements, but a dollar amount has not been set at this time. Future traffic along King Avenue and 48th Street West will be addressed according to current traffic volumes. A roundabout is proposed for this intersection in the future.

Board member Hillius asked if the access easement to Ms. Wetsch's home is paved or gravel. Mr. Dalton said the access easement is paved and the corridor will remain to maintain the paved access. Board member Tunnicliff asked if it is a private easement, Mr. Dalton said it is a private easement. Board member Tunnicliff pointed out that this conversation has been primarily related to zoning and said it is not within the scope of the Planning Board review or consideration.

There were no other comments. Board President Woods closed the public hearing and asked for a motion. A motion was made to forward a recommendation of conditional approval, with the proposed conditions and SIA, to the City Council and County Commissioners, the motion was seconded. The motion was unanimously approved.

ALTERNATIVES

In accordance with state law, the Governing Body has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on December 30, 2021. Subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The Governing Body 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 60 working day review period, the Governing Body is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FISCAL EFFECTS

This plat will have no fiscal impacts on the City/County Planning Division.

SUMMARY

One of the purposes of the subdivision review process is to identify potential negative effects of property being subdivided. Negative effects that are identified become the subdivider's responsibility to mitigate. Various departments, private service/utility providers and the affected school district/s, have 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.

Attachments

Findings of Fact

Proposed Plat

SIA Draft

Question from surrounding property owner

Mayor Letter

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Ridgeline 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(H), 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.H.2.]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently used for faring. No water rights will be transferred to subdivision property owners. There are no existing ditches near this proposed development. The subdivision should not affect agricultural water users' facilities.

2. Effect on local services

a. **Utilities** – Public water services to the subject property will be provided by the City of Billings. The subdivision will be served extending an existing 24-inch water main along King Avenue West to South 48th Street West. A future water main is proposed to be installed in South 48th Street West as part of a larger project in connection with the West End Reservoir project. Rather than extend a water line up South 48th Street West the applicant will install a new 12-inch water main from King Avenue West through the subdivision up to the intersection of South 48th Street West and Georgina Drive, located within public right of way or a public easement. All water line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings. The City of Billings Engineering Department will review and approve all proposed water lines prior to installation. **(Condition #1)**

Fire hydrants will also be installed as required by the City of Billings Fire Department. The City Fire Department with review and approve all proposed hydrant locations prior to installation. **(Condition #2)**

Sanitary sewer service will be provided by the City of Billings by extending and connecting to an existing 8- inch diameter sewer main located in King Avenue West to South 48th Street West. The subdivider will be required to provide a cash contribution for half of the cost of installation of a 12-inch sanitary sewer main along South 48th Street West. The contribution will be for the distance from King Avenue West to the northern edge of the proposed subdivision. All sewer line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department. The City of Billings Engineering Department will review and approve all proposed sanitary sewer lines prior to installation. **(Condition #1)**

All telephone, gas, electrical power, and cable television lines that are placed within the public right-of-way shall be installed prior to surface improvements.

b. **Storm water** – Stormwater management for the proposed subdivision will be provided by a combination of surface drainage and curbs and gutters. Storm water will discharge to a stormwater detention facility located in areas located within public easements or on public property. All proposed stormwater management will be reviewed and approved by City of Billings Engineering Department. All drainage improvements shall comply with the provisions of the City of Billings Stormwater Management Manual and Section 23-706, BMCC, a stormwater management plan shall be submitted to the Engineering Division prior to filing of the final plat. **(Condition #1)**

c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.

d. **Streets** – Access to the lots in this proposed subdivision is from King Avenue West and South 48th Street West. All access to individual lots will be from internal streets. All new public streets will be in a 56-foot-wide right of way and will be constructed to 34-foot wide, back of curb to back of curb road. Road construction will include installation of accessible ramps at the intersections.

Sidewalks will be installed throughout the subdivision at the time of individual lot development. All sidewalks will be boulevard type walks with 5-foot wide boulevard sidewalks. The subdivider will install ADA ramps and sidewalk along any public areas within the subdivision.

A 10-foot-wide trail will be installed around the outer edge of the subdivision. The subdivider will install ADA ramps and trail along any public areas within the subdivision. Trails will be constructed on individual lots as the lots are developed.

e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 1501 54th Street West (Station #7).

The subdivision is located within the ambulance service area of American Medical Response (AMR).

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

f. **Schools** – School District #2 provides service to students within this subdivision from elementary to high school (Meadowlark Elementary School, Ben Steele Middle School, and West High School). Response from School District #2 shows all schools are above maximum capacity.

g. **Parks and Recreation** – The parkland dedication requirement for this subdivision is 5.310 acres. The applicant is proposing to provide 5.334 acres of parkland/open space. All parkland/open space will be private parks. The parks will be developed by the subdivider and maintained by the Home Owner Association (HOA).

h. **Mail Delivery -** The United States Postal Service will provide postal service to the subdivision. They have requested the installation of centralized mailbox unit (CBUs). The developer will work with the USPS to provide a satisfactory location for a CBU for this filing. **(Condition #3)**

i. **Phasing -** The Subdivision is proposed to be constructed in phases as defined below. Public improvements associated with these phases shall be constructed or monetarily guaranteed prior to opening the phase.
Phase 1: Lots 3-4, Block 1; Lots 1-2, Block 2; and Lot 1, Block 3.
Phase 2: Lots 3-8, Block 2 and Lot 1, Block 4.
Phase 3: Lots 1-2, Block 1

3. Effect on the natural environment

The subject property is relatively level land adjacent to urban development to the east and future proposed development to the south. A geotechnical study was performed for the subdivision and submitted to the City Engineering Division.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA under the heading II. Property Conditions and Information for Lot Purchasers.

5. Effect on the public health, safety and welfare

Fire hydrants will be installed to meet fire department requirements. Sidewalks will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, 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:** Planning and construction of safe and affordable interconnected sidewalks and trails are important to the economy and livability of Billings. (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)
>
> Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels. (p.8)
>
> **Home Base (healthy, safe and diverse housing options)** Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings. (p.9)

2. 2018 Billings Urban Area Long Range Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2018 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

3. Billings Area Bikeway and Trail Master Plan (BABTMP)

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP does not show any trails 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.H.3.a.]

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.H.3.e.]

The subject property is a Planned Neighborhood Development (PND). The PND has the following zones within it, Commercial Mixed Use 1 (CMU1), Mixed Residential 2 (NX2), Mid-Century Residential (N2), Open Space, Parks, Recreation (P1), and Mixed Residential 3 (NX3). All building development on the lots shall comply with current zoning when applying for a building permit.

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.H.3.b.]

The subdivider will furnish private utility easements as required by private utility providers.

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.H.3.c.]

Legal and physical access is provided to the proposed lots are from King Avenue West and South 48th Street West. New internal streets will provide access to individual lots.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Ridgeline Subdivision does not create any adverse impacts that warrant denial of the subdivision.

- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy and does not conflict with the Transportation or Bikeway and Trail Plans.

- The proposed subdivision complies with state and local subdivision regulations, local zoning, 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

The Planning Board recommend to City Council the preliminary plat of Ridgeline Subdivision be conditionally approved and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, December 20, 2021

_____

William A. Cole, Mayor

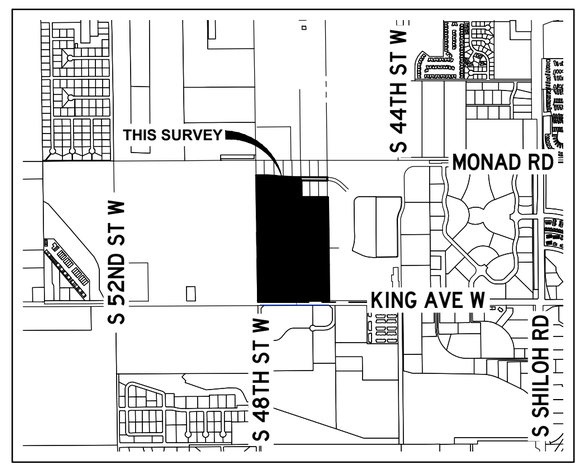
PRELIMINARY PLAT OF

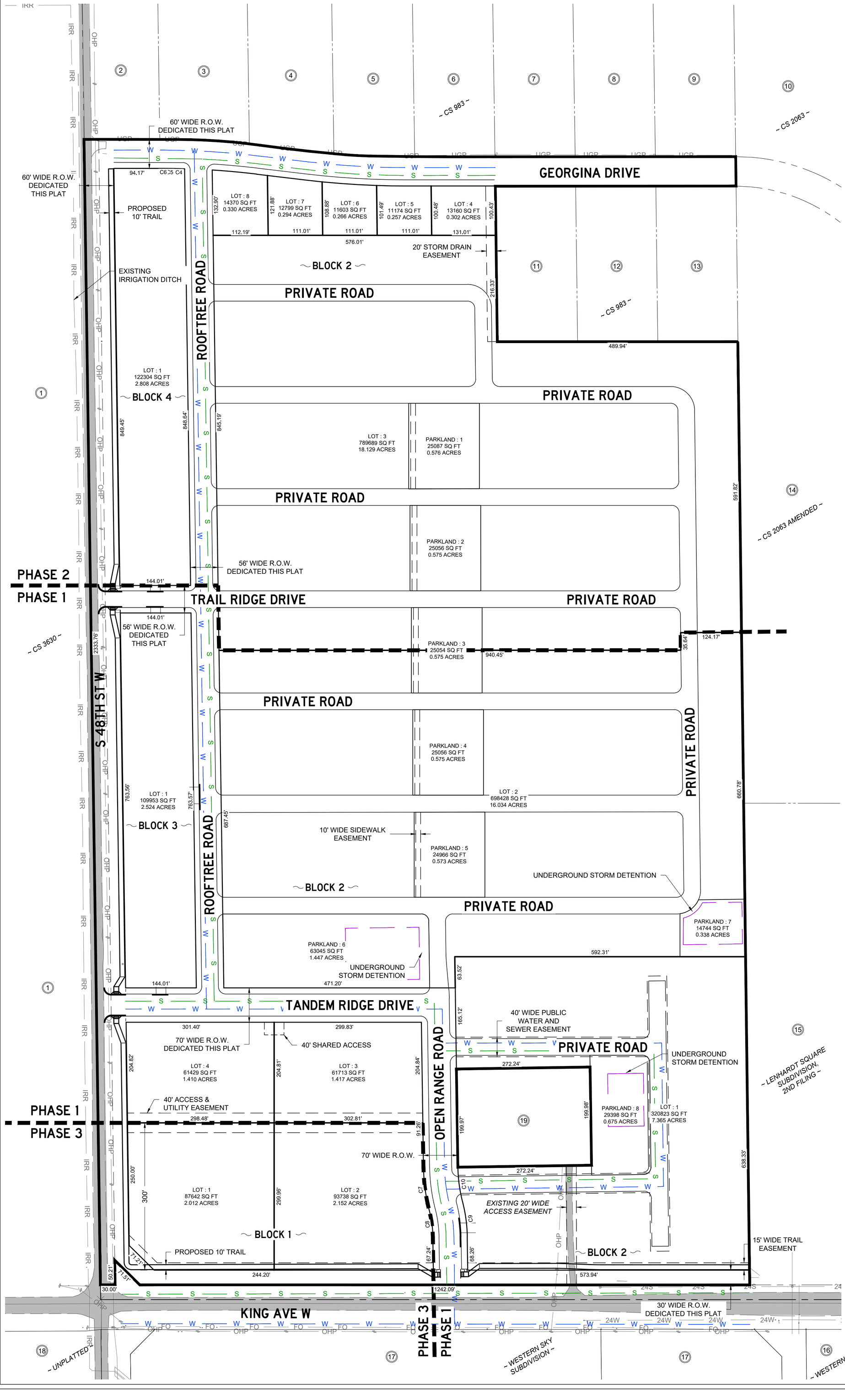
RIDGELINE SUBDIVISION

BEING TRACT 14 OF CERTIFICATE OF SURVEY NO. 983 AMENDED, TRACT 2-C OF CERTIFICATE OF SURVEY NO. 983 TRACT 2 AMENDED, TRACTS 2-G-1 AND 2-H-1 OF CERTIFICATE OF SURVEY NO. 983 AMENDED TRACTS 2G AND 2H, LOCATED IN THE WEST 1/2 OF SECTION 10, TOWNSHIP 01 SOUTH, RANGE 25 EAST, P.M.M., CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : TKJ DEVELOPMENTS, LLC

PREPARED BY : PERFORMANCE ENGINEERING, LLC





ADJOINING LANDOWNER INFORMATION

1. PATRICIA HARDT
604 S 48TH STREET W
BILLINGS, MT 59106

2. DANNY C BROOKS & SUSAN D ERICKSON
415 S 48TH STREET W
BILLINGS, MT 59106

3. MICHAEL J & AILEEN KINDSFATHER
4733 GEORGINA DRIVE
BILLINGS, MT 59106

4. WILLIAM A & CAROL J DYK
4719 GEORGINA DRIVE
BILLINGS, MT 59106

5. ELYSIAN PROPERTIES, LLC
CB CHAD AARON & SHERYL ANNETTE MITCHELL
4705 GEORGINA DRIVE
BILLINGS, MT 59106

6. ANTHONY J AND KAY MARIE SEITZ
4631 GEORGINA DRIVE
BILLINGS, MT 59106

7. ROBERT PRIBYL & KAY JUNGBLUT
3440 S 60TH STREET W
BILLINGS, MT 59106

8. MATTHEW & ALISHA STEWART
5234 GOLDEN HOLLOW ROAD
BILLINGS, MT 59101

9. MARY LANE ENDICOTT
5618 S NEENAH AVENUE
CHICAGO, IL 60638

10. HANSER CAPITOL HOLDINGS, LLC
2916 THOUSAND OAKS STREET
BILLINGS, MT 59102

11. NICHOLAS R & ARLEE T CARPENTER
2646 GRAND AVENUE
BILLINGS, MT 59102

12. MICHAEL W & PAMELA J MCCLELLAN
107 JUNIPER AVENUE
GLENDIVE, MT 59330

13. KENNETH J & RAMONA R CARL
1313 MOUNTAIN VIEW AVENUE
S PASADENA, CA 91030

14. DON G KNUDSEN
6300 BEAR PAW DRIVE S
BILLINGS, MT 59106

15. LENHARDT PROPERTY, LP
4035 CEDAR BROOK COURT
BELLINGHAM, WA 98229

16. CK LAND, LLC
2729 ASPEN WAY
BILLINGS, MT 59106

17. WESTERN SKY BILLINGS, LLC
PO BOX 333
REED POINT, MT 59069

18. DOUGLAS & RAYMOND J KRAMER
3134 S 56TH STREET W
BILLINGS, MT 59106

19. DUANE C & SHARON WETSCH
PO BOX 1309
FORSYTH, MT 59327

SITE DATA

TOTAL LOTS IN SUBDIVISION:	14
GROSS AREA OF LOTS	65.349 AC
RIGHT-OF-WAY:	10.051 AC
LINEAL FEET OF STREETS:	13,015 LF
NET AREA OF LOTS	
RESIDENTIAL AREA:	48.273 AC
COMMERCIAL AREA:	6.991 AC
PARKLAND REQUIRED:	5.310 AC
PARKLAND DEDICATED:	5.334 AC

This survey is not subject to review by the Department of Environmental Quality pursuant to 76-4-130(2), MCA as the "deviation consists solely of connection to municipal or county water and/or sewer district facilities."

Curve Table			
Curve #	Length	Radius	Delta
C4	49.86	1649.77	001° 43' 54"
C5	49.86	1649.77	001° 43' 54"
C6	49.86	1649.77	001° 43' 54"
C9	71.55	299.20	013° 42' 04"
C10	71.55	299.20	013° 42' 03"
C7	88.29	369.20	013° 42' 03"
C8	54.81	229.20	013° 42' 04"

0 100 200
IN FEET

SHEET 1 OF 1

10/1/2021 2:34:52 PM PE STANDARD.CTB
C:\Users\CraigDalton\Dropbox (PEC Billings)\PEC Billings Team Folder\TKJ Development\21-061 Ridgeline Sub\CAD\DWG\Plats\Preliminary\21-061 RS Prelim Plat.dwg

SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS

Ridgeline Subdivision

Table of Contents
(City of Billings)

I. Variances 2
II. Property Conditions and Information for Lot Purchasers 3
III. Transportation 4
A. Streets 4
B. Sidewalks And Trails 6
C. Street Lighting 6
D. Traffic Control Devices 6
E. Access 7
F. Billings Area Bikeways and Trail Master Plan 7
G. Public Transit 7
IV. Emergency Service 8
V. Storm Drainage 8
VI. Utilities 8
A. Water 9
B. Sanitary Sewer 9
C. Power, Telephone, Gas, and Cable Television 9
VII. Parks/Open Space 9
VIII. Irrigation 10
IX. Soils/Geotechnical Study 10
X. Phasing of Improvements 10
XI. Financial Guarantees 10
XII. Legal Provisions Applying to Subdivider 10

SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS

Ridgeline Subdivision

This agreement is made and entered this _____ day of _____, 20___, by and between **TKJ Development, LLC**, whose address for the purpose of this agreement is **28121st Ave. North, Suite 500, Billings, MT 59101**, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, at a regular meeting conducted on ____ day of _____, 20___, the Board of Planning recommended conditional approval of a preliminary plat of **Ridgeline Subdivision**; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20___, the City Council conditionally approved a preliminary plat of **Ridgeline Subdivision** and

WHEREAS, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to **Ridgeline 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

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. No variances have been requested at this time.

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. Sidewalks shall be 5-foot boulevard style walk.

B. Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

C. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.

D. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

E. 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 by the completion of the conditions set forth in the Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

F. 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.

G. 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 with Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

III. TRANSPORTATION

A. Streets

All internal access roads and site improvements within the subdivision shall be installed in accordance with the City of Billings' street standards. Subdivider will execute a private contract to construct public streets, and curb and gutter within the Subdivision.

Subdivider and City agree that the required street improvements are as follows:

1. Standard curb and gutter will be installed on all of the interior streets being constructed within the Subdivision.

2. All streets will be provided with an asphalt concrete driving surface.

3. A Traffic Impact Study (TIS) has been completed and submitted to City Engineering and the Montana Department of Transportation (MDT) for review and approval prior to final plat. Construction and/or financial contributions for improvements along King Avenue West and 48th Street West as well as contributions to future intersection improvements shall be in general accordance with that document and as specifically described herein.

    a. King Avenue West is a Principal Arterial and requires a half right-of-way width of sixty feet. An additional thirty feet shall be dedicated as part of this Subdivision to reach the required right-of-way width.

    b. 48th Street West is an arterial and requires a half right-of-way width of sixty feet. Sixty feet shall be dedicated as part of this Subdivision to reach the required right-of-way width.

    c. Additional right-of-way shall be dedicated at the corner of King Avenue West and 48th Street West to accommodate a potential future roundabout as determined by the final design of intersection.

    d. Open Range Road and Tandem Ridge Drive are classified as commercial access roads and shall be forty-four feet back-of-curb to back-of-curb and be located within a seventy-foot right-of-way.

    e. Roof Tree Road and Trail Ridge Drive are classified as residential access roads and shall be thirty-four feet back-of-curb

to back-of-curb and be located within a fifty-six-foot right-of-way.

f. The Subdivider shall construct sidewalk, curb and gutter, and a thirty-foot wide asphalt road along Georgina Drive from 48th Street West to the eastern property line of Lot 4, Block 2 of the Subdivision. A sixty-foot right-of-way shall be dedicated for Georgina Drive.

g. No physical surface improvements to 48th Street West are anticipated at this time. In-lieu of construction improvements, the Subdivider shall make a cash contribution to the City of Billings for future improvements to 48th Street West. Said contributions shall be based on one-half of the required surface improvements for a residential street section, including curb and gutter, less a credit for existing surfacing. Subdivider shall construct the multi-use trail, due to this, no cash contribution for sidewalk is required. Said contributions and/or trail construction, shall be made at the time of development of Lots 1 and 4, Block 1; Lot 1, Block 3; and Lot 1, Block 4.

h. King Avenue West improvements will be required in conjunction with the development of Phase 2 of the Subdivision. These improvements include the construction of a right turn-lane into Open Range Road. These improvements shall be made at the expense of the Subdivider at the time of development of Phase 2.

i. Intersection contributions identified in the Traffic Impact Study are noted herein. Based on the Traffic Impact Study the following intersection contributions shall be paid at the time of initial lot development:

    i. Central Avenue and 48th Street West (3.8%) $9,500

Based on trip generation estimates from the TIS, the costs associated with, and to be paid by, each lot at the time of development is as follows:

- Lot 1, Block 1 $1,165
- Lot 2, Block 1 $1,225
- Lot 3, Block 1 $800
- Lot 4, Block 1 $800
- Lot 1, Block 2 $1,050

• Lot 2, Block 2	$1,740
• Lot 3, Block 2	$1,740
• Lot 1, Block 3	$480
• Lot 1, Block 4	$500
Total	$9,500

4. The Montana Department of Transportation controls the right-of-way for King Avenue West. Any access locations and improvement installation shall be subject to their review and approval.

B. Sidewalks And Trails

1. Individual lot owners will be responsible for the construction of the sidewalks within public right-of-way or easements adjacent to or through their lot at the time of lot construction and shall be included in each building permit.

2. Multi-use paths shall be 10-feet wide with corner intersection handicap ramps and aprons. Multi-use trails shall be constructed by the Subdivider, within the private contract, at the time of each phase opening. A multi-use path shall be required to be constructed along 48th Street West and King Avenue West. Maintenance of the multi-use paths will be the responsibility of the HOA.

3. Sidewalks shall be 5-foot wide with a 5-foot boulevard planting strip between the sidewalk and the curb at corner intersection handicap ramps and aprons.

4. Subdivider will install, within the private contract, corner intersection handicap ramps and aprons.

5. Subdivider to install sidewalks and trails fronting parkland/open space areas.

C. Street Lighting

No street lighting is proposed for the development; however, street lighting is included in the waiver of right to protest.

D. Traffic Control Devices

The Traffic Impact Study completed and submitted to City Engineering and the Montana Department of Transportation for review prior to final plat indicates intersection improvements are warranted at the intersection King Avenue West and 48th Street West. Intersection improvements (not limited to traffic signal or roundabout), signage, and striping shall be installed as part of Phase 1 in accordance with the Traffic Impact Study and conform to the City of Billings

and Montana Department of Transportation standards. The developer may be responsible for full intersection costs as determined by the Montana Department of Transportation and the City of Billings.

Street name signs for streets within the Subdivision, or located immediately adjacent thereto, shall be furnished and installed by the subdivider in accordance with the specifications of the City of Billings standards.

E. Access

The Subdivision will be accessed by way of internal roads and driveway approaches as approved by the Montana Department of Transportation and the City. There will be three accesses off 48th Street West and a single access off King Avenue West. An internal road will access onto King Avenue West approximately 680 feet east of the intersection with 48th Street West with allowable turning movements as approved by Montana Department of Transportation. Two internal road approaches will access onto 48th Street West approximately 550 and 1,400 feet north of the intersection with King Avenue West. An additional internal road access point to 48th Street West will be provided via the existing Georgina Drive.

Road improvements along King Avenue West and 48th Street West, including a roundabout at the intersection, are anticipated at an unknown future date. To facilitate the movement of traffic leaving the subdivision in the interim, Tandem Ridge Drive shall be allowed full turning movements. At the time of redevelopment of 48th Street West and the installation of a roundabout, approaches within 1,000 feet of the 48th Street West and King Avenue West intersection will be restricted to a maximum of three-quarter (¾) access turning movements as determined by City Engineering.

F. Billings Area Bikeways and Trail Master Plan

The proposed subdivision is within the planning area for the Billings Area Bikeway & Trail Master Plan. The Trail Plan indicates a proposed multi-use path along the north side of King Avenue West and the east side of 48th Street West. Portions of the 10-foot multi-use path shall be constructed by the Subdivider, within a private contract, at the time of phase development.

G. Public Transit

MET Transit provides service along King Avenue West with the closest route at the intersection of King Avenue West and Montana Sapphire Drive, approximately 0.5 miles east of the Subdivision. No improvements are required to ensure public transit service.

IV. EMERGENCY SERVICE

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.

V. STORM DRAINAGE

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.

Where not contained within street rights-of-way, public storm drainage facilities will be located within public easements or on public property.

Developer shall install dry storm drain pipe from storm drain retention facilities to the drain ditch along 48th Street West. This pipe can be utilized in the future to drain the retention facilities with a pumping system.

Maintenance of the developments storm retention facilities shall be the responsibility of the Home Owners Association(s).

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, Billings Fire Department and the Montana Department of Environmental Quality.

A. Water

The Subdivision will be served by extending 24-inch water main along King Avenue West to 48th Street West. The Subdivider has the option to enter into a compensation agreement with the City to pay the difference in the upsizing of a 12-inch main to a 24-inch. The Subdivider will be required to construct a public 12-inch water main from King Avenue West through the Subdivision to the intersection of 48th Street West and Georgina Drive to be located in a public easement or public right-of-way.

B. Sanitary Sewer

The Subdivision will be served by extending sanitary sewer main along King Avenue West to 48th Street West. The Subdivider will be required to provide a cash contribution for half of the cost of installation of a 12-inch sanitary sewer main extension in 48th Street West for the extent of the property.

C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power, and cable television lines within the public right-of-way shall be installed prior to surface improvements. 8-foot utility easements are provided along the front lot lines of selected lots for utility services as shown on the plat.

VII. PARKS/OPEN SPACE

Parkland/open space requirements will be met via private parkland/open space areas. The subdivision regulations require 11% of the net residential lot area be provided as parkland/open space area which equates to 5.310 acres. A total of 5.334 acres of parkland/open space is provided.

All parkland spaces within the subdivision will be private. Private parkland areas will be constructed by the Subdivider and maintained by the Home Owners Association(s).

VIII. IRRIGATION

No water rights have been transferred to the lot owners. Irrigation ditches that exist near this development are for the benefit of other properties. Ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

IX. SOILS/GEOTECHNICAL STUDY

A geotechnical investigation was performed for the area and can be obtained from the City Engineering Department office.

X. PHASING OF IMPROVEMENTS

The Subdivision is proposed to be constructed in phases as defined below. Public improvements associated with these phases shall be constructed or monetarily guaranteed prior to opening the phase.

Phase 1: Lots 3-4, Block 1; Lots 1-2, Block 2; and Lot 1, Block 3.

Phase 2: Lots 3-8, Block 2 and Lot 1, Block 4.

Phase 3: Lots 1-2, Block 1

XI. 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.

XII. 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" *TKJ Development, LLC*

By:_____

Its:_____

STATE OF MONTANA)
: ss
County of)

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 _____ of *TKJ Development, LLC*, 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 describe as follows:

Ridgeline Subdivision

Signed and dated this _____ day of _____, 20___

TKJ Development, LLC

By: _____

Its: _____

STATE OF MONTANA)
: ss
County of)

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 _____ of *TKJ Development, LLC*, 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: _____

Hello Dave,

Georgina Drive was created by way of a non-exclusive private access agreement granted by Tract 14 (northern tract of Ridgeline Subdivision) to allow for free ingress/egress of Tract 14 and the surrounding residential properties. As the easement is contained wholly within Tract 14 it is being dedicated to the City as part of the annexation/subdivision process. The Ridgeline Subdivision is required to improve the portions of Georgina (i.e. pavement) along portions in which the subdivision fronts the roadway directly. To summarize, the developer will be required to pave Georgina from 48th Street West to the west boundary of Tract 12 of COS 983. There will remain a portion of Georgina Drive where county properties occupy both sides of the road and would remain gravel.

Let me know if you have questions.

Thanks,

Craig Dalton, P.E.
Project Manager/Principal
Office: 406-384-0080

PERFORMANCE
608 N. 29th St Billings, MT 59101

From: Green, Dave <greend@billingsmt.gov>
Sent: Friday, November 5, 2021 11:05 AM
To: Craig Dalton <craig@performance-ec.com>
Subject: FW: [EXTERNAL] Proposed Ridgeline Subdivision

Craig, could you please enlighten me on the plans for the road in question below?

dave

From: Tony Seitz <seitzt44@gmail.com>
Sent: Friday, November 5, 2021 10:57 AM
To: Green, Dave <greend@billingsmt.gov>
Cc: K Seitz <kmlarsen7844@gmail.com>
Subject: [EXTERNAL] Proposed Ridgeline Subdivision

Good Morning, Dave Green,
I just received the notice of the public hearing on the Ridgeline Subdivision scheduled for November 23rd, 2021.
Can you possibly tell me what the plans for this subdivision propose for Georgina Drive as far as

paving, and also as far as connecting Georgina Drive to the adjoining property to the East?
Hanser Capital Holdings is in the process of developing the property East of Georgina now.
I know in the past that Georgina Drive was scheduled to remain a private drive and end before the Hanser development, however, that may not still be the plan.
Thank you so much for your time and comments.
Tony & Kay Seitz
4631 Georgina Drive
Billings, Montana 59106

--

Tony Seitz
seitzt44@gmail.com
(406) 850-5620

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

CITY OF
Billings
MAYOR'S OFFFICE

December 20, 2021

Kelly Coleman
P.O. Box 1555
Billings, MT 59103

Dear Applicant:

On December 20, 2021, the Billings City Council conditionally approved the preliminary plat of Ridgeline Subdivision, subject to the following conditions of approval:

1. To protect public health and safety, prior to final plat approval, the applicant will submit all drawings and specifications for water systems, sewer systems and stormwater systems to the City of Billings Engineering Department for review and approval prior to installation.

2. To protect public health and safety, prior to final plat approval, the applicant will submit all drawings and specifications for fire hydrants and their locations to the City of Billings Fire Department for review and approval prior to installation.

3. 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.

4. 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.

5. 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 any questions please contact Dave Green at (406) 247-8666 or by email at greend@billingsmt.gov

Sincerely,

_____

William A. Cole, Mayor

pc: Performance Engineering

City Council Regular

Date:	12/20/2021
Title:	Annafeld Subdivision, 4th Filing - Preliminary Major Plat
Presented by:	Monica Plecker
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

The Planning Board recommends to City Council that the preliminary plat of Annafeld Subdivision, 4th Filing be conditionally approved and the Council adopt the Findings of Fact as presented in the staff report.

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

On October 1, 2021, Sanderson Stewart for McCall Development, Inc., applied for preliminary major plat approval for Annafeld Subdivision, 4th Filing. The proposed subdivision creates 127 lots for residential development in the City of Billings. The subject property is generally located south of Elysian Road and west of Annafeld Subdivision, 3rd Filing. The property is zoned PD, and builders will follow the PD when developing the lots. The entire project area is not currently within the City Limits, however, a petition for annexation has been submitted and the City Council will consider the annexation at the same business meeting as this preliminary plat.

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

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 protect public health and safety, prior to final plat approval, the applicant will submit all drawings and specifications for water systems, sewer systems and stormwater systems to the City of Billings Engineering Department for review and approval prior to installation.
2. 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.
3. 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.
4. 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.

PROCEDURAL HISTORY

- Pre-application meeting August 26, 2021
- Preliminary plat application submitted to Planning Division on October 1, 2021

- Departmental review meeting October 14, 2021
- Preliminary plat resubmittal October 21, 2021
- Planning Board plat review November 9, 2021
- Planning Board public hearing November 23, 2021
- Preliminary plat to City Council December 20, 2021
- 60 working-day preliminary plat review period ends December 30, 2021

PLAT INFORMATION

General location: South of Elysian Road and west of Annafeld Subdivision 3rd Filing

Legal Description: Lot 2A, Block 1 of Adam & Mollie Walter Sub, 1st Filing & Lot 1, Block 17 & Lot 3, Block 10 of Annafeld Sub, 3rd Filing & Tract 2A of COS 3594

Owner/Subdivider: McCall Development, Inc.

Engineer and Surveyor: Sanderson Stewart

Existing Zoning: PD

Existing land use: Farmland

Proposed land use: Residential

Gross and Net area: 36.690 acres / 27.591 acres

Proposed number of lots: 127

Lot size: Max: 14.14 acres
Min.: 1,656 square feet

Parkland requirements: Parkland dedication requirement is 1.33 acres. The parkland will be private parks maintained by the subdivision.

STAKEHOLDERS

At the November 23 Planning Board meeting the Board held a public hearing for the proposed subdivision. Planning staff gave a brief overview about the proposed subdivision. Planning Board President Woods asked if there were any question for the staff or the applicants' agent. There were none. The public hearing was opened for comments and there were no comments from the public. The public hearing was closed and President Woods asked for a motion. A motion was made to recommend approval of the proposed subdivision with the Findings of Fact and the SIA, the motion was seconded. The motion passed with a unanimous vote.

ALTERNATIVES

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on December 30, 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 60 working day review period, the City Council is required

to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FISCAL EFFECTS

This plat will have no fiscal impacts on the City/County Planning Division.

SUMMARY

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. Negative effects that are identified become the subdivider's responsibility to mitigate. Various City departments, private service/utility providers and the affected school district/s, have 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.

Attachments

Findings of Fact
Proposed Plat
Draft SIA & Waiver
Mayors Letter

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Annafeld Subdivision, 4th Filing. 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(H), 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.H.2.]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently farm land. Water rights will not be transferred to subdivision property owners. Existing ditches near this proposed development will remain in place and will not be altered by the future property owners. The subdivision should not affect agricultural water users' facilities.

2. Effect on local services

a. **Utilities** – Public water services to the subject property will be provided by the City of Billings. The subdivision will continue a 12-inch water main down Norma Jean Lane and in a portion of Street 4 (temporary name). All remaining street in Annafeld Subdivision, 4th Filing, will be an 8-inch line with water taps to individual lots for future home connections. The water mains within the subdivision will make looped connections whenever possible. All water line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings. The City of Billings, Engineering Department, will review and approve all proposed water lines prior to installation. **(Condition #1)**

Fire hydrants will also be installed as required by the City of Billings Fire Department. The City Fire Department with review and approve all proposed hydrant locations prior to installation.

Sanitary sewer service will be provided by the City of Billings by connecting to an existing 8- inch diameter gravity feed sewer main located in Street 2 (temporary name), Eva Marie Lane, Norma Jean land and Johanns Meadow Lane. and extending the 8-inch sewer main within Matador Avenue, Modera Avenue and Street 1 (Temporary Name). All sanitary sewer mains will be stubbed to each lot. All sewer line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department. The City of Billings Engineering Department will review and approve all proposed sanitary sewer lines prior to installation. **(Condition #1)**

All telephone, gas, electrical power, and cable television lines that are placed within the public right-of-way shall be installed prior to surface improvements.

b. **Storm water** – Stormwater management for the proposed subdivision will be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains. The new storm drain piping will discharge into existing storm drain piping and to an existing mechanical stormwater filtration manhole, then into Hogan's Slough. There is an existing Operation and Maintenance (O&M) manual that was developed with Annafeld Subdivision, 1st Filing that will include Annafeld Subdivision, 4th Filing. The subdivision HOA is owner of the stormwater management system and fees are collected to cover the cost of O&M. All drainage improvements shall comply with the provisions of the City of Billings Stormwater Management Manual and Section 23-706, BMCC, a stormwater management plan shall be submitted to the Engineering Division prior to filing of the final plat. **(Condition #1)**

c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.

d. **Streets** – Access to the lots in this proposed subdivision is from Elysian Road and St. George Boulevard. Access to each individual lot will be from the internals streets that are proposed with this subdivision. All new streets will be in a 56-foot-wide right of way and will be constructed to 34-foot wide, back of curb to back of curb road. Road construction will include installation of accessible ramps at the intersections.

A traffic study has been completed for this proposed subdivision and the applicant will be making contributions to the intersections impacted by the additional traffic burden places on them. Those contributions are outlined in the SIA and will be made to the City prior to final plat approval.

Sidewalks will be installed at the time of individual lot development. All sidewalks will be boulevard type walks with 5-foot wide boulevard sidewalks.

e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 605 South 24th Street West (Station #5).

The subdivision is located within the ambulance service area of American Medical Response (AMR).

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

f. **Schools** – Elysian School provides service to students within this subdivision for K through 8. School District #2 provides service to students within this subdivision from high school (West High School). School District #2 responded stating West High School is over capacity at this time.

g. **Parks and Recreation** – The parkland dedication requirement for this subdivision is 1.33 acres. This parkland will be private park for the residents of the subdivision. There is a public park that was dedicated to the City with Annafeld 1st Filing. Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of an existing public park within Annafeld Subdivision. This information is in the SIA under the heading Property Conditions and Information for Lot Purchasers.

h. **Mail Delivery -** The United States Postal Service will provide postal service to the subdivision. They have requested the installation of centralized mailbox unit (CBUs). The developer will work with the USPS to provide a satisfactory location for a CBU for this filing. **(Condition #2)**

3. Effect on the natural environment

The subject property is relatively level land adjacent to urban development to the east. A geotechnical study was performed for the subdivision, a summary of the information from that study is included in the SIA under the heading X. Soils/Geotechnical Study. The subdivision should have a minimal effect on the natural environment.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open farm land areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA under the heading II. Property Conditions and Information for Lot Purchasers.

5. Effect on the public health, safety and welfare

Fire hydrants will be installed to meet fire department requirements. Sidewalks will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, 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:

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) Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings. (p.9)

2. 2018 Billings Urban Area Long Range Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2018 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

3. Billings Area Bikeway and Trail Master Plan (BABTMP)

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP does not show any trails 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.H.3.a.]

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.H.3.e.]

The subject property is located within a PD zoning district. All building development on the lots shall comply with the PD zoning when applying for a building permit.

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.H.3.b.]

The subdivider will furnish private utility easements as required by private utility providers.

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.H.3.c.]

Legal and physical access is provided to the proposed lots from Elysian Road and from St. George Boulevard. Other new internal streets will provide access to individual lots. All streets are dedicated to the public as shown on the plat.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Annafeld Subdivision, 4th Filing does not create any adverse impacts that warrant denial of the subdivision.

- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy and does not conflict with the Transportation or Bikeway and Trail Plans.

- The proposed subdivision complies with state and local subdivision regulations, local zoning, 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

The Planning Board recommend to the City Council, the preliminary plat of Annafeld Subdivision, 4th Filing be conditionally approval and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, December 20, 2021

_____

William A. Cole, Mayor

PRELIMINARY PLAT OF

ANNAFELD SUBDIVISION, FOURTH FILING

BEING LOT 2A, BLOCK 1 OF ADAM & MOLLIE WALTER SUBDIVISION, FIRST FILING AND PROPOSED LOT 1A, BLOCK 17 OF AMENDED ANNAFELD SUBDIVISION 3RD FILING AND LOT 3, BLOCK 10 OF ANNAFELD SUBDIVISION, 3RD FILING
SITUATED IN THE NW1/4 OF SECTION 19, T. 1 S., R. 26 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : McCALL DEVELOPMENT, INC.
PREPARED BY : SANDERSON STEWART

AUGUST, 2021
BILLINGS, MONTANA

PLAT DATA

GROSS AREA	=	36.690 ACRES
NET AREA	=	27.591 ACRES
NUMBER OF LOTS	=	127
MINIMUM LOT SIZE	=	1,656 S.F.
MAXIMUM LOT SIZE	=	615,830 S.F.
LINEAL FEET OF STREETS	=	±9,101 L.F.
PARKLAND REQUIREMENT	=	±1.191 ACRES
PARKLAND DEDICATION	=	MET WITH 1.358 AC. PRIVATE PARK DEDICATION
EXISTING ZONING	=	PD
SURROUNDING ZONING:		
NORTH	=	PD AND NX2
SOUTH	=	A
EAST	=	PD
WEST	=	PD
EXISTING LAND USE	=	VACANT
PROPOSED LAND USE	=	RESIDENTIAL

BASIS OF BEARINGS: PLAT OF ANNAFELD SUBDIVISION, SECOND FILING

NOTE: ALL CURVES ARE TANGENT AND ALL PROPERTY LINES INTERSECTING CURVES ARE RADIAL UNLESS OTHERWISE NOTED.

OWNERSHIPS

1. MCCALL DEVELOPMENT INC
1536 MULLOWNEY LN STE 100
BILLINGS, MT 59101–6397

2. KELLER, ARLISS M
1540 EAST LANE
BILLINGS, MT 59101–6329

3. SCHOOL DISTRICT #23RR 9
BILLINGS, MT 59101–9610

4. GARY J ARMSTRONG
LIVING TRUST
1701 EAST LANE
BILLINGS, MT
59101–6364

5. WALTER, LEROY J
& NORMA J
1807 EAST LANE
BILLINGS, MT
59101–6349

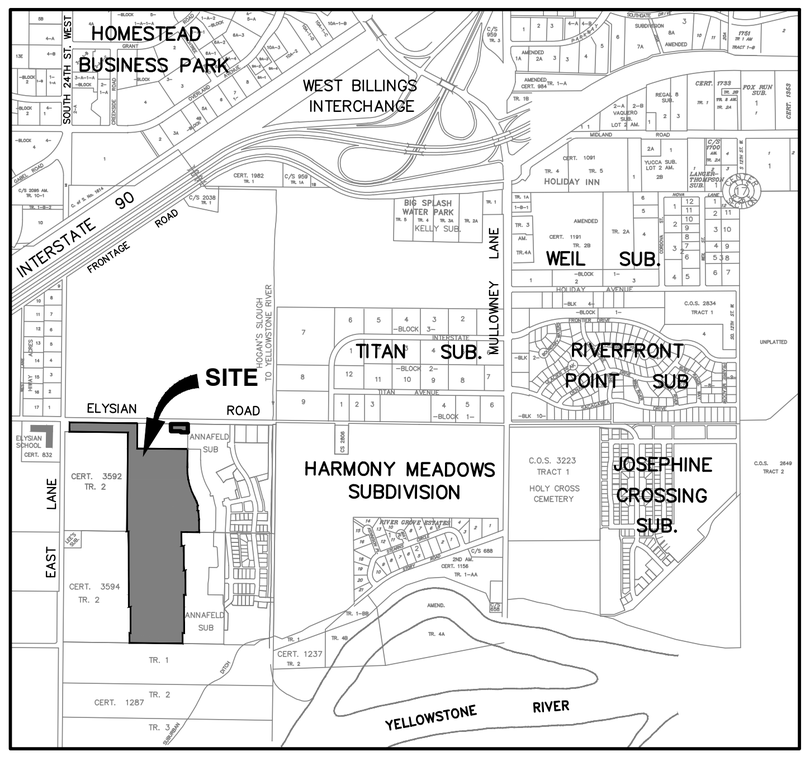
6. DERLATKA, DANIEL R
276 BLACKTAIL RD
LAKESIDE, MT 59922–9617

7. JONES, TIMOTHY O & LEAH
3620 POWDERHORN CIR
BILLINGS, MT 59102–037

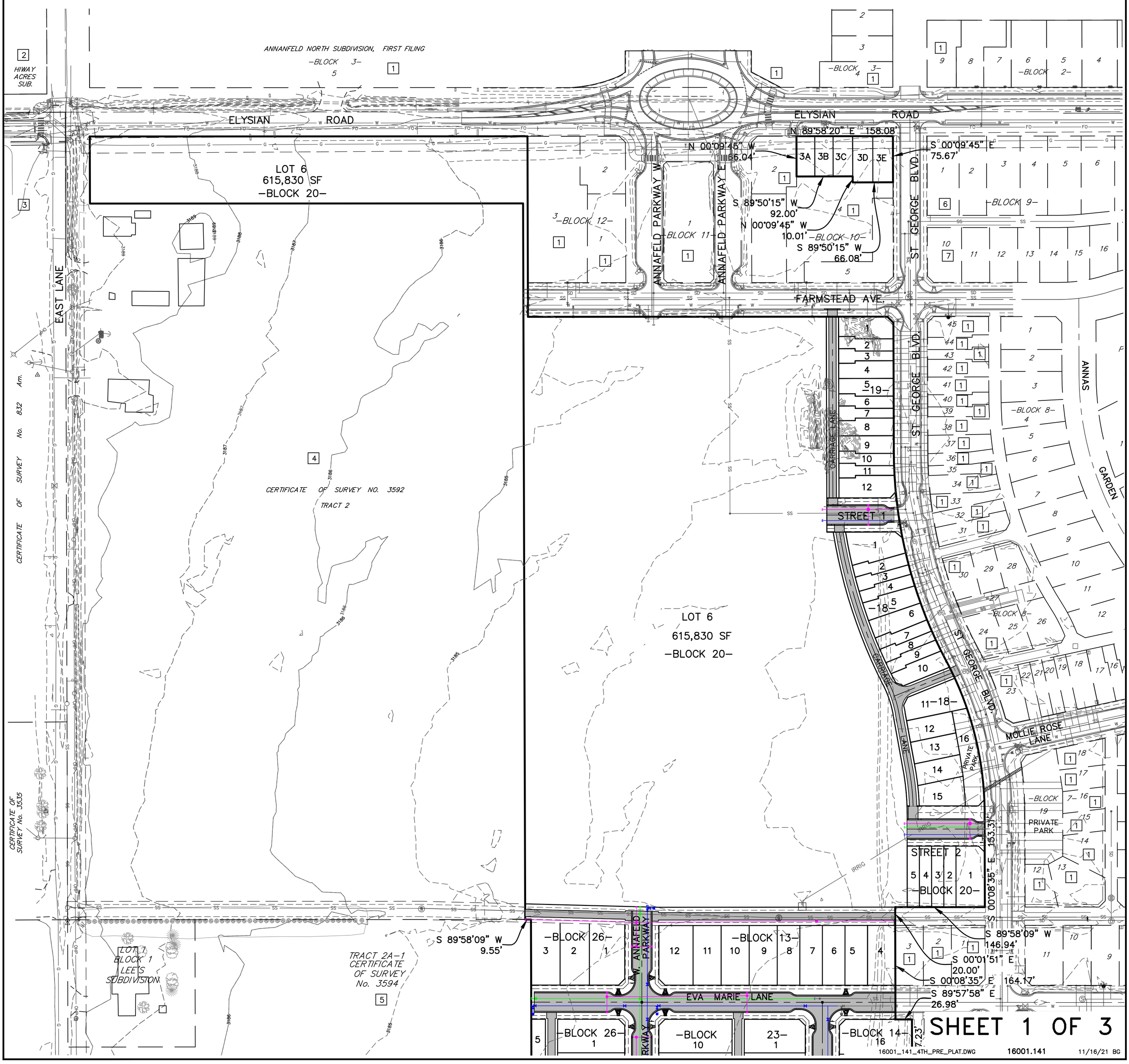
NORTH

80 40 0 80 160

SCALE: 1" = 80'



VICINITY MAP
NOT TO SCALE



SHEET 1 OF 3

16001_141_4TH_PRE_PLAT.DWG 16001.141 11/16/21 BG

PRELIMINARY PLAT OF

ANNAFELD SUBDIVISION, FOURTH FILING

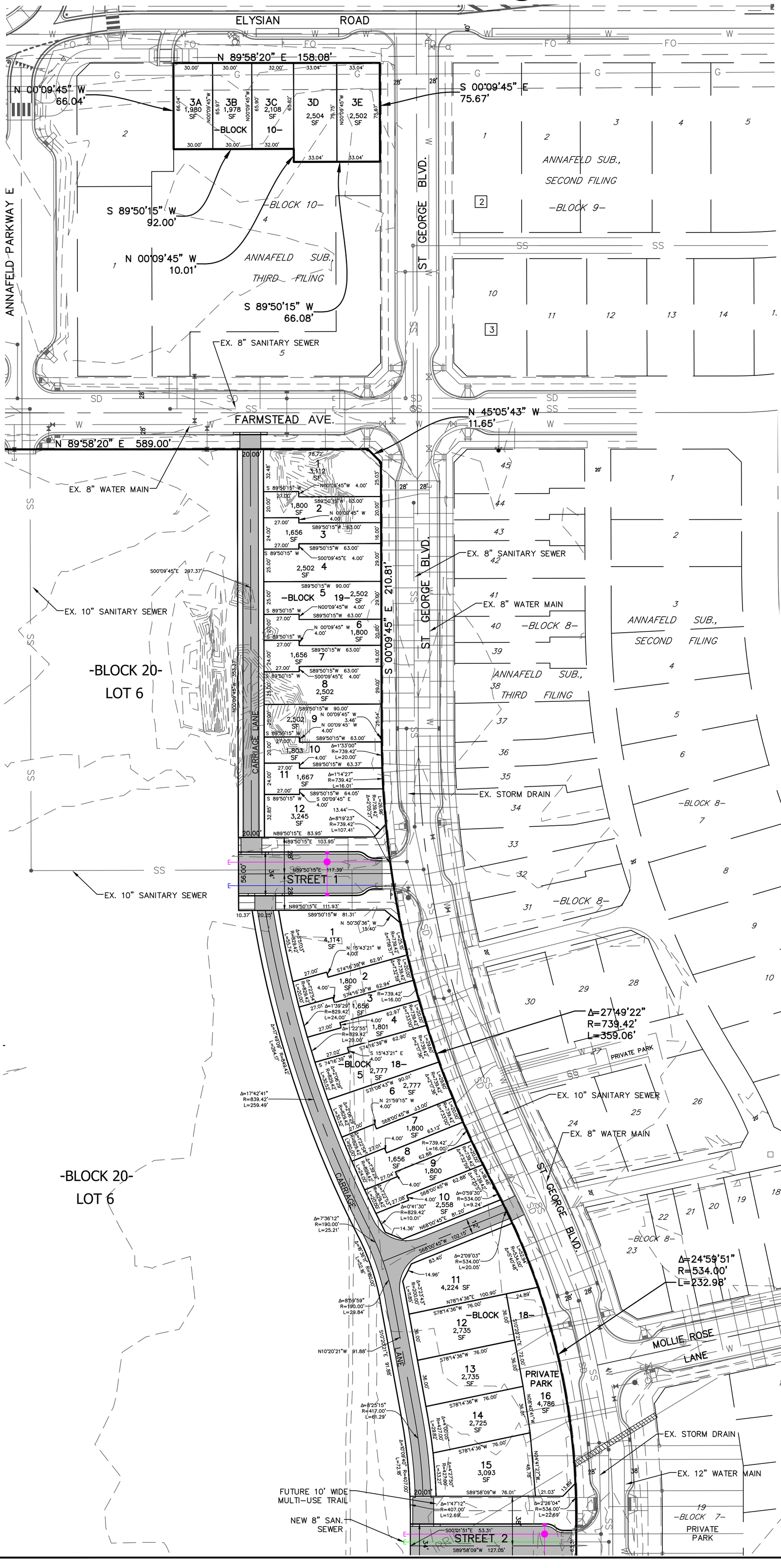
BEING LOT 2A, BLOCK 1 OF ADAM & MOLLIE WALTER SUBDIVISION, FIRST FILING AND PROPOSED LOT 1A, BLOCK 17 OF AMENDED ANNAFELD SUBDIVISION 3RD FILING AND LOT 3, BLOCK 10 OF ANNAFELD SUBDIVISION, 3RD FILING
SITUATED IN THE NW1/4 OF SECTION 19, T. 1 S., R. 26 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : McCALL DEVELOPMENT, INC.

PREPARED BY : SANDERSON STEWART

AUGUST, 2021

BILLINGS, MONTANA



NORTH

40 20 0 40 80

SCALE: 1"=40'

BASIS OF BEARINGS: PLAT OF ANNAFELD SUBDIVISION, SECOND FILING

- ○ FOUND SURVEY MONUMENT, REBAR WITH YELLOW CAP MARKED "SANDERSON STEWART", OR AS NOTED.
- □ EXISTING BRASS CAP IN CAST IRON MONUMENT BOX.
- ● SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART"
- ■ SET INTERSECTION MONUMENT, 5/8"x18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART BILLINGS MT". WILL BE REPLACED WITH BRASS CAP MONUMENT BOX UPON COMPLETION OF STREET IMPROVEMENTS.

NOTE: ALL CURVES ARE TANGENT AND ALL PROPERTY LINES INTERSECTING CURVES ARE RADIAL UNLESS OTHERWISE NOTED.

OWNERSHIPS

1. MCCALL DEVELOPMENT INC
1536 MULLOWNEY LN STE 100
BILLINGS, MT 59101-6397

2. DERLATKA, DANIEL R
276 BLACKTAIL RD
LAKESIDE, MT 59922-9617

3. JONES, TIMOTHY O & LEAH
3620 POWDERHORN CIR
BILLINGS, MT 59102-037

4. GARY J ARMSTRONG
LIVING TRUST
1701 EAST LANE
BILLINGS, MT
59101-6364

LINETYPES

EXISTING

- SANITARY SEWER ——SS——
- STORM DRAIN ——SD——
- WATER MAIN ——W——

PROPOSED

- 8" SANITARY SEWER
- STORM DRAIN
- 8" WATER MAIN

RESERVED FOR CLERK AND RECORDER

16001_141_4TH_PRE_PLAT.DWG 16001.141 11/16/21 BG

PRELIMINARY PLAT OF

ANNAFELD SUBDIVISION, FOURTH FILING

BEING LOT 2A, BLOCK 1 OF ADAM & MOLLIE WALTER SUBDIVISION, FIRST FILING AND PROPOSED LOT 1A, BLOCK 17 OF AMENDED ANNAFELD SUBDIVISION 3RD FILING AND LOT 3, BLOCK 10 OF ANNAFELD SUBDIVISION, 3RD FILING
SITUATED IN THE NW1/4 OF SECTION 19, T. 1 S., R. 26 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : McCALL DEVELOPMENT, INC.

PREPARED BY : SANDERSON STEWART

AUGUST, 2021 BILLINGS, MONTANA

LINETYPES

EXISTING		PROPOSED	
SANITARY SEWER	SS	SANITARY SEWER	
STORM DRAIN	SD	STORM DRAIN	
WATER MAIN	W	8" WATER MAIN	

NORTH

50 25 0 50 100

SCALE: 1"=50'

OWNERSHIPS

1 MCCALL DEVELOPMENT INC
1536 MULLOWNEY LN STE 100
BILLINGS, MT 59101-6397

2 WALTER, LEROY J
& NORMA J
1807 EAST LANE
BILLINGS, MT
59101-6349

3 JEAN L NILSON REVOCABLE TRUST
1815 GREYSTONE DRCOS Parcel:1
BILLINGS, MT 59102-6556

TRACT 2A-1
CERTIFICATE
OF
SURVEY
No. 3594
2

TRACT 2A-1
CERTIFICATE
OF
SURVEY
No. 3594
2

16001_141_4TH_PRE_PLAT.DWG 16001.141 11/16/21 BG

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS

ANNAFELD SUBDIVISION, FOURTH FILING

CITY OF BILLINGS

Table of Contents

I.	Variances		SIA-2
II.	Property Conditions and Information for Lot Purchasers		SIA-2
III.	Transportation		SIA-4
	A.	Streets	SIA-4
	B.	Carriage Lanes	SIA-5
	C.	Sidewalks	SIA-6
	D.	Street Lighting	SIA-6
	E.	Traffic Control Devices	SIA-6
	F.	Access	SIA-6
	G.	Billings Area Bikeway and Trail Master Plan	SIA-7
	H.	Public Transit	SIA-7
IV.	Emergency Service		SIA-7
V.	Storm Drainage		SIA-8
VI.	Utilities		SIA-9
	A.	Water	SIA-9
	B.	Sanitary Sewer	SIA-10
	C.	Power, Telephone, Gas, and Cable Television	SIA-10
VII.	Parks/Open Space		SIA-10
VIII.	Homeowners Associations		SIA-11
IX.	Postal Delivery		SIA-11
X.	Soils/Geotechnical Study		SIA-11
XI.	Phasing of Improvements		SIA-11
XII.	Financial Guarantees		SIA-12
XIII.	Legal Provisions Applying to Subdivider		SIA-12

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS ANNAFELD SUBDIVISION, FOURTH FILING

THIS AGREEMENT is made and entered into this _____ day of _____, 20___, by and between **MCCALL DEVELOPMENT, INC.**, whose address for the purpose of this agreement is 1536 Mullowney Lane, Suite 100; Billings, Montana 59101, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the plat of Annafeld Subdivision, Fourth Filing located in Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning; and

WHEREAS, at a regular meeting conducted on the ____ day of _____, 20__, the Board of Planning recommended conditional approval of a preliminary plat of Annafeld Subdivision, Fourth Filing; and

WHEREAS, at a regular meeting conducted on the ____ day of _____20__, the City Council conditionally approved a preliminary plat of Annafeld Subdivision, Fourth Filing; and

WHEREAS, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to Annafeld Subdivision, Fourth Filing 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

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. 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.

C. Lot owners should be aware that this subdivision is built with a "traditional neighborhood" design. The single-family dwellings will have the garage set in the rear of the lots. The access will be provided to the garages by means of a paved Carriage Lane.

D. Lot owners should be aware that this subdivision is zoned "Planned Development" (PD). Special zoning regulations regarding lot development will be enforced in accordance to the Amended Planned Development Agreement recorded at the Yellowstone County Clerk and Recorders Office under Document No. 3826023.

E. Lot owners should be aware that this subdivision is adjacent to wildlife habitat. Consequently, owners are advised that wildlife indigenous to the

area is found on the property, and may impact the developed property and interface with domestic animals, residents, and visitors. Owners may also experience problems with damage to landscaped shrubs, flowers, and gardens. Any impacts associated with wildlife and any damage arising there from is the responsibility of the lot owners.

F. No water rights have been transferred to the individual lot owners but may be held by the Subdivider and/or the homeowners association. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners without the permission of the controlling ditch company.

G. Lot owners should be aware they may be required to participate in a park maintenance district administered by the homeowners association for Annafeld Subdivision, Fourth Filing.

H. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Chapter 28-201, BMCC and detailed in the City of Billings *Stormwater Management Manual.*

I. Lot owners should be aware that the Yellowstone River Channel Migration Study sponsored by the Yellowstone River Conservation District Council and the U.S. Army Corp of Engineers has identified areas which may be susceptible to erosion by the Yellowstone River. Owners are encouraged to review the extent to which bank erosion may pose a threat to structures built in this subdivision.

J. Lot owners should be aware that Hogan's Slough adjacent to the subdivision is a major stormwater outfall for Billings west end. There is a possibility that the slough could overtop during a major storm event. Based upon the existing topography near Hogan's Slough and the Elysian Road Bridge, it is anticipated that the channel would overtop northeast of Elysian Road and flow east prior to overtopping Elysian Road. There is the possibility however that Elysian Road could be overtopped during a major storm event. If that occurs, flows not carried within the Hogan's Slough channel would be carried within the subdivision streets. The elevation of residential dwellings and commercial structures must be established in recognition of the City's policy that storm runoff flows are allowed to a depth of 18-inches in the gutter flowline of adjacent streets during the major storm. Higher house finished floor elevations may be required on a lot by lot basis.

K. The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and the State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the City of Billings *Stormwater Management Manual.*

III. TRANSPORTATION

A. Streets

1. All internal access roads and site improvements within the subdivision will be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, International Building Code, the *Stormwater Management Manual*, and other applicable City codes, rules, and regulations.

2. All internal streets within the subdivision shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All public roads will be built to provide a 34-foot back-to-back curb street width. The design cross-sections of said streets shall be submitted to, and approved by, the City of Billings Public Works Department. The street improvements will be completed by private contract or SID.

3. At the time of this Filing, Phase IV of Harmony Meadows Subdivision, Second Filing has not been constructed. Therefore, a physical connection between Annafeld Subdivision and Harmony Meadows Subdivision cannot be made. Furthermore, even if the Story Road connection were constructed, the traffic generated from Annafeld Subdivision, Fourth Filing would be unlikely to utilize Story Road based on proximity to Elysian Road and the land uses that are currently in Harmony Meadows Subdivision. Therefore, a detailed traffic impact analysis of the Story Road connection to Harmony Meadows Subdivision is not required for this Filing of Annafeld Subdivision. A traffic impact analysis of the Story Road connection to Harmony Meadows Subdivision is required with future filings.

   The Subdivider agrees to contribute up to 50 percent of the cost for design, permitting, and construction of the Hogan's Slough crossing on Story Road. If the cash contribution is not sufficient to cover 50

percent of the crossing costs at the time of construction, the City retains the right to create a SID to recover additional design and construction costs.

The timing of the contribution for the Hogan's Slough crossing on Story Road shall be made at the earlier of the following:

I. At the time an Annafeld Subdivision Traffic Impact Study recommends the Story Road connection be completed.
II. At the commencement of construction of Phase IV improvements for Harmony Meadows Subdivision, 2nd Filing.
III. Prior to final plat approval of the final filing of Annafeld Subdivision.

4. A traffic accessibility study has been completed for the Annafeld Subdivision, Fourth Filing. All required intersection improvement contributions identified therein shall be completed by the Subdivider at the Subdivider's expense. Based on the additional lots created with Annafeld Subdivision, Fourth Filing, the percent of traffic contribution and associated costs to these intersections is as follows:

S. Frontage Rd/Midland Road & Mullowney Ln	2.08%	$5,200.00
Mullowney Lane & Elysian Road	3.33%	$8,325.00
Elysian Road & East Lane	0.83%	$2,075.00

These cash contributions for the intersection improvements will be made prior to final plat approval. The percentage contributions and dollar amounts are as outlined within the Traffic Impacts Study for Annafeld Subdivision, Fourth Filing as submitted with the preliminary plat.

B. Carriage Lanes

All Carriage Lanes within the subdivision shall be built to grade with a satisfactory subbase, base course, and asphalt surface or concrete surface. All Carriage Lane approaches constructed with asphalt shall be replaced with concrete by the Subdivider at the time when home construction is complete. In the event asphalt approaches within the subdivision are not replaced with concrete within three years of the date of recording of the final plat, the City may construct the concrete approaches and assess the Subdivider for the costs associated with the approach construction. Carriage

Lane pavement widths shall be 12-feet. The design cross-sections of said Carriage Lanes shall be submitted to, and approved by, the City of Billings Public Works Department. No trees are allowed to be planted in the Carriage Lane. In addition, no shrubs taller than two feet are allowed to be planted in Carriage Lanes.

C. Sidewalks

Subdivider shall install handicap access ramps, where necessary. Construction of sidewalks along frontage of the lots shall be installed by the lot owner at the time of lot development. Sidewalks along the street frontage shall be minimum 5-foot-wide and separated with a boulevard width not less than five feet. Developer shall construct the 5-foot-wide boulevard sidewalk adjacent to private parks (east side of Lot 16, Block 18; north/south/east/west sides of Lot 1, Block 25; north side of Lot 16, Block 16) at the time of private park development.

D. Street Lighting

Street lighting is not required for this subdivision; however, it is anticipated that street lighting will be installed for Fourth Filing by private contract or SID. A Street Light Maintenance District will be created for operation and maintenance of the lighting at a future date and is included in the waiver of right to protest.

E. Traffic Control Devices

1. Street name signs for streets within the subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the City of Billings Public Works and Fire Departments.

2. No traffic signals are required within this subdivision.

3. The Subdivider shall furnish and install all necessary traffic control devices in accordance with the Manual of Uniform Traffic Control Devices and approved by the City of Billings Public Works Department.

F. Access

Access to the subdivision will be provided by St. George Boulevard, Farmstead Avenue, Eva Marie Lane, Norma Jean Lane, and Johanns

Meadow Lane. Carriage Lane access is also provided to all residential lots within the subdivision.

G. Billings Area Bikeway and Trail Master Plan

A multi-use trail has been constructed along the south boundary of Elysian Road. Said multi-use trail shall extend from the east boundary of the subdivision to the easterly right-of-way line of East Lane.

In addition, a 10-foot-wide multi-use path will be provided on the north side of Street 2. No additional trail improvement will be required as part of this subdivision.

H. Public Transit

There are no MET Transit routes that service this subdivision at this time. The nearest established route is at the intersection of Elysian Road and Mullowney Lane. No improvements with regard to MET Transit vehicles are anticipated at this time.

IV. EMERGENCY SERVICE

A. Fire Hydrants

Emergency service will be provided by the City. Placement of fire hydrants will be as required by the City of Billings Fire Department.

B. Construction of Buildings

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 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 20-foot-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.

C. Building Location

All buildings shall be located on each lot so that the furthest portion of each building is within 150-feet from an approved fire department access road over an approved route excluding all carriage lanes.

V. STORM DRAINAGE

A. A stormwater management plan shall be submitted to the Engineering Division prior to final plat approval. The storm drainage system for Annafeld Subdivision, Fourth Filing will consist of a curb and gutter surface collection and curb inlets that drain into storm drainage piping, as well as surface conveyance. The storm drain piping will discharge into existing storm drain piping and to an existing mechanical stormwater filtration manhole, then into Hogan's Slough. All drainage improvements shall comply with the provisions of the City of Billings *Stormwater Management Manual* and Chapter 28, BMCC.

B. The mechanical stormwater filtration manholes are existing, and associated improvements are privately owned and maintained by the HOA. Annafeld Subdivision, Fourth Filing will be included in the HOA that is responsible to maintain these facilities. O&M requirements and HOA maintenance and fiscal responsibilities have been outlined within the Annafeld Subdivision, First Filing I O&M Manual.

C. Hogan's Slough adjacent to the subdivision is a major stormwater outfall for Billings west end. There is a possibility that the slough could overtop during a major storm event. Based upon the existing topography near Hogan's Slough and the Elysian Road Bridge, it is anticipated that the channel would overtop northeast of Elysian Road and flow east prior to overtopping Elysian Road. There is the possibility however that Elysian Road could be overtopped during a major storm event. If that occurs, flows not carried within the Hogan's Slough channel would be carried within the

subdivision streets. The elevation of residential dwellings and commercial structures must be established in recognition of the City's policy that storm runoff flows are allowed to a depth of 18-inches in the gutter flowline of adjacent streets during the major storm.

D. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Chapter 28, BMCC and detailed in the City of Billings *Stormwater Management Manual.*

E. The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and the State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater discharges Associated with Construction Activity, Chapter 28, BMCC and the City of Billings *Stormwater Management Manual.*

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 of/connection 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 Subdivider/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

The Annafeld Subdivision water system consists of a series of looped water mains located in each of the local streets. The subdivision water system will

consist of new 12-inch water mains in Norma Jean and in a portion of Street 4. 8-inch water mains will be installed in the remaining streets in Annafeld Subdivision, Fourth Filing. Future filings of the Annafeld Planned Development will provide the opportunity to make additional connections to the trunk main in Elysian Road providing water main looping.

B. Sanitary Sewer

Sanitary sewer service to Annafeld Subdivision, Fourth Filing will be provided by connecting to the existing 8-inch gravity sewer main located in Street 2, Eva Marie Lane, Norma Jean Lane, and Johanns Meadow Lane. All sanitary sewer construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality, and will be approved by the Public Works Department, Distribution, and Collection Division.

C. Power, Telephone, Gas, and Cable Television

Private utility facilities currently exist to serve the subdivision. The private utility facilities will be installed within the Carriage Lane right-of-way and by easements included on the plat, as requested by the utility companies, to provide routes to the Carriage Lanes.

VII. PARKS/OPEN SPACE

The subdivision lies within a planned unit development that provides for land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development, per 76-3-621(6)(a) of the Montana Code Annotated. The park and open space within the Annafeld Planned Unit Development Master Plan meets or exceeds the area of dedication required under section 76-3-621(1), MCA. The Subdivider and City agree that the parkland dedication has been met through the dedication of private park area within Annafeld Subdivision, Fourth Filing and with additional public and private park dedication with Annafeld Subdivision, First, Second and Third Filings.

In addition, the lots within Annafeld Subdivision, Fourth Filing may provide additional funding to complete the park improvements for the previously created public parkland SID. The park improvements shall be in accordance with the City Council approved Annafeld Parks Master Plan. The Subdivider shall prepare all SID documents necessary for creation, and coordinate with the City of Billings Parks and Recreation Department for review and approval. If all park

improvements as defined in the Annafeld Parks Master Plan have been completed prior to the creation of this park SID, then this park SID will no longer be required.

The current park maintenance district (PMD 4041) for Annafeld Subdivision, First Filing shall be expanded to include lots with Annafeld Subdivision, Fourth Filing for the perpetual maintenance of the public parkland. The Subdivider shall prepare all park maintenance district documents necessary for its expansion and coordinate with the City of Billings Parks and Recreation Department for review and approval.

VIII. HOMEOWNER'S ASSOCIATIONS

A homeowner's association (HOA) will be established for this subdivision. The HOA will have the following responsibilities:

A. Contact Information

HOA shall provide contact information of the senior board official to the City Engineering Department upon the establishment of the HOA and/or changing of board members.

B. Stormwater Drainage Facilities

The HOA shall be responsible for the maintenance of the mechanical filtration stormwater manholes. The HOA shall share the cost of maintenance of the community stormwater facilities.

IX. POSTAL DELIVERY

The Subdivider shall provide centralized delivery boxes with sufficient pullout to accommodate a mail carrier vehicle. The location of the boxes shall be reviewed and approved by the United States Postal Service.

X. SOILS/GEOTECHNICAL STUDY

A soils/geotechnical study has been performed for the subdivision. The report dated _____, is available for review at the City of Billings Planning Department. Lot owners and contractors/builders are encouraged to review the report and its recommendations.

XI. PHASING OF IMPROVEMENTS

Phasing is not being proposed with this subdivision.

XII. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install, and construct said required improvements by SID or by private contract secured by letters of credit or a letter of commitment to lend funds from a commercial lender or by SID. 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.

XIII. 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 Fourth above written.

"SUBDIVIDER" **MCCALL DEVELOPMENT, INC.**

By:_____

Its:_____

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 _____of **MCCALL DEVELOPMENT, INC.** 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 that is the subject of this waiver is more particularly described as follows:

ANNAFELD SUBDIVISION, FOURTH FILING

SUBDIVIDER/OWNER **MCCALL DEVELOPMENT, INC.**

By:_____

Its:_____

STATE OF MONTANA)
: ss
County of Yellowstone)

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 foregoing instrument as the _____ of **MCCALL DEVELOPMENT, INC.** and acknowledged to me that he/she 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 OF
Billings
MAYOR'S OFFFICE

Bill Cole, Mayor
P.O. Box 1178
Billings, MT 59103
P 406.657.8296
F 406.657.8390

December 20, 2021

McCall Development
1536 Mullowney Ln, Suite 100
Billings, MT 59101

Dear Applicant:

On December 20, 2021, the Billings City Council conditionally approved the preliminary plat of Annafeld Subdivision, 4th Filing, subject to the following conditions of approval:

1. To protect public health and safety, prior to final plat approval, the applicant will submit all drawings and specifications for water systems, sewer systems and stormwater systems to the City of Billings Engineering Department for review and approval prior to installation.

2. 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.

3. 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.

4. 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 any 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:	12/20/2021
Title:	Payment of Claims for week of November 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 $3,959,392.00 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 is 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 11222021

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847859	Alpha Overhead Door	Airport	$ 3,018.75	Invoice #2021-2015. Garage Door Operator
11/22/2021	847860	Alpine Plumbing	Airport	$ 3,555.00	Invoice #84122. Radiant Heat Head Replacement at Ops
11/22/2021	847863	Armscor Cartridge	PD Program	$ 8,000.00	JAG Ammunition.
11/22/2021	847863	Armscor Cartridge	Public Safety	$ 23,752.00	Ammunition.
11/22/2021	847863	Armscor Cartridge	Public Safety	$ 16,803.00	Ammunition.
11/22/2021	847864	Automatic Doors	Airport	$ 12,185.53	Replace Passive Wheels & Drive Motors
11/22/2021	847867	Billings Times	Building	$ 727.60	Building 5283- correction notices
11/22/2021	847867	Billings Times	General	$ 121.53	Cemetery 5278- permits
11/22/2021	847867	Billings Times	General	$ 281.53	Ordinance paper
11/22/2021	847867	Billings Times	Public Safety	$ 3,500.00	Animal Control 5282- ordinance books
11/22/2021	847867	Billings Times	Public Safety	$ 144.50	Police 5277- abandoned vehicle forms
11/22/2021	847869	Border States	Wastewater	$ 123.45	Breakers, relays, modules
11/22/2021	847869	Border States	Wastewater	$ 182.78	Wire Sleeves
11/22/2021	847869	Border States	Water	$ 285.40	Blades
11/22/2021	847869	Border States	Water	$ 2,792.84	Breakers, relays, modules
11/22/2021	847869	Border States	Water	$ 123.45	Breakers, relays, modules
11/22/2021	847869	Border States	Water	$ 1,982.50	Cable
11/22/2021	847869	Border States	Water	$ 529.37	Contact Cleaner
11/22/2021	847869	Border States	Water	$ 256.30	Electrical supplies for L Structure upgrade
11/22/2021	847869	Border States	Water	$ 419.15	L structure parts
11/22/2021	847869	Border States	Water	$ 732.15	materials for projects at WTP
11/22/2021	847869	Border States	Water	$ 61.78	PLC Chassis slot fillers
11/22/2021	847869	Border States	Water	$ 563.40	supplies for L structure
11/22/2021	847869	Border States	Water	$ 1,512.60	UPS alarm supplies (Tools, parts, sealant)
11/22/2021	847869	Border States	Water	$ 346.04	wire, heat trace and lights
11/22/2021	847874	Business Tax Section	Airport	$ 17,987.53	Terminal Expansion - Eligible For Reimbursement
11/22/2021	847874	Business Tax Section	Airport	$ 1,521.72	Terminal Expansion - Ineligible Costs
11/22/2021	847874	Business Tax Section	Airport	$ 1,472.66	Eight Passenger Boarding Bridges - Local Share
11/22/2021	847874	Business Tax Section	Airport	$ 123.09	Replacement of Passive Wheels & Drive Motors
11/22/2021	847874	Business Tax Section	Facilities	$ 83.51	Timber Carpentry Hail Damage Repair at Rose Park
11/22/2021	847874	Business Tax Section	Gas Tax	$ 104.48	City Overlay Schedule 3 City Digouts
11/22/2021	847874	Business Tax Section	Gas Tax	$ 1,097.40	WO 21-04 City ADA Project
11/22/2021	847874	Business Tax Section	Solid Waste	$ 520.56	WO 20-23 Solid Waste Container Storage Facility
11/22/2021	847878	Central Electric	Park Dist 1	$ 2,540.00	replace light in airport road tunnel - 03312

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847878	Central Electric	Park Dist 1	$ 1,328.00	replace lights in bike path tunnels - 03444
11/22/2021	847886	Cop Construction	Gas Tax	$ 123,077.41	WO 21-12 Harrow Drive Reconstruction
11/22/2021	847886	Cop Construction	Sidewalk Const	$ 3,454.67	WO 21-12 Harrow Drive Reconstruction
11/22/2021	847886	Cop Construction	Wastewater	$ 39,277.63	WO 21-12 Harrow Drive Reconstruction
11/22/2021	847886	Cop Construction	Water	$ 5,178.48	West End Raw Water Pipeline Project
11/22/2021	847886	Cop Construction	Water	$ 143,022.95	WO 21-12 Harrow Drive Reconstruction
11/22/2021	847892	Dana Safety Supply	Public Safety	$ 1,278.00	753303
11/22/2021	847892	Dana Safety Supply	Public Safety	$ 1,237.00	753314
11/22/2021	847892	Dana Safety Supply	Public Safety	$ 1,212.00	753315
11/22/2021	847892	Dana Safety Supply	Public Safety	$ 1,212.00	753318
11/22/2021	847892	Dana Safety Supply	Public Safety	$ 1,212.00	753319
11/22/2021	847893	David Turch & Assoc	P.W. Admin	$ 4,000.00	Consulting for Public Works Infrastructure
11/22/2021	847896	DOWL	Wastewater	$ 29,086.90	Schedules 1 & 2: Water & Sanitary Sewer Main Replacements
11/22/2021	847896	DOWL	Water	$ 24,777.73	Schedules 1 & 2: Water & Sanitary Sewer Main Replacements
11/22/2021	847891	D-Tech International	Library	$ 45,708.00	Library book locker
11/22/2021	847900	Empire Garage Owners	Parking	$ 8,604.61	10222021_City of Billings October Assessment
11/22/2021	847905	First MT Title	CDBG	$ 15,000.00	FTHB Maxwell Strong 1904 Wyoming
11/22/2021	847907	Galles Filter	Fleet	$ 166.99	P1-09435.01 PO NUM 313281
11/22/2021	847907	Galles Filter	Fleet	$ 340.41	P1-09529.01 PO NUM 313281
11/22/2021	847907	Galles Filter	Fleet	$ 15.38	P1-09645.01 PO NUM 313281
11/22/2021	847907	Galles Filter	Fleet	$ 362.08	P1-09852.01 PO NUM 313281
11/22/2021	847907	Galles Filter	Fleet	$ 18.00	P1-09922.01 PO NUM 313281
11/22/2021	847907	Galles Filter	Fleet	$ 51.05	P1-10032.01 PO NUM 313281
11/22/2021	847907	Galles Filter	Public Safety	$ 119.64	P1-07756.01
11/22/2021	847907	Galles Filter	Public Safety	$ 69.59	P1-10151.01
11/22/2021	847907	Galles Filter	Solid Waste	$ 376.02	Outer Air Element
11/22/2021	847907	Galles Filter	Solid Waste	$ 306.48	Outer Air Element
11/22/2021	847907	Galles Filter	Solid Waste	$ 414.50	Outer Air Elements
11/22/2021	847907	Galles Filter	Street/Traffic	$ 77.89	P1-09934.01
11/22/2021	847907	Galles Filter	Wastewater	$ 6.82	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847907	Galles Filter	Wastewater	$ 10.02	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847907	Galles Filter	Wastewater	$ 13.84	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847907	Galles Filter	Wastewater	$ 3.08	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847907	Galles Filter	Wastewater	$ 40.40	NONSTOCKING ITEMS-P.U.D.

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847907	Galles Filter	Water	$ 6.16	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847907	Galles Filter	Water	$ 6.16	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847907	Galles Filter	Water	$ 112.51	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847907	Galles Filter	Water	$ 11.28	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847907	Galles Filter	Water	$ 49.46	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847907	Galles Filter	Water	$ 16.25	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847907	Galles Filter	Water	$ 39.75	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847908	Gillig Corp	Transit	$ 17.25	40859528. Horn Button Unit 1818. W/O 203642
11/22/2021	847908	Gillig Corp	Transit	$ 211.76	40860020 PO NUM 313493. Door Pivot
11/22/2021	847908	Gillig Corp	Transit	$ 3,622.34	40860021. Repair Parts Unit 1818. W/O 203919
11/22/2021	847908	Gillig Corp	Transit	$ 670.98	40862328. Rear Lower Torque Rods Unit 1819. W/O 203763
11/22/2021	847911	HDR, Inc.	Gas Tax	$ 2,092.26	W.O. 09-12 Inner Belt Loop BUILD Grant NEPA Compliance
11/22/2021	847911	HDR, Inc.	Wastewater	$ 19,837.73	WO 19-21 WRF Influent Lift Station
11/22/2021	847911	HDR, Inc.	Wastewater	$ 9,558.82	WO 20-44 WRF Nutrient Recovery Improvements Project
11/22/2021	847911	HDR, Inc.	Water	$ 114,618.39	WO 19-12 West End Reservoir
11/22/2021	847912	Iaff	Payroll Clearing	$ 4,975.04	Payroll Summary
11/22/2021	847913	InfoSend	P.W. Admin	$ 2,978.55	October services
11/22/2021	847913	InfoSend	P.W. Admin	$ 13,268.89	October services
11/22/2021	847914	Ingram Library Service	Library	$ 13.79	55555260
11/22/2021	847914	Ingram Library Service	Library	$ 25.48	55555261
11/22/2021	847914	Ingram Library Service	Library	$ 23.98	55555261
11/22/2021	847914	Ingram Library Service	Library	$ 81.67	55555261
11/22/2021	847914	Ingram Library Service	Library	$ 14.79	55581108
11/22/2021	847914	Ingram Library Service	Library	$ 32.29	55581108
11/22/2021	847914	Ingram Library Service	Library	$ 10.19	55581108
11/22/2021	847914	Ingram Library Service	Library	$ 16.52	55581108
11/22/2021	847914	Ingram Library Service	Library	$ 19.20	55581109
11/22/2021	847914	Ingram Library Service	Library	$ 11.79	55581109
11/22/2021	847914	Ingram Library Service	Library	$ 28.98	55581109
11/22/2021	847914	Ingram Library Service	Library	$ 48.67	55581109
11/22/2021	847914	Ingram Library Service	Library	$ 35.40	55581110
11/22/2021	847914	Ingram Library Service	Library	$ 17.10	55581110
11/22/2021	847914	Ingram Library Service	Library	$ 10.62	55581111
11/22/2021	847914	Ingram Library Service	Library	$ 14.75	55581112

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847914	Ingram Library Service	Library	$ 61.82	55581113
11/22/2021	847914	Ingram Library Service	Library	$ 17.69	55581113
11/22/2021	847914	Ingram Library Service	Library	$ 42.03	55581113
11/22/2021	847914	Ingram Library Service	Library	$ 41.39	55581114
11/22/2021	847914	Ingram Library Service	Library	$ 29.49	55581115
11/22/2021	847914	Ingram Library Service	Library	$ 17.10	55581116
11/22/2021	847914	Ingram Library Service	Library	$ 15.92	55581117
11/22/2021	847914	Ingram Library Service	Library	$ 20.08	55581118
11/22/2021	847914	Ingram Library Service	Library	$ 35.39	55581118
11/22/2021	847914	Ingram Library Service	Library	$ 107.59	55581118
11/22/2021	847914	Ingram Library Service	Library	$ 41.98	55581119
11/22/2021	847914	Ingram Library Service	Library	$ 14.13	55581119
11/22/2021	847914	Ingram Library Service	Library	$ 22.74	55581119
11/22/2021	847914	Ingram Library Service	Library	$ 10.61	55581120
11/22/2021	847914	Ingram Library Service	Library	$ 34.74	55581121
11/22/2021	847914	Ingram Library Service	Library	$ 95.93	55581122
11/22/2021	847914	Ingram Library Service	Library	$ 784.74	55581122
11/22/2021	847914	Ingram Library Service	Library	$ 104.78	55581122
11/22/2021	847914	Ingram Library Service	Library	$ 221.77	55581122
11/22/2021	847914	Ingram Library Service	Library	$ 35.70	55581122
11/22/2021	847914	Ingram Library Service	Library	$ 17.70	55581122
11/22/2021	847914	Ingram Library Service	Library	$ 21.99	55581122
11/22/2021	847914	Ingram Library Service	Library	$ 14.74	55581123
11/22/2021	847914	Ingram Library Service	Library	$ 919.84	55581124
11/22/2021	847919	JBT Aero Tech	Airport	$ 145,793.42	Eight Passenger Boarding Bridges - Local Share
11/22/2021	847921	K2 Civil Inc	Solid Waste	$ 51,535.62	WO 20-23 Solid Waste Container Storage Facility
11/22/2021	847926	Knife River	Gas Tax	$ 10,344.26	City Overlay Schedule 3 City Digouts
11/22/2021	847926	Knife River	Gas Tax	$ 250,784.90	WO 20-28 Songbird Drive Construction
11/22/2021	847926	Knife River	Sidewalk Const	$ 12,642.72	WO 20-28 Songbird Drive Construction
11/22/2021	847926	Knife River	Street/Traffic	$ 2,609.58	asphalt
11/22/2021	847926	Knife River	Street/Traffic	$ 1,515.24	asphalt
11/22/2021	847926	Knife River	Street/Traffic	$ 2,906.82	asphalt
11/22/2021	847926	Knife River	Street/Traffic	$ 1,127.52	asphalt
11/22/2021	847926	Knife River	Wastewater	$ 841.45	1,000 tons of 3/4'' Bedding Rock

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847926	Knife River	Wastewater	$ 843.93	1,000 tons of 3/4'' Bedding Rock
11/22/2021	847926	Knife River	Water	$ 1,262.17	1,000 tons of 3/4'' Bedding Rock
11/22/2021	847926	Knife River	Water	$ 1,265.89	1,000 tons of 3/4'' Bedding Rock
11/22/2021	847935	Montana CSED	Payroll Clearing	$ 3,481.93	Payroll Summary
11/22/2021	847942	Morrison Maierle	Airport	$ 1,892.66	Fiber Installation Project Phase 1 and 2. Amendment 24
11/22/2021	847942	Morrison Maierle	Airport	$ 6,573.60	Furniture RFP Terminal Construction - Amendment #11
11/22/2021	847942	Morrison Maierle	Airport	$ 2,874.63	On call Engineering Services.
11/22/2021	847942	Morrison Maierle	Airport	$ 1,102.43	Commercial Aircraft Concrete Ram-ps - CA - Federal Share
11/22/2021	847942	Morrison Maierle	Airport	$ 122.49	Commercial Aircraft Concrete Ram-ps - CA - Local Share
11/22/2021	847942	Morrison Maierle	Airport	$ 6,062.30	Passenger Boarding Jet Bridges - Eligible Local Share
11/22/2021	847942	Morrison Maierle	Airport	$ 512.86	Passenger Boarding Jet Bridges - Ineligible Share
11/22/2021	847943	MPPA	Payroll Clearing	$ 3,811.08	Payroll Summary
11/22/2021	847936	MT Dakota Utilities	Airport	$ 371.79	129 573 1000 1. Mud Wash. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 117.39	160 723 3573 6. USDA. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 152.48	185 580 1000 7. TSA. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 30.61	229 573 1000 0. Detail Bay 1 Hertz. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 144.57	283 116 0655 3. Alpine Maintenance. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 880.70	285 580 1000 6
11/22/2021	847936	MT Dakota Utilities	Airport	$ 86.70	295 580 1000 4. Aero Interiors. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 26.23	329 573 1000 9. Detail Bay 3 Enterprise. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 57.77	429 573 1000 8. Detail Bay 4 Avis/Budget. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 25.33	529 573 1000 7. Detail Bay 5 Thrifty/Dollar. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 6,657.01	595 580 1000 1
11/22/2021	847936	MT Dakota Utilities	Airport	$ 43.75	629 573 1000 6. Detail Bay 2 National/Alamo. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 1,100.55	706 580 1000 7
11/22/2021	847936	MT Dakota Utilities	Airport	$ 21.83	846 093 3091 9. Roof Tops East End Old Terminal. November 2021
11/22/2021	847936	MT Dakota Utilities	Airport	$ 1,123.92	889 373 1000 6. Car Wash. November 2021
11/22/2021	847936	MT Dakota Utilities	EOC 911	$ 66.26	082-939-8378-2 STANDBY GENERATOR - 911 CENTER, BILLINGS
11/22/2021	847936	MT Dakota Utilities	Park Dist 1	$ 98.11	501 473 1000 2
11/22/2021	847939	MT Dakota Utilities	Payroll Clearing	$ 2,741.25	Payroll Summary
11/22/2021	847936	MT Dakota Utilities	Wastewater	$ 64.55	596 733 1000 5
11/22/2021	847936	MT Dakota Utilities	Wastewater	$ 64.55	713 064 3190 0
11/22/2021	847936	MT Dakota Utilities	Wastewater	$ 66.28	843 879 2205 1
11/22/2021	847936	MT Dakota Utilities	Water	$ 12.67	373 580 1000 9

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847936	MT Dakota Utilities	Water	$ 12.66	373 580 1000 9
11/22/2021	847936	MT Dakota Utilities	Water	$ 61.28	541 380 1000 1
11/22/2021	847936	MT Dakota Utilities	Water	$ 63.69	921 580 1000 6
11/22/2021	847941	MT State Firemen	Payroll Clearing	$ 4,452.47	Payroll Summary
11/22/2021	847949	Northwest Pipe	Public Safety	$ 266.70	FIRE 1: WEIL ALTERNATING RELAY
11/22/2021	847949	Northwest Pipe	Wastewater	$ 930.19	Maintenance Parts
11/22/2021	847949	Northwest Pipe	Wastewater	$ 2,215.94	St Johns Sewer Project
11/22/2021	847949	Northwest Pipe	Water	$ 159.39	2" MEASURING CHAMBER COMPLETE - 9600-015
11/22/2021	847949	Northwest Pipe	Water	$ 2,847.68	3" TRU FLO COMPOUND R900I CU/FT EC3BRWF3
11/22/2021	847949	Northwest Pipe	Water	$ 22,041.18	3/4" E-CODER WALL CU/FT METER W/RECPT ED2C11REF7
11/22/2021	847949	Northwest Pipe	Water	$ 31.65	FITTINGS FOR TRAVEL VAC 7411
11/22/2021	847949	Northwest Pipe	Water	$ 96.18	L Structure coupling, adapter and bushing
11/22/2021	847949	Northwest Pipe	Water	$ 949.77	L Structure valves
11/22/2021	847949	Northwest Pipe	Water	$ 62.99	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847949	Northwest Pipe	Water	$ 23,800.00	R-900 ENHANCED WALL RR - MIU 13341-200
11/22/2021	847950	NorthWestern Energy	Airport	$ 2,485.97	0100483-7. Runway Lights. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 1,311.74	0100484-5. ARFF Facility. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 65.50	1138926-9. Aero Interiors. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 122.95	1647695-4. De Icer. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 387.62	1669567-8. TSA. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 1,142.62	1993430-6. Car Wash. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 324.71	2001846-1. Mud Wash. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 310.94	2001848-7. Detail Bay 1 Hertz. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 135.52	2001855-2. Detail Bay 2 National/Alamo. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 88.84	2001862-8. Detail Bay 3 Enterprise. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 115.29	2001865-1. Detail Bay 4 Avis/Budget. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 55.91	2001867-7. Detail Bay 5 Thrifty/Dollar. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 90.63	3085107-5. Employee Parking, November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 169.43	3446396-8. USDA. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 1,137.24	3477231-9. Parking Zone. November 2021
11/22/2021	847950	NorthWestern Energy	Airport	$ 8.70	3733186-5. Airport Storage. November 2021
11/22/2021	847950	NorthWestern Energy	Facilities	$ 1,542.01	0975808-7
11/22/2021	847950	NorthWestern Energy	Facilities	$ 657.09	1160802-3
11/22/2021	847950	NorthWestern Energy	Facilities	$ 1,495.39	1160804-9

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847950	NorthWestern Energy	Facilities	$ 2,373.62	1269391-7
11/22/2021	847950	NorthWestern Energy	Facilities	$ 6.00	3866815-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,084.39	SILMD 10 Acct# 0712546-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 2,024.31	SILMD 100 Acct# 0712559-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,713.04	SILMD 107 Acct# 0712560-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 4,296.25	SILMD 109 Acct# 0712561-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 201.53	SILMD 113 Acct# 0712562-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 924.52	SILMD 114 Acct# 0712563-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 217.52	SILMD 115 Acct# 0712564-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 571.01	SILMD 116 Acct# 0712565-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 3,106.36	SILMD 117 Acct# 0712566-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 199.14	SILMD 118 Acct# 0712567-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 121.27	SILMD 119 Acct# 0712568-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 2,447.22	SILMD 121 Acct# 0712570-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 183.44	SILMD 122 Acct# 0712571-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 326.29	SILMD 123 Acct# 0712572-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 951.70	SILMD 124 Acct# 0712573-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 380.67	SILMD 125 Acct# 0712574-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 190.34	SILMD 126 Acct# 0712575-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 687.93	SILMD 127 Acct# 0712576-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 481.55	SILMD 128 Acct# 0712577-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 326.29	SILMD 129 Acct# 0712578-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 4,619.18	SILMD 13 Acct# 0721276-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 116.56	SILMD 130 Acct# 0712579-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 842.94	SILMD 131 Acct# 0712580-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 216.46	SILMD 133 Acct# 0712581-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 499.52	SILMD 134 Acct# 0712582-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 504.49	SILMD 135 Acct# 0712583-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 462.25	SILMD 136 Acct# 0712584-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 363.30	SILMD 137 Acct# 0712585-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 734.17	SILMD 138 Acct# 0712586-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 244.73	SILMD 139 Acct# 0712587-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 2,253.84	SILMD 14 Acct# 0721277-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 571.01	SILMD 143 Acct# 0712588-3

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 27.16	SILMD 144 Acct# 0712589-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 458.63	SILMD 145 Acct# 0712590-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 353.48	SILMD 146 Acct# 0712591-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 429.22	SILMD 147 Acct# 0712592-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,529.05	SILMD 149 Acct# 0712593-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 733.81	SILMD 150 Acct# 0712594-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 625.38	SILMD 151 Acct# 0712595-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 4,220.51	SILMD 152 Acct# 0712596-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 527.40	SILMD 153 Acct# 0712597-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,192.45	SILMD 154 Acct# 0712598-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 489.45	SILMD 155 Acct# 0712599-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 894.32	SILMD 157 Acct# 0712600-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 788.54	SILMD 158 Acct# 0712601-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 947.05	SILMD 159 Acct# 0712602-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 706.99	SILMD 160 Acct# 0712603-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,031.92	SILMD 161 Acct# 0712604-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 46.28	SILMD 162 Acct# 0712605-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 740.54	SILMD 163 Acct# 0712606-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 366.91	SILMD 164 Acct# 0712607-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 870.13	SILMD 165 Acct# 0712608-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 229.32	SILMD 167 Acct# 0712609-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,128.37	SILMD 17 Acct# 0712553-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 550.35	SILMD 171 Acct# 0712610-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 499.53	SILMD 172 Acct# 0712611-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,146.56	SILMD 173 Acct# 0712612-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 963.12	SILMD 174 Acct# 0712613-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 321.03	SILMD 175 Acct# 0712614-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 33.05	SILMD 176 Acct# 0712615-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 252.24	SILMD 178 Acct# 0712616-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 504.49	SILMD 179 Acct# 0712617-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 98.41	SILMD 18 Acct# 0712554-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 343.98	SILMD 180 Acct# 0712618-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,658.68	SILMD 181 Acct# 0712619-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 573.30	SILMD 182 Acct# 0712620-4

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,146.57	SILMD 183 Acct# 0712621-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 366.91	SILMD 184 Acct# 0712622-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 137.59	SILMD 185 Acct# 0712623-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 680.09	SILMD 186 Acct# 0712624-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 229.32	SILMD 187 Acct# 0712625-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 275.17	SILMD 188 Acct# 0712626-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 229.32	SILMD 189 Acct# 0712627-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,192.45	SILMD 190 Acct# 0712628-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 409.27	SILMD 191 Acct# 0712629-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 298.10	SILMD 192 Acct# 0712630-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 733.81	SILMD 193 Acct# 0712631-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 298.28	SILMD 194 Acct# 0712632-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 238.61	SILMD 195 Acct# 0712633-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 76.23	SILMD 196 Acct# 0712634-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 76.23	SILMD 197 Acct# 0712635-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 114.65	SILMD 198 Acct# 0712636-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 94.14	SILMD 200 Acct# 0712637-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 481.55	SILMD 201 Acct# 0712638-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 633.51	SILMD 202 Acct# 0712639-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 20.33	SILMD 203 Acct# 0712640-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 415.90	SILMD 204 Acct# 0712641-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 26.46	SILMD 205 Acct# 0712642-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 321.03	SILMD 206 Acct# 0712643-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 366.91	SILMD 207 Acct# 0712644-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 247.95	SILMD 208 Acct# 0712645-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 527.40	SILMD 209 Acct# 0712646-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 91.48	SILMD 210 Acct# 0712647-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 50.82	SILMD 211 Acct# 0712648-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 50.82	SILMD 212 Acct# 0712649-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 30.50	SILMD 213 Acct# 0712650-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 370.12	SILMD 214 Acct# 0712651-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 137.59	SILMD 216 Acct# 0712652-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 387.44	SILMD 217 Acct# 0712653-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 277.67	SILMD 220 Acct# 0712654-3

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 6.60	SILMD 221 Acct# 0712655-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 80.58	SILMD 222 Acct# 0712656-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 121.98	SILMD 223 Acct# 0712657-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,400.53	SILMD 224 Acct# 0712658-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 403.74	SILMD 225 Acct# 0712659-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 204.76	SILMD 226 Acct# 0712660-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 644.40	SILMD 227 Acct# 0712661-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 788.54	SILMD 228 Acct# 0712662-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 407.88	SILMD 229 Acct# 0712663-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 951.70	SILMD 230 Acct# 0712664-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 571.01	SILMD 231 Acct# 0712665-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 2,474.41	SILMD 232 Acct# 0712666-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 898.66	SILMD 233 Acct# 0712667-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 503.66	SILMD 234 Acct# 0712668-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 563.35	SILMD 235 Acct# 0712669-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 178.96	SILMD 236 Acct# 0712670-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 389.84	SILMD 237 Acct# 0712671-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 13.22	SILMD 238 Acct# 0712672-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 91.74	SILMD 239 Acct# 0712673-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 429.52	SILMD 240 Acct# 0712674-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 571.99	SILMD 241 Acct# 0712675-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 81.58	SILMD 242 Acct# 0712676-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 108.78	SILMD 244 Acct# 0712677-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 72.48	SILMD 245 Acct# 0712678-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 326.29	SILMD 246 Acct# 0712679-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 961.70	SILMD 247 Acct# 0712680-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 2,691.94	SILMD 249 Acct# 0718734-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 214.76	SILMD 250 Acct# 0719001-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 3,811.92	SILMD 251 Acct# 0718801-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 543.83	SILMD 252 Acct# 0719162-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,788.33	SILMD 253 Acct# 0719644-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 161.15	SILMD 254 Acct# 0719763-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 166.53	SILMD 255 Acct# 0720813-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 958.30	SILMD 257 Acct# 0720360-7

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 2,567.22	SILMD 258 Acct# 0720606-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,469.08	SILMD 259 Acct# 0720810-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 489.45	SILMD 261 Acct# 0720705-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 3,042.08	SILMD 262 Acct# 0720937-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,021.14	SILMD 263 Acct# 0720716-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 175.81	SILMD 264 Acct# 0721427-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 356.98	SILMD 265 Acct# 0721556-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 50.73	SILMD 266 Acct# 0721684-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 469.07	SILMD 270 Acct# 0906944-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 939.27	SILMD 271 Acct# 0995095-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 2,785.49	SILMD 272 Acct# 0905005-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 202.14	SILMD 273 Acct# 0926386-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 511.25	SILMD 276 Acct# 0961926-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 839.03	SILMD 277 Acct# 1058710-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 226.68	SILMD 278 Acct# 1087619-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 58.33	SILMD 279 Acct# 1124127-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 732.61	SILMD 280 Acct# 1045653-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 481.89	SILMD 283 Acct# 1172743-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 320.90	SILMD 285 Acct# 1206985-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 240.48	SILMD 286 Acct# 1296582-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,826.91	SILMD 288 Acct# 1303978-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 239.44	SILMD 289 Acct# 1685375-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 137.73	SILMD 290 Acct# 1433921-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 598.21	SILMD 292 Acct# 1481532-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 229.32	SILMD 293 Acct# 1481534-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 458.63	SILMD 294 Acct# 1481535-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 108.78	SILMD 295 Acct# 1481536-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,215.38	SILMD 296 Acct# 1481537-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 206.39	SILMD 297 Acct# 1481539-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 183.44	SILMD 298 Acct# 1481540-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 402.37	SILMD 300 Acct# 1662840-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 5,398.51	SILMD 301 Acct# 1687005-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 268.34	SILMD 302 Acct# 1607534-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 985.27	SILMD 305 Acct# 1695873-8

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 192.84	SILMD 306 Acct# 1740353-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 2,960.71	SILMD 307 Acct# 2049005-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 267.11	SILMD 308 Acct# 2072459-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 359.51	SILMD 309 Acct# 2001311-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 232.70	SILMD 310 Acct# 2060519-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 277.36	SILMD 311 Acct# 3014475-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 228.38	SILMD 312 Acct# 3146127-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 420.58	SILMD 315 Acct# 3305804-1
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,194.72	SILMD 316 Acct# 3291842-7
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 89.03	SILMD 317 Acct# 3253826-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 800.95	SILMD 318 Acct# 3372018-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 58.62	SILMD 320 Acct# 0712569-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 415.70	SILMD 321 Acct# 3338917-2
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 85.93	SILMD 322 Acct# 3402033-9
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 738.93	SILMD 323 Acct# 3597170-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 332.24	SILMD 324 Acct# 1246537-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 107.87	SILMD 325 Acct# 3587598-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 253.48	SILMD 326 Acct# 3840455-4
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 183.37	SILMD 327 Acct# 3810801-5
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 633.07	SILMD 328 Acct# 3894879-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 378.00	SILMD 8 Acct# 0712544-6
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 350.72	SILMD 9 Acct# 0712545-3
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 515.52	SILMD 95 Acct# 0712556-0
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 9,558.90	SILMD 97 Acct# 0712557-8
11/22/2021	847951	NorthWestern Energy	Light Maint	$ 1,078.81	SILMD 99 Acct# 0712558-6
11/22/2021	847950	NorthWestern Energy	Park Dist 1	$ 526.09	0722287-0
11/22/2021	847950	NorthWestern Energy	Park Dist 1	$ 740.47	0723045-1
11/22/2021	847950	NorthWestern Energy	Park Dist 1	$ 327.19	0925496-2
11/22/2021	847950	NorthWestern Energy	Park Dist 1	$ 15.32	1156527-2
11/22/2021	847950	NorthWestern Energy	Park Dist 1	$ 280.87	1191404-1
11/22/2021	847950	NorthWestern Energy	Park Dist 1	$ 10.41	1836666-6
11/22/2021	847950	NorthWestern Energy	Public Safety	$ 463.86	0871546-8
11/22/2021	847950	NorthWestern Energy	Solid Waste	$ 1,365.84	3252194-0
11/22/2021	847950	NorthWestern Energy	Street/Traffic	$ 0.11	1740357-7

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847950	NorthWestern Energy	Street/Traffic	$ 0.60	1748896-6
11/22/2021	847951	NorthWestern Energy	Street/Traffic	$ 12,134.76	Signal Bills
11/22/2021	847950	NorthWestern Energy	Wastewater	$ 918.07	0100606-3
11/22/2021	847950	NorthWestern Energy	Water	$ 1,096.56	0100485-2
11/22/2021	847950	NorthWestern Energy	Water	$ 2,754.18	0100606-3
11/22/2021	847950	NorthWestern Energy	Water	$ 69,772.80	0100606-3
11/22/2021	847950	NorthWestern Energy	Water	$ 5,231.52	0722264-9
11/22/2021	847950	NorthWestern Energy	Water	$ 4,452.35	0723040-2
11/22/2021	847950	NorthWestern Energy	Water	$ 6.00	0723059-2
11/22/2021	847950	NorthWestern Energy	Water	$ 806.12	1116452-2
11/22/2021	847954	PayneWest Insurance	Property Ins	$ 3,491.00	Boiler & Equipment Coverage for boilers at the Stillwater Building.
11/22/2021	847955	Polydyne Inc	Wastewater	$ 3,267.00	Clarifloc
11/22/2021	847963	Rimrock Foundation	Court Grants	$ 1,650.00	21OctoRimrockAncillaryGroups
11/22/2021	847963	Rimrock Foundation	Court Grants	$ 5,392.09	21OctRimrockNoInsurance
11/22/2021	847963	Rimrock Foundation	Court Grants	$ 200.00	21OctRimrockScreenings
11/22/2021	847967	Sanderson Stewart	Arterial Streets	$ 1,037.30	WO 0912 Inner Belt Loop
11/22/2021	847967	Sanderson Stewart	Bike Path Donate	$ 22,064.50	WO 21-38 HWY 3 Multi-use Path (Skyline Trail)
11/22/2021	847974	Sletten Construction	Airport	$ 1,780,764.87	Terminal Expansion - Eligible For Reimbursement
11/22/2021	847974	Sletten Construction	Airport	$ 150,650.39	Terminal Expansion - Ineligible Costs
11/22/2021	847976	St V's Occupation Health	City Ins Fund	$ 60.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	City Ins Fund	$ 815.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	City Ins Fund	$ 6,760.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	Fleet	$ 190.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	General	$ 2,985.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	Park Dist 1	$ 95.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	Public Safety	$ 20.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	Public Safety	$ 529.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	Solid Waste	$ 208.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	Solid Waste	$ 50.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	Street/Traffic	$ 95.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847976	St V's Occupation Health	Transit	$ 190.00	Nurse Visits, DOT Physicals, Drug Test, COVID19, Flu shots
11/22/2021	847978	Sternberg Lanterns	Parks Maint	$ 3,725.00	light pole replacement along broadway - JS110821
11/22/2021	847984	Terracon Consult	Arterial Streets	$ 1,332.50	Wicks Lane
11/22/2021	847984	Terracon Consult	Storm Sewer	$ 215.00	Storm drain improvements

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847984	Terracon Consult	Water	$ 495.00	Density testing Lewis Ave/Yale/N. 15th St
11/22/2021	847984	Terracon Consult	Water	$ 710.00	Lead Service Project
11/22/2021	847987	Titan Machinery	Street/Traffic	$ 48.93	16161651
11/22/2021	847987	Titan Machinery	Street/Traffic	$ 1,035.26	16169576
11/22/2021	847987	Titan Machinery	Street/Traffic	$ 463.21	16188965
11/22/2021	847987	Titan Machinery	Street/Traffic	$ 612.45	sleeve for milling machine unit #1234
11/22/2021	847987	Titan Machinery	Wastewater	$ 357.78	15751727
11/22/2021	847987	Titan Machinery	Wastewater	$ 3,120.54	16169421
11/22/2021	847987	Titan Machinery	Water	$ 130.00	NONSTOCKING ITEMS-P.U.D.
11/22/2021	847988	Town & Country Supply	Fleet	$ 24,005.63	422823 PO NUM 313497
11/22/2021	847988	Town & Country Supply	Transit	$ 18,387.89	422813 PO NUM 313492. 4199 Gal Dyed #2, 1801 Gal Dyed #1
11/22/2021	847988	Town & Country Supply	Wastewater	$ 4,174.60	WWTP FUEL
11/22/2021	847988	Town & Country Supply	Water	$ 21,885.51	WATER PARTS AND SUPPLIES PO NUM 313398
11/22/2021	847990	Tyler Technology	EOC 911	$ 5,172.65	9-1-1 Center Annual New World Maintenance
11/22/2021	847990	Tyler Technology	EOC 911	$ 33,058.67	CAD Annual New World Maintenance
11/22/2021	847990	Tyler Technology	IT Resources	$ 26,739.00	Sheriff Mobile Annual New World Maintenance
11/22/2021	847990	Tyler Technology	IT Resources	$ 23,912.00	Yellowstone County Jail Annual New World Maintenance
11/22/2021	847990	Tyler Technology	Public Safety	$ 9,278.67	Fire Mobile Annual New World Maintenance
11/22/2021	847990	Tyler Technology	Public Safety	$ 19,314.67	Fire Records Annual New World Maintenance
11/22/2021	847990	Tyler Technology	Public Safety	$ 14,768.51	MDC or Table Annual Maintenance- State Contract.
11/22/2021	847990	Tyler Technology	Public Safety	$ 47,090.67	Police Annual New World Maintenance
11/22/2021	847990	Tyler Technology	Public Safety	$ 96,818.67	Police Mobile Annual New World Maintenance
11/22/2021	847996	Verizon Wireless	Airport	$ 51.70	Airport
11/22/2021	847996	Verizon Wireless	Engineering	$ 136.60	PW-Engineering
11/22/2021	847996	Verizon Wireless	Fleet	$ 115.02	Motor Pool
11/22/2021	847996	Verizon Wireless	General	$ 99.02	City Administrator
11/22/2021	847996	Verizon Wireless	Park Dist 1	$ 57.01	PRPL-PARKS
11/22/2021	847996	Verizon Wireless	Parking	$ 27.32	Parking 406-690-5822
11/22/2021	847996	Verizon Wireless	Parking	$ 54.48	PRKING Enforcement (Parking)
11/22/2021	847996	Verizon Wireless	PD Program	$ 406.10	CCSIU Cell/PTT
11/22/2021	847996	Verizon Wireless	PD Program	$ 54.64	CCSIU MDT
11/22/2021	847996	Verizon Wireless	PD Program	$ 80.02	CCSIU RAVEN
11/22/2021	847996	Verizon Wireless	Public Safety	$ 268.32	Fire MDT
11/22/2021	847996	Verizon Wireless	Public Safety	$ 498.38	MDT Toughbooks

Check Date	Check#	Name	Fund Name	Amount	Item Desc
11/22/2021	847996	Verizon Wireless	Public Safety	$ 106.27	Police
11/22/2021	847996	Verizon Wireless	Public Safety	$ 80.02	Police iPads
11/22/2021	847996	Verizon Wireless	Public Safety	$ 40.01	Police MiFi
11/22/2021	847996	Verizon Wireless	Public Safety	$ 41.61	Police
11/22/2021	847996	Verizon Wireless	Solid Waste	$ 27.32	PW Dozer Trimble Dozer
11/22/2021	847996	Verizon Wireless	Solid Waste	$ 109.28	PW-Solid Waste
11/22/2021	847996	Verizon Wireless	Solid Waste	$ 161.97	PW-SW-ON CALL Solid Waste On Call
11/22/2021	847996	Verizon Wireless	Solid Waste	$ 81.09	PW-SW-ON CALL Solid Waste On Call
11/22/2021	847996	Verizon Wireless	Solid Waste	$ 479.90	Solid Waste Tablets -Routware
11/22/2021	847996	Verizon Wireless	Street/Traffic	$ 81.96	PW-Streets
11/22/2021	847996	Verizon Wireless	Street/Traffic	$ 163.92	PW-Streets City Works
11/22/2021	847996	Verizon Wireless	Street/Traffic	$ 199.37	PW-STRT TRFC Streets
11/22/2021	847996	Verizon Wireless	Transit	$ 309.02	MET AVL
11/22/2021	847996	Verizon Wireless	Wastewater	$ -	PW Environmental iPads
11/22/2021	847996	Verizon Wireless	Wastewater	$ (23.26)	PW-DIS-COLL Cityworks 60/40
11/22/2021	847996	Verizon Wireless	Water	$ 27.32	PW Belknap Meter Shop
11/22/2021	847996	Verizon Wireless	Water	$ 90.06	PW Environmental iPads
11/22/2021	847996	Verizon Wireless	Water	$ 54.64	PWBLKNP Water Treatment
11/22/2021	847996	Verizon Wireless	Water	$ 54.64	PWBLNP Comm-Meter CityWorks/Neptune
11/22/2021	847996	Verizon Wireless	Water	$ (15.50)	PW-Distribution Collection Tablets 60/40
11/22/2021	847998	Vision West Inc	General	$ 2,516.20	2021 Leadership Retreat Facilitator
11/22/2021	848000	Warren Transport	Gas Tax	$ 108,642.32	WO 21-04 City ADA Project
11/22/2021	848002	Western Water Consult	Tax Incrmnt S	$ 27,415.03	WO 20-30 Hallowell Lane Improvements

City Council Regular

Date:	12/20/2021
Title:	Public Hearing for Discontinuance by Closure of portion of the alley within Block 191 Billings Original Townsite
Presented by:	Debi Meling
Department:	Public Works
Presentation:	Yes

RECOMMENDATION

Staff recommends City Council hold a public hearing and approve the discontinuance by closure of a portion of the alley within Block 191 Billings Original Townsite at no cost.

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

The Montana Rescue Mission (MRM) is proposing to expand its campus at Minnesota Avenue and South 29th Street. With the expansion, MRM would like to close off one-half of the east-west alley from South 28th Street to South 29th Street. Attached is an exhibit showing the portion of the alley proposed to be discontinued by closure. The L-shaped portion of the alley from South 28th Street to 1st Avenue South will stay in place and continue to be operational for emergency vehicles and solid waste pickup. The MRM is proposing to fence off the portion of the alley in order to allow free and safe pedestrian movement within the campus. MRM is removing the existing concrete loading dock and replacing a small amount of that area with movable access stairs should the City need alley access for utility maintenance.

MRM originally wanted to vacate the alley; however, a sanitary sewer main is located in the alley. Thus, City staff prefers to retain and own this portion of the alley as City right-of-way. For the City to retain ownership and retain future legal right to use the alley, the proper legal mechanism is to discontinue the alley by closure per MCA 7-14-4114. Discontinuance by closure allows MRM to gate and close the alley to public access, but the alley still remains public right-of-way and allows for City maintenance of the sewer line as well as any other utility that requires use of the right of way. Furthermore, discontinuance by closure allows the City to retain ownership of the land and retain the right to reinstate the use of the alley right-of-way for available public purposes should the alley use situation need to change in the future.

ALTERNATIVES

The Council may:

- After holding a public hearing, approve the discontinuance by closure of the above-mentioned alley at no cost; or
- After holding a public hearing, approve the discontinuance by closure of the above-mentioned alley at a cost as determined by City Council; or
- After holding a public hearing, do not approve the discontinuance by closure.

FISCAL EFFECTS

Billings, Montana City Code section 22-600 describes the process for discontinuance. The code does not provide guidance to how the cost of the discontinuance should be determined. Historically, City Council has not required compensation for alley discontinuances. There have been three alley discontinuances in the last 30 years. The last discontinuance was completed in 2020 for Riverstone Health at no cost to the applicant.

The value of the alley being proposed for discontinuance is valued at $6.74/square feet (sf). The valuation was determined by Mountain West Commercial Real Estate. The attached valuation shows an area of 3,000 sf but was based on the estimated area. The actual area to be discontinued is 2,800 sf, so the total value would be $18,872.00.

It is City staff's recommendation that the alley be discontinued by closure at no cost to the applicant as the City can still maintain the sanitary sewer and the City will no longer have to maintain the alley. Furthermore, the City will maintain ownership of the alley right-of-way and will be able to reinstate the use of the right-of-way in the future if the use situation changes.

Attachments

Request to Discontinue Alley by Closure

Valuation

Exhibit

Resolution to Discontinue by Closure

DocuSign Envelope ID: C6779E52-971B-43CE-B8A3-AFD7ECF1F5C5

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

Description of Right-of-Way to be ~~vacated~~ discontinued:

Discontinue the use of the alley located between Minnesota Avenue and 1st Avenue South from South 29th Street to the east on half block.

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

____Street **X____Alley** **_____Other R/W**

SIGNATURE	DATE	PROPERTY OWNERSHIP
		Lots 14-19, Block 191 Billings Original Townsite

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

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

	Approved By/Date	Disapproved By/Date
City Public Works	DocuSigned by: Chris Hertz	
Heights Water	N/A	
Montana Dakota Utilities	DocuSigned by: Mark Unger	
Northwestern Energy	DocuSigned by: Kane Clawsch	
Charter	DocuSigned by:	
CenturyLink	DocuSigned by: Annette Zohner	
City/Co. Planning	DocuSigned by:	

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

Petitioner's interest in ~~vacating~~ discontinuing the public right-of-way: The Montana Rescue Mission seeks to discontinue use of a portion of the alley through Block 191 of the Billings Original Townsite. It is desired to eliminate the existing approach from South 29th Street and half block of alley to become an extension of the outdoor space for the unified campus. All existing utilities will be accessible for maintenance.

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

ATTACHMENTS:

DocuSign Envelope ID: C6779E52-971B-43CE-B8A3-AFD7ECF1F5C5

__X__ **Title Report(s)**
__X__ **Comments from all Utilities**
__X__ **Map of R/W to be Vacated**
_____ **Traffic Accessibility Study (When required by the City)**

AN APPLICATION FEE OF $200 MUST ACCOMPANY THIS PETITION.

Fee Received By:_____ **Date:**_____
City Engineers Office

A DEPOSIT FOR AN APPRAISAL MUST ALSO ACCOMPANY THIS REQUEST.

Deposit Amount:_____

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

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

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

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

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

CONTACT PERSON FOR PETITION:

Bryan Alexander
Telephone No.: 406-869-3343
Mailing Address: 1300 N. Transtech Way
Billings, MT 59102
Date: May 18, 2021

CITY COUNCIL ACTION:_____

DATE:_____

Right-of-way, North of South 29th St., South of 2804-2822 Minnesota Ave, West of 20 S 28th St.

BILLINGS, MT 59101

November 1, 2021

MOUNTAIN WEST
COMMERCIAL REAL ESTATE

PROPERTY DESCRIPTION

Type:	Right-of-way
Style:	Alley
County:	Yellowstone
Location:	North of South 29th St., South of 2804-2822 Minnesota Ave, West of 20 S 28th St.
Total SqFt:	3,000 Square Feet (150’ x 20’)

PREPARED BY

JAKE HEDGE
jhedge@mtnwest.com
direct 406.696.0395
View Profile

MOUNTAIN WEST
COMMERCIAL REAL ESTATE

COMPARISON APPROACH TO VALUE AS REFERENCED IN ADMINISTRATIVE ORDER NO.56 SECTION 2A

Reference to Administrative order No. 56:

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

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

According to Yellowstone County Property Assessment Information, the adjacent Tax Code A01299 has a 2021 Assessed Land Value of $6.74 Per Square Foot.

Based on the comparable value of the adjacent property, the subject property has a value of $20,220 (3,000 SF x $6.74).

State of Montana
Business Standards Division
Board of Realty Regulation

This certificate verifies licensure as:
BROKER

RRE-BRO-LIC-88041
Status: Active
Expires: 10/31/2022

MOUNTAIN WEST COMMERCIAL REAL ESTATE
JACOB J HEDGE
1814 DARLENE STREET
BILLINGS, MT 59102

Montana Department of LABOR & INDUSTRY
RENEW OR VERIFY YOUR LICENSE AT:
https://ebiz.mt.gov/pol

EXHIBIT A

MONTANA RESCUE MISSION ALLEY DISCONTINUANCE

WITHIN

BILLINGS ORIGINAL TOWNSITE BLOCK 191

PREPARED FOR : MONTANA RESCUE MISSION

PREPARED BY : SANDERSON STEWART

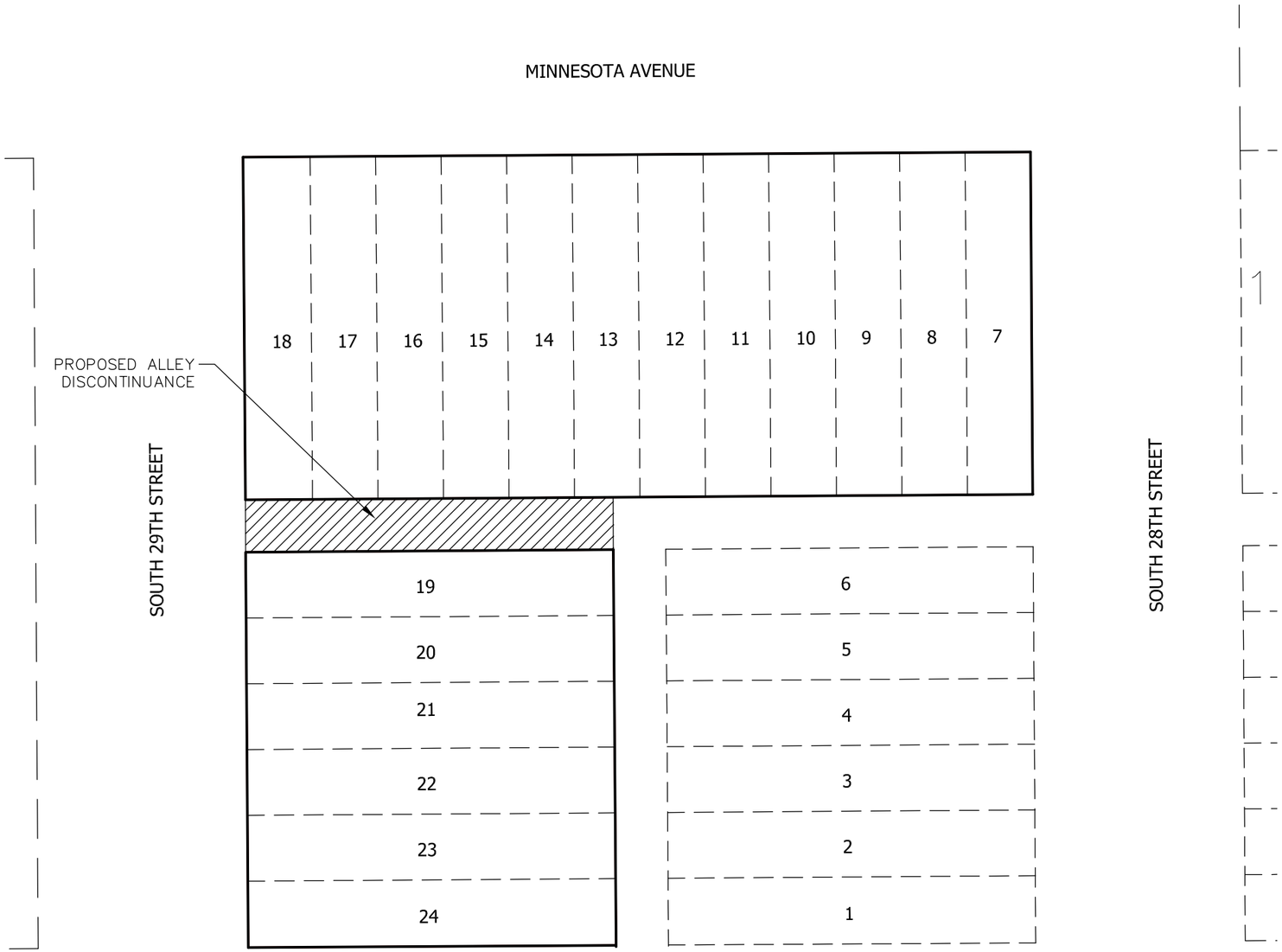
NOVEMBER 2021

BILLINGS, MONTANA

NORTH

25 0 25 50

SCALE:1" = 50'



RESOLUTION NO. 21-_____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA, DISCONTINUING BY CLOSURE TO THROUGH TRAFFIC a portion of the east-west alley in Block 191 within Billings Original Townsite.

WHEREAS, §7-14-4114, MCA, generally authorizes that a city council may discontinue a street or alley or any part of a street or alley in a city if it can be done without detriment to the public interest by 1) closure to through traffic, which action does not revoke a city's legal right-of-way interest in the street or alley or part thereof; or 2) by vacating a street or alley or any part thereof which action revokes a city's legal right-of-way interest in the street or alley or part thereof;

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, pursuant to § 22-601, BMCC, requesting discontinuance but not vacation of **a portion of the east-west alley in Block 191 within Billings Original Townsite** as described hereinafter; and

WHEREAS, a public hearing was properly noticed and held as required by law.

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

1. DISCONTINUANCE BY CLOSURE TO THROUGH TRAFFIC. Pursuant to § 7-14-4114, MCA, **a portion of the east-west alley in Block 191 within Billings Original Townsite** along Lot 19 of Block 191 within Billings Original Townsite containing approximately 2,800 square feet is discontinued by closure to through traffic, as shown on and incorporated herein as attached exhibit "A".

2. PUBLIC INTEREST. The discontinuance of the above-described **portion of the east-west alley in Block 191 within Billings Original Townsite** is in the best interest of the public and can be done without any public detriment.

PASSED by the City Council and APPROVED this 20th day of December 2021.

THE CITY OF BILLINGS:

BY:_____
William A. Cole, Mayor

ATTEST:

BY:_____
Denise Bohlman, City Clerk

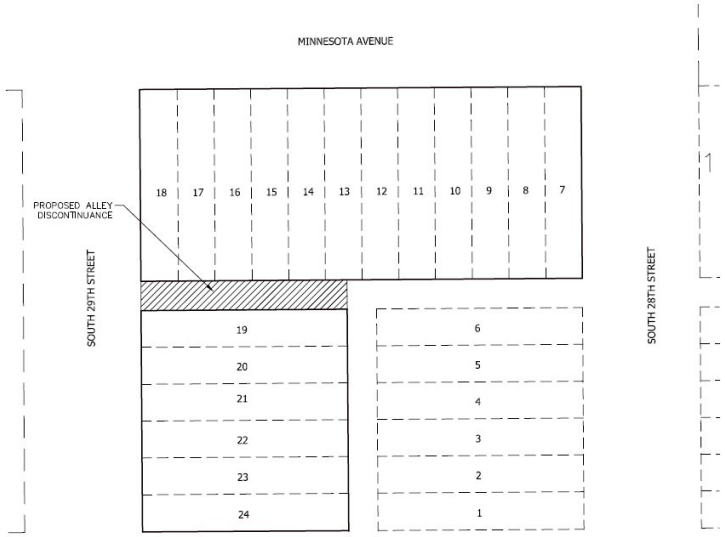
EXHIBIT A

MONTANA RESCUE MISSION ALLEY DISCONTINUANCE
WITHIN
BILLINGS ORIGINAL TOWNSITE BLOCK 191

PREPARED FOR : MONTANA RESCUE MISSION
PREPARED BY : SANDERSON STEWART

NOVEMBER 2021
BILLINGS, MONTANA

NORTH



City Council Regular

Date: 12/20/2021

Title: Public Hearing & Resolution Marijuana Business License Fees

Presented by: Andy Zoeller, Finance Director

Department: Finance

Presentation: Yes

RECOMMENDATION

Staff recommends City Council adopt the attached resolution establishing business license fees for marijuana related businesses

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

On November 22, 2021, City Council approved the 3rd reading regulating the marijuana businesses. These regulations of marijuana industries will require additional resources within Business Licensure, Code Enforcement, and Fire Inspection. The goal in determining an appropriate license fee is to set it such that the additional costs associated with regulating marijuana businesses is recouped by the license fee for those businesses.

On December 6, 2021, City Council held a work session where staff presented information on proposed license fees for regulating marijuana businesses in Billings. Based upon the discussion that occurred at the 12/6/21 work session, staff reconvened the marijuana subcommittee to examine the license fees in greater detail.

The committee met on December 7, 2021, to discuss the Marijuana License Fees to be proposed to City Council. The committee consisted of CM's Neese, Ronning, Boyette, Shaw, and Mayor Cole and staff members, Andy Zoeller, Gina Dahl, Wyeth Friday, and Karen Tracy. First, an adjustment to total cost was made to include estimated costs for Legal and Administrative review, and a reduction to the estimated lottery costs was also made. After these changes, total annual expenses expected to be incurred by the City are estimated to be $70,970. The committee reviewed the estimated number of businesses, and compared it to a few other communities around the U.S. and felt that an estimated 18 total marijuana businesses within the City limits was a reasonable assumption. Additionally, as the committee tried to parse out what businesses may be located within each business segment, the likelihood of being correct diminishes significantly.

For these reasons, along with direction from City Council at the 12-6-21 work session, the committee is recommending the following fee structure:

Annual License Type	**Fee Amount**
Initial Application Fee	$350
Medical Dispensary	$3,950
Cultivation	$3,950
Transporter (with local warehousing)	$3,950

Manufacturing	$3,950
Testing Laboratory	$3,950
Limited Transport Only (no local storage or warehousing)	$55

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve the resolution adopting fees. If Council does not approve the resolution, fees will default to $55/year, which is the basic business license tax for all businesses in Billings.

FISCAL EFFECTS

The estimated costs of regulating marijuana businesses for FY23 is $70,970. Staff is recommending that fees for marijuana businesses be set such that these costs are covered by the license fees. The proposed annual license fee for a marijuana business in Billings is $3,950. An initial application fee of $350 is required upon application submission, which will be created towards the total annual fee once the license is issued. It is estimated that the total revenue collected from this fee structure will be $71,100, which will be deposited into the General Fund to cover the costs associated with application review and code enforcement.

Attachments

Resolution

RESOLUTION 21-_____

A RESOLUTION ESTABLISHING FEES TO BE CHARGED FOR MARIJUANA BUSINESS LICENSES, TO BECOME EFFECTIVE IMMEDIATLY

WHEREAS, Section 7-2000 -Marijuana Regulations of the Billings, Montana City Code provides that the City Council shall establish the fees to be charged for the licensure of marijuana related businesses in Billings; 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. MARIJUANA BUSINESS LICENSE FEE: The licensure fee to be charged by the City of Billings is hereby established below.

	License Fees after December 20, 2021
Initial Application Fee – Due upon application submission	$350
Medical marijuana dispensary license – annual fee	$3,950
Marijuana cultivator license – annual fee	$3,950
Marijuana transporter license – annual fee	$3,950
Marijuana manufacturer license – annual fee	$3,950
Marijuana testing laboratory license – annual fee	$3,950
Marijuana transport only license (no local storage)	$55

Only the application fee will be paid upon submission of the application. Upon review and approval of the application, the applicant must remit the remaining annual fee for the license to be issued. 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, December 20th 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 20th day of December 2021.

CITY OF BILLINGS

By: _____
William A. Cole, Mayor

ATTEST:

By: _____
Denise R. Bohlman, City Clerk

City Council Regular

Date:	12/20/2021
Title:	PH and 1st Reading - Minor Text Amendments to TDS Metrocom Cable System Franchise Ordinance, Article 7-1800, BMCC
Presented by:	Stacy Tenney
Department:	Legal
Presentation:	Yes

RECOMMENDATION

City Staff recommends Council conduct a public hearing and approve first reading of minor ("housekeeping") amendments to Article 7-1800, Cable System Franchise.

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

City staff and TDS Metrocom, LLC (TDS), seek joint approval of two text amendments to clarify the parties' intentions of terms in Article 7-1800, BMCC. The need for clarification and amendments was realized while using Article 7-1800, BMCC, as a template for the cable system renewal franchise with Spectrum Pacific West, LLC, doing business locally as Charter Communications, which was adopted on December 13, 2021.

The first text amendment seeks to amend the definition of "Gross Revenues" in Section 7-1801(2)(b), BMCC, to clarify that Public, Educational and Governmental (PEG) fees are not included in the definition of "Gross Revenues"; these are fees of general applicability which the City imposes on TDS to collect from its subscribers and cannot be included as gross revenues in calculating the 5% franchise fee owed to the City under the franchise pursuant to federal law. The second text amendment seeks to amend Section 7-1808(h)(2), BMCC, to clarify the parties' intent that the Grantor (the City) is only required to show the previous year's budgeted PEG expenditures and use if requested by TDS. Thus, the parties are seeking to amend the apostrophe in "years"" so it is a singular unit referring to the previous "year's" PEG capital support fee rather than the vague reference to "years"" that could be interpreted to mean any number of years. Both amendments would clarify and provide the same terms as have been adopted in the Charter cable system franchise.

STAKEHOLDERS

City of Billings and TDS Metrocom, LLC

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve

FISCAL EFFECTS

No fiscal effects.

SUMMARY

The proposed "housekeeping" amendments to the TDS franchise, specifically to the definition of "Gross revenues" Sec. 7-1801 (2)(b), and Sec. 7-1808 (h)(2), BMCC, clarify and correct the intentions of the City and TDS and will provide the same terms as the competitive cable system franchise with Spectrum Pacific West, LLC, doing business locally as Charter Communications, adopted December 13, 2021.

Attachments

Redlined Amendments to TDS Cable Ord.

Proposed Ord. Amending Art. 7-1800 BMCC

ORDINANCE NO. 21-____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING ARTICLE 7-1800 FOR THE PURPOSE OF HOUSEKEEPING TEXT CHANGES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That the Billings, Montana, City Code be amended by revising 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.

"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.

"Cable Act" means Title VI of the Communications Act of 1934, as amended.

"Cable Ordinance" means the Model Cable System Franchise set forth in Article 7-1600, Billings, Montana City Code.

"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.

"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.

"Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the Cable System.

"FCC" means the Federal Communications Commission, or successor governmental entity thereto.

"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.

"GAAP" means Generally Accepted Accounting Principles.

"Grantor" means the City of Billings, Montana or any lawful successor or assign.

"Grantee" means TDS Metrocom, LLC, or the lawful successor, transferee, or assignee thereof.

"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:

(a.) 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);

(b.) Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;

(c.) 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;

(d.) 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);

(e.) Advertising Revenues as defined herein;

(f.) 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;

(g.) 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;

(h.) "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:

(a.) 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

(b.) 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 and the FCC regulatory fee shall not be regarded as such a tax or fee;

(c.) launch fees and marketing co-op fees to the extent consistent with GAAP; and,

(d.) 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 year's 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 _____, 2022.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2022.

CITY OF BILLINGS:

BY:_____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

ACCEPTED this ____ day of _____, 2022, subject to applicable federal and state law.

TDS, Metrocom, LLC
By:

_____
Name: _____
Title: _____

ORDINANCE NO. 21-____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING ARTICLE 7-1800 FOR THE PURPOSE OF HOUSEKEEPING TEXT CHANGES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That the Billings, Montana, City Code be amended by revising 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.

"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.

"Cable Act" means Title VI of the Communications Act of 1934, as amended.

"Cable Ordinance" means the Model Cable System Franchise set forth in Article 7-1600, Billings, Montana City Code.

"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.

"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.

"Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the Cable System.

"FCC" means the Federal Communications Commission, or successor governmental entity thereto.

"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.

"GAAP" means Generally Accepted Accounting Principles.

"Grantor" means the City of Billings, Montana or any lawful successor or assign.

"Grantee" means TDS Metrocom, LLC, or the lawful successor, transferee, or assignee thereof.

"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:

(a.) 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);

(b.) Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;

(c.) 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;

(d.) 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);

(e.) Advertising Revenues as defined herein;

(f.) 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;

(g.) 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;

(h.) "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:

(a.) 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

(b.) 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 and the FCC regulatory fee shall not be regarded as such a tax or fee;

(c.) launch fees and marketing co-op fees to the extent consistent with GAAP; and,

(d.) 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 year's 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 _____, 2022.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2022.

CITY OF BILLINGS:

BY:_____
William A. Cole, Mayor

Attest:

BY: _____
Denise R. Bohlman, City Clerk

ACCEPTED this ____ day of _____, 2022, subject to applicable federal and state law.

TDS, Metrocom, LLC
By:

_____
Name: _____
Title: _____

City Council Regular

Date: 12/20/2021

Title: CDBG-CV and CDBG Allocations to Parks Projects

Presented by: Tam Rodier

Department: Planning & Community Services

Presentation: Yes

RECOMMENDATION

The Community Development (CD) Board and the City Parks, Recreation and Cemetery Board recommend the City Council allocate up to $1 million in Community Development Block Grant (CDBG) funding and CDBG-Coronavirus (CDBG-CV) funding to the Parks, Recreation and Public Lands Department to install improvements to eight (8) parks located in low-income areas. The improvements are designed to prevent, prepare for, and/or respond to coronavirus and address needs identified within the 2020 Coronavirus Surveys, as parkland usage has greatly increased during the pandemic. The allocation and expenditure of funding for park projects will also assist the Division in meeting a CDBG timeliness deadline in the Spring of 2022 and CDBG-CV expenditure deadlines in 2024.

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

The City's CD Division has CDBG-CV funds to allocate to nonprofit organizations and other governmental entities that:

- Exclusively support coronavirus and other infectious disease response.
- Primarily benefit low-income individuals and families in Billings.
- Avoid duplication of other local, state, or federal service or support to prevent fraud, waste, and abuse. Repayment of funding utilized for duplicative activities is required.

City and Federal procurement procedures must be followed; therefore, all references to costs within this memo and attachments are preliminary. Actual costs will be determined by following applicable procurement procedures.

LOW-INCOME AREA PARKS AND PROPOSED PROJECTS

North Park, 6th Avenue N & N 19th Street

- An adult exercise area and equipment, North Park Center accessibility and HVAC improvements, new 4-room accessible restroom with touchless features, 12-month touchless water fountain, new shelter near playground and adult exercise area, and concrete path bulb-out to eliminate tripping hazards.
- North Park has already achieved designation as a "Park Rx." The "Park Rx" designation means health and/or social service providers encourage people to spend time at the park / in nature to improve their health and well-being. These improvements would strengthen its amenities and encourage additional use. Adding amenities to North Park may also relieve overcrowding at Pioneer Park.
- Installation of a Wi-Fi hotspot, if feasible.

Pioneer Park, 3rd Street West & Parkhill Drive

- Zimmerman Center accessibility enhancements, restroom repair / upgrades, and Heritage Park Trail improvements.
- Pioneer Park has also achieved designation as a "Park Rx." It is also arguably the busiest park in the community. These improvements would strengthen its amenities, support heavy park usage, and meet current user needs.
- Installation of a Wi-Fi hotspot, if feasible.

Comanche Park, South Plainview Street

- A new playground, ADA accessible parking spots and a walkway to the playground.
- What is left of the Comanche Park playground equipment is decades old and needs to be replaced. Park usage will likely increase significantly with these improvements.
- Installation of a Wi-Fi hotspot, if feasible.

Installation of Wi-Fi hotspots at each of the following parks, if feasible:

- South Park, 6th Avenue S and S 30th Street
- Optimist Park, Morgan Avenue & Hallowell Lane
- Highland Park, 2nd Avenue S & S 37th Street
- Central Park, 8th Street West & Central Avenue
- Arrowhead Park, Crow Lane and Sioux Lane

FUNDING COMMITMENT CONDITIONS

Construction and/or Development Agreements will be required for each park and for each funding source. The Community Development Division manages all projects and activities on a close- and shovel-ready basis. If funding allocations are approved for recommended parks projects, staff will develop a timeline for project implementation and funding will be committed incrementally.

Agreements include provisions for timely expenditures. If projects stall and/or do not move forward, CD staff may reallocate funding to another approved program or project to meet expenditure deadlines. CDBG-CV programs and projects include, but are not limited to, other park improvements, public services, public facilities, additional public hand washing stations / restrooms, etc. CDBG programs include, but are not limited to, Foreclosure Acquisition / Rehabilitation, First Time Home Buyer, Housing Rehabilitation, and AmeriCorps VISTA.

PROCEDURAL HISTORY:

- **April & September 2020:** The U.S. Department of Housing & Urban Development (HUD) notified the City of Billings it would receive a total of $909,126 in CDBG-CV funds.
- **September / October 2020:** Coronavirus Surveys released citywide.
- **December 2020:** **Coronavirus Response Initiative Report** published and distributed.
- **March 2021:** Community Development (CD) Board prioritized projects / activities for CDBG-CV funding.
- **April / May 2020:** CDBG-CV online grant application process was developed and released. Applications were received from the Downtown Business Improvement District, Inc. (BID) for the installation of a downtown public hand washing station / restroom ($117,715) and The Salvation Army for a mobile meals program ($55,000).
- **June 1, 2021:** CD Board recommends the City Council approve grant awards to the Downtown BID and Salvation Army. City Council approved grant awards and both projects are moving forward.
- **August to November 2021:** CD Board discussed using a portion of the remaining CDBG-CV funds and regular CDBG funds to install park improvements in low-income areas to help reduce the spread of COVID-19 by implementing touchless features and other elements in park facilities. Improvements may also positively affect mental health by encouraging socially-distanced exercise / outdoor activities. Staff and CD Board representatives toured several parks prior to developing a list of eligible projects that was subsequently refined with Parks, Recreation & Public Lands (PRPL) staff input. CD Board recommends moving parks projects forward.
- **November 2, 2021:** CD Board discussion and prioritization of potential parks projects using CDBG and/or CDBG-CV funds.
- **November 10, 2021:** Staff presented parks projects to the Parks, Recreation & Cemetery Board. The Board voted unanimously to recommend the City Council approve parks projects.
- **December 7, 2021:** CD Board finalizes parks projects recommendation to City Council.
- **December 20, 2021:** City Council review / action on proposed parks projects and CDBG-CV and CDBG allocations.

STAKEHOLDERS

- Parks projects are located in low-income areas of Billings and will primarily serve low-income community members. Planned park improvements will assist in the preparation, prevention, and response to the coronavirus.
- Other community members and visitors will also benefit.
- Because two of the parks have achieved the “Park Rx” designation, health and/or social service providers encourage people to spend time at the park / in nature to improve their health and well-being.

ALTERNATIVES

City Council may:

- Approve funding for the park projects, with or without conditions. A funding allocation to support these projects would assist the City in meeting timeliness deadlines for CDBG funding expenditures;
- Not approve funding for the projects. The Parks, Recreation and Public Lands Department would need to secure other funding / financing to complete the projects or not move the projects forward and the City may not meet CDBG funding timeliness deadlines.

FISCAL EFFECTS

The Community Development Board recommends utilizing available CDBG and CDBG-CV funding for these parks projects. The City has received significant revenue from recent home buyer / home repair loan repayments and this funding must be expended as soon as possible. Since this recommendation contemplates using only federal funds, City staff does not anticipate any negative fiscal effects.

SUMMARY

An overall review of the proposed projects reveals the projects are consistent with similar projects the City has funded in the past and is in alignment with the City’s Consolidated Plan. There is a demonstrated need for the installation of these amenities for our low-income community members, as evidenced by data collected through the City’s Coronavirus Surveys. CD and PRPL staff have extensive experience developing and managing projects and they are knowledgeable about federal program requirements so that these funding processes and projects will be a success.

Attachments

CD Board Memo

Parks, Recreation & Cemetery Board Memo

Parks Projects Map

Proposed Funding & Estimates

Billings
PLANNING
& COMMUNITY
SERVICES

DATE: October 29, 2021

TO: Community Development (CD) Board

FROM: Tam Rodier, CD Program Coordinator Tam

SUBJECT: CDBG-CV PARKS PROJECT OPPORTUNITIES

Community Development Division

2825 3rd Ave. N
Suite 610
Billings, MT 59101
P 406.657.8281
TTY 711

Problem / Issue Statement

The CD Board has $554,586 in CDBG-CV funds to allocate to nonprofit organizations and other governmental entities that:

- Exclusively support coronavirus and other infectious disease response.
- Primarily benefit low-income individuals and families in Billings.
- Avoid duplication of other local, state, or federal service or support to prevent fraud, waste, and abuse. Repayment of funding utilized for duplicative activities is required.

The CD Board has previously discussed that park improvements in low-income areas of Billings may reduce the spread of COVID-19 by implementing touchless features and other elements in park facilities. Some improvements discussed may also positively affect mental health by encouraging socially-distanced exercise / outdoor activities. CD Board representatives and staff toured a few parks in low-income areas and discussed eligible activities that may provide significant improvement(s) within the parks.

CD Staff worked with the City's Parks, Recreation & Public Lands (PRPL) staff to prepare the attached listing of potential park improvements in the following eight (8) low-income area parks:

- **North Park**, 6th Avenue N & N 19th Street
- **South Park**, 6th Avenue S and S 30th Street
- **Pioneer Park**, 3rd Street West & Parkhill Drive
- **Optimist Park**, Morgan Avenue & Hallowell Lane
- **Highland Park**, 2nd Avenue S & S 37th Street
- **Central Park**, 8th Street West & Central Ave.
- **Arrowhead Park**, Crow Lane and Sioux Lane
- **Comanche Park,** South Plainview Street

Staff Recommendation

Staff recommends the CD Board prioritize the following parks improvements:

North Park: Adult exercise area and equipment, North Park Center accessibility improvements, new restroom, 12-month touchless water fountain, new shelter, and concrete path bulb-out (estimated $438,778).

North Park has already achieved designation as a "Park Rx." The "Park Rx" designation means health and/or social service providers encourage people to spend time at the park / in nature to improve their health and well-being. These improvements would strengthen its amenities and encourage additional use. Adding amenities to North Park may also relieve overcrowding at Pioneer Park.

Pioneer Park: Zimmerman Center ADA enhancements, restroom repair / upgrades, and Heritage Park Trail improvements (estimated $152,500).

Pioneer Park has also achieved designation as a "Park Rx." It is arguably the busiest park in the community. These improvements would strengthen its amenities, support heavy park usage, and meet current user needs.

Comanche Park: Playground replacement, ADA accessible parking spots and walkway to playground (estimated $200,000).

Comanche Park playground equipment is decades old and needs to be replaced. Park usage will likely increase significantly with these improvements.

All eight parks in low-income areas: Wi-Fi hotspots would be added (where feasible).

Staff requests the CD Board review and prioritize the project list based on available CDBG-CV and CDBG funding. This will allow staff to refine the list, verify costs estimates, and present the resulting parks projects list to the City Council for review and approval / disapproval.

Alternatives Analysis

1) Prioritize the park improvement project list and direct staff to proceed with a grant award recommendation to the City Council.
2) Disapprove staff recommendation.

Community Development Board Decision:

- ☐ Approval
- ☐ Conditional Approval (state conditions)
- ☐ Denial

Staff Attest:

Billings
PLANNING
& COMMUNITY
SERVICES

DATE: November 8, 2021

TO: Parks, Recreation & Cemetery Board

FROM: Tam Rodier, CD Program Coordinator Tam Rodier

SUBJECT: CDBG-CV PARKS PROJECT OPPORTUNITIES

Community Development Division

2825 3rd Ave. N
Suite 610
Billings, MT 59101
P 406.657.8281
TTY 711

Problem / Issue Statement

The City's Community Development (CD) Division has Community Development Block Grant-Coronavirus (CDBG-CV) funds to allocate to nonprofit organizations and other governmental entities that:

- Exclusively support coronavirus and other infectious disease response.
- Primarily benefit low-income individuals and families in Billings.
- Avoid duplication of other local, state, or federal service or support to prevent fraud, waste, and abuse. Repayment of funding utilized for duplicative activities is required.

Background

In the fall of 2020, the City of Billings concluded two surveys designed to gather feedback from community members and social service agencies in Billings regarding how they have been impacted by the COVID-19 pandemic. Data collected through both surveys suggest low-income Billings residents may be experiencing gaps in services or a lack of basic needs regarding employment, housing, food security, and mental health (www.billingsmt.gov/CoronavirusReport).

The CD Board has discussed that park improvements in low-income areas may reduce the spread of COVID-19 by implementing touchless features and other elements in park facilities. Some improvements discussed may also positively affect mental health by encouraging socially-distanced exercise / outdoor activities. CD Board representatives and staff toured a few parks in low-income areas and discussed CDBG and CDBG-CV eligible park improvements.

CD Staff worked with the City's Parks, Recreation & Public Lands (PRPL) staff to develop a list of potential park improvements in the following eight (8) low-income area parks:

- **North Park**, 6th Avenue N & N 19th Street
- **South Park**, 6th Avenue S and S 30th Street
- **Pioneer Park**, 3rd Street West & Parkhill Drive
- **Optimist Park**, Morgan Avenue & Hallowell Lane
- **Highland Park**, 2nd Avenue S & S 37th Street
- **Central Park**, 8th Street West & Central Ave.
- **Arrowhead Park**, Crow Lane and Sioux Lane
- **Comanche Park,** South Plainview Street

CD Board Review

The CD Board prioritized the following park projects to be implemented using CDBG and/or CDBG-CV funds at their November 2, 2021, meeting:

All eight parks in low-income areas: Wi-Fi hotspots would added (where feasible).

The addition of free Wi-Fi within low-income area parks will help address survey-identified service gaps (increase computer and internet access; increase ability to access virtual services; etc.).

North Park: North Park Center accessibility and ventilation improvements, new 4-room restroom (replacing existing restroom), 12-month touchless water fountain, new shelter near the playground, concrete path bulb-out, and an adult exercise area and equipment.

As a designated "Park Rx" these improvements would strengthen its amenities and encourage additional use. Adding amenities to North Park may also relieve overcrowding at Pioneer Park.

Pioneer Park: Zimmerman Center accessibility improvements, restroom repair / upgrades, and Heritage Park Trail replacement.

Pioneer Park is also designated as a "Park Rx," and it is arguably the busiest park in the community. These improvements would strengthen its amenities, support heavy park usage, and meet current user needs.

Comanche Park: Playground replacement, and accessible parking spots and walkway to playground.

Comanche Park playground equipment is decades old and should be replaced. Park usage will likely increase significantly with these improvements.

CD staff is providing this information as a courtesy. However, if the Parks, Recreation and Cemetery Board concurs with the above plans, this will be acknowledged within

the City Council memo recommending approval of these projects.

CD staff time is available to assist and support moving these projects forward.

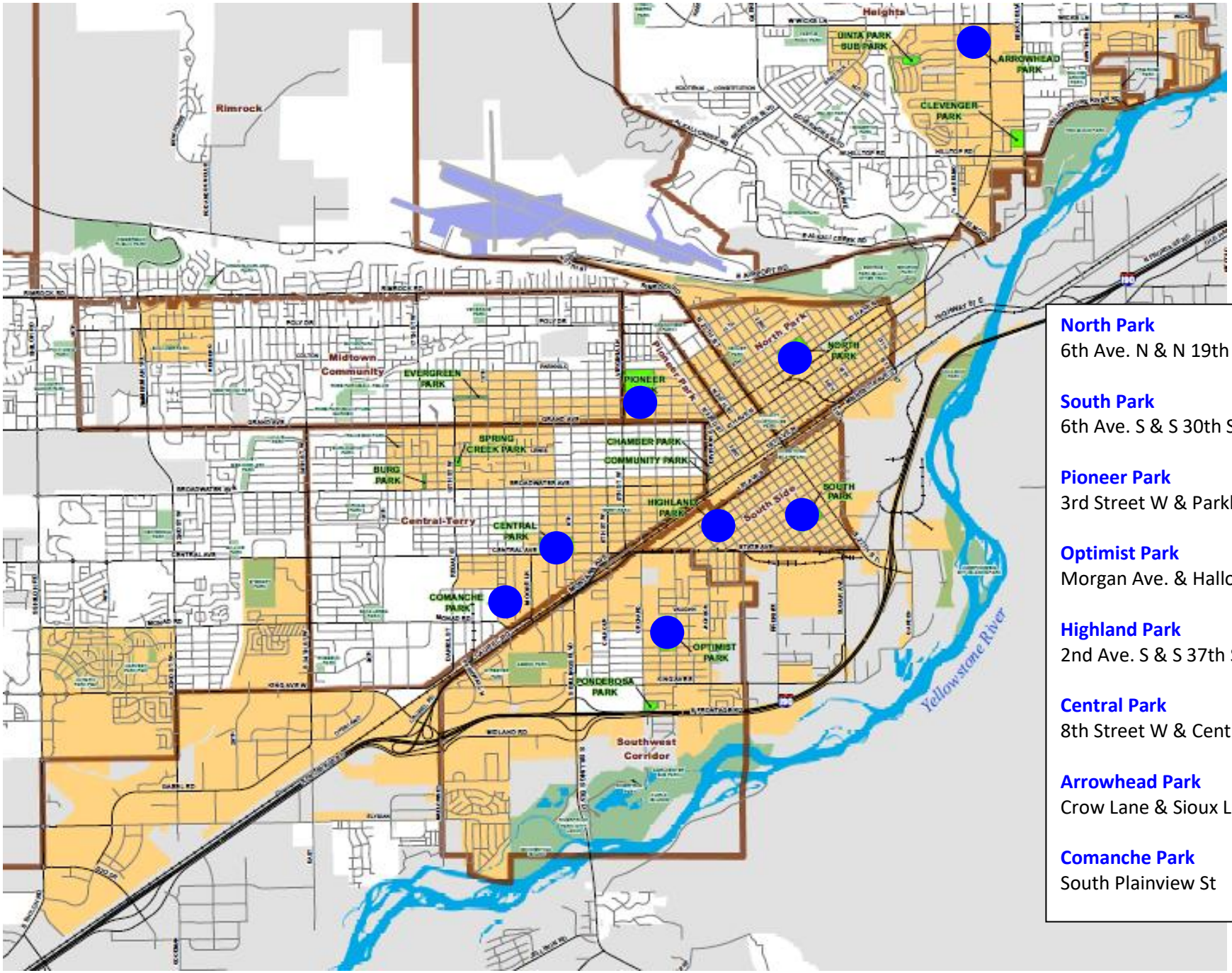
CD staff is happy to answer any questions Board members may have during your November 10, 2021, meeting.

Potential Funding Commitments for Parks	CDBG	CDBG-CV
Wi-Fi		
North Park		$5,000
South Park		$5,000
Optimist Park		$5,000
Pioneer Park		$5,000
Highland Park		$5,000
Central Park		$5,000
Arrowhead Park		$5,000
Comanche Park		$5,000
Wi-Fi Contingency @ 20%		$8,000
North Park		
ADA Enhancements		$7,500
Concrete walk bulb-out ADA		$6,678
12 month touchless water fountain		$3,600
Four-room restroom		$217,000
Shelter near playground		$29,000
Air Flow - Building Estimate		$20,000
Adult Exercise Equipment - 1st Stage	$63,700	$1,300
Contingency @ 20%	$12,740	$57,016
Pioneer Park		
Zimmerman Building ADA	$7,500	
Restroom Repair / Upgrades		$12,000
Heritage Trail Improvements	$133,000	
Contingency @ 20%	$28,100	$2,400
Comanche Park		
Playground Equipment	$200,000	
Contingency @ 20%	$40,000	$0
	CDBG	**CDBG-CV**
Total Allocated	**$485,040**	**$404,494**
As additional CDBG revenue is received:		
North Park Adult Exercise Equip - 2nd Stage	$110,000	
The following projects will be included in the FY23 Capital Improvement Plan (CIP) with no local City funds expended for these projects (only federal CDBG and/or CDBG-CV funds): North Park Restroom, North Park Shade Structure, Pioneer Park Heritage Trail Improvements, Comanche Park Playground Equipment, and North Park Adult Exercise Equipment 1st & 2nd Stage.		

*** NOTE: The above are preliminary estimates only ***

TLR

Attachment C



North Park
6th Ave. N & N 19th Street

South Park
6th Ave. S & S 30th Street

Pioneer Park
3rd Street W & Parkhill Dr

Optimist Park
Morgan Ave. & Hallowell Ln

Highland Park
2nd Ave. S & S 37th Street

Central Park
8th Street W & Central Ave.

Arrowhead Park
Crow Lane & Sioux Lane

Comanche Park
South Plainview St

Attachment D

Potential Funding Commitments for Parks	CDBG	CDBG-CV
Expenditure Timelines	*As much as possible by April 2022*	*June 20, 2024*
Eligibility	*Low-Income Neighborhood*	*Low-income neighborhood & MUST prevent, prepare for, or respond to Coronavirus*
Wi-Fi		
North Park		$5,000
South Park		$5,000
Optimist Park		$5,000
Pioneer Park		$5,000
Highland Park		$5,000
Central Park		$5,000
Arrowhead Park		$5,000
Comanche Park		$5,000
Wi-Fi Contingency @ 20%		$8,000
North Park		
ADA Enhancements		$7,500
Concrete walk bulb-out ADA		$6,678
12 month touchless water fountain		$3,600
Four room restroom		$217,000
Shelter near playground		$29,000
Enhanced air flow improvements		$20,000
Adult Exercise Equipment - 1st Stage	$63,700	$1,300
North Park Adult Exercise Equip - 2nd Stage (when additional CDBG revenue received)	$110,000	
Contingency @ 20%	$12,740	$57,016
Pioneer Park		
Zimmerman Building ADA	$7,500	
Restroom Repair / Upgrades		$12,000
Heritage Trail Improvements	$133,000	
Contingency @ 20%	$28,100	$2,400
Comanche Park		
Playground Equipment	$200,000	
Contingency @ 20%	$40,000	
Total Allocated	**$595,040**	**$404,494**

City Council Regular

Date: 12/20/2021

Title: Fast-Track Applications for CDBG-CV Public Services Projects

Presented by: Brenda Beckett

Department: Planning & Community Services

Presentation: Yes

RECOMMENDATION

Staff and the Community Development Board recommends the Cty Council allocate $150,000 in CARES Act Community Development Block Grant (CDBG-CV) and / or CDBG funding to facilitate fast-track public service awards to nonprofit organizations to meet the needs of low-income individuals and families impacted by the coronavirus pandemic.

Examples of eligible activities include emergency rent, mortgage, and / or utility assistance; mental health; healthcare; food assistance; adult education, job coaching, employment assistance; childcare and / or tutoring; non-congregant shelter; Wi-Fi to access social services; vaccination activities; etc.

Nonprofit organizations would submit an abbreviated application packet for up to $15,000 beginning in January 2022. Staff would review the packet for eligibility and compliance, and an awardee agreement would be forwarded to the City Administrator for approval. Services could begin in January and / or February.

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

Federal Funding Allocation: In September 2020, the City of Billings was awarded $909,126 in CARES Act Community Development Block Grant (CDBG-CV) funding to prevent, prepare for and respond to the coronavirus pandemic and benefit low-income households in the Billings community. The City must expend 80 percent of the CDBG-CV funding allocation within three years of the executed grant agreement following amendment submission to the United States Department of Housing and Urban Development (HUD).

Funding allocations totaling $354,540 have been committed for a downtown public restroom and hand washing facility, to a nonprofit organization to provide food to those in need, and for administration costs. A second round of funding allocation recommendations have been made for parks improvements (the Council is also considering the parks projects at this December 20 meeting). The Community Development Board has also recommended this fast-track application process for the remaining $150,000 in CDBG-CV funding to meet the needs of low-income households and to get the funding out into the community in a more expedient manner.

Fast-Track versus Routine Allocation Process

Fast Track: If approved, local social service agencies would be able to submit a packet for staff consideration and recommendation in January 2022 and services could begin shortly thereafter. The packet would include an eligibility checklist illustrating they are currently providing the service and have demonstrated need due to the pandemic and capacity to expand. Organizations would also be required to submit a signed awardee agreement, documentation of nonprofit status, financial information, governing body and organizational information, etc. The packets would be reviewed by Community Development staff and forwarded to the City Administrator for approval.

Routine Allocation Process: Organizations would submit an application by the end of January 2022. The Community Development Board would make recommendations in April and the City Council would take action on recommendations on April 25, 2022. Staff would facilitate awardee agreement signatures and services would

begin in May or June. The routine process, while viable, slows down the distribution of funds into the community by about 5 months and also might reach fewer low income residents with fewer projects.

Procedural History

- **December 2020:** AmeriCorps VISTA members released coronavirus surveys citywide and the **Coronavirus Response Initiative Report** was published and distributed.
- **February through March, 2020:** Community Development Board prioritized activities based on demonstrated needs identified by the Coronavirus Response Initiative Report.
- **May 2020:** The CDBG-CV online grant application was developed and released. Applications were received from the Downtown Business Improvement District, Inc. (BID) for the installation of a downtown public handwashing station / restroom ($117,715) and The Salvation Army for a mobile meals program ($55,000).
- **June 2021**: The Community Development Board recommended the City Council approve grant awards to the Downtown BID and Salvation Army. City Council approved grant awards on June 28 and both projects are moving forward.
- **August through November, 2021**: The Community Development Board shared concerns relative to public facility conditions in City parks. Board members toured city parks in low-income neighborhoods and prioritized recommendations for public facility improvements including touchless doors, water fountains, sinks, and ADA improvements.
- **December 7, 2021**: The Community Development Board approved a fast-tracking process to allocate $150,000 in grants up to $15,000 to local social service organizations.

STAKEHOLDERS

Stakeholders in this proposed fast-track process include:

- The fast-track process would speed up service access for low-income households that have been negatively impacted by the pandemic.
- Nonprofit organizations serving low-income populations without enough resources to meet demonstrated need.

ALTERNATIVES

City Council may:

1. Approve the fast-track CDBG-CV process to facilitate funding awards and service starting in January and February 2022; or
2. Not approve the fast-track CDBG-CV process. Under the routine process, funding awards and services would begin in May or June 2022.

FISCAL EFFECTS

The City received federal funding specifically to allocate to coronavirus activities and staff anticipates a fast-track allocation process would assist the City in meeting CDBG-CV expenditure deadlines. Negative fiscal effects are not anticipated.

SUMMARY

Staff and the Community Development Board recommend allocating $150,000 in CARES Act Community Development Block Grant (CDBG-CV) and / or CDBG funding to facilitate up to $15,000 for each fast-track public service award. Staff would review application packets for eligibility and make recommendations to the City Administrator for approval and award. This process is expected to significantly decrease the time it takes to allocate funding to organizations assisting those in need.

Attachments

Public Service Activities & Requirements

CD Staff Time Tracking & Draw Procedure

CDBG-CV Fast-Track
Public Service Activities & Requirements
Coronavirus Preparation, Prevention, and Response

Public Service Activity Categories	*Eligible Activities*	*Additional Terms & Conditions*	*Pandemic Impact*	
			Health Impact	*Economic Impact*
			No proof of lost income required	*Proof of lost income required*
Emergency Subsistence Payments	Short-term emergency payments, up to six months, made on behalf of low-income individuals to prevent homelessness including rent, mortgage, and / or utilities. Assistance cannot be provided for non-consecutive months.	• Beneficiaries must demonstrate financial unmet need including late payment, eviction, and / or shut-off communications for each month assistance is needed. • Payments must be made directly to the landlord, lender, or utility company. • Payments for water must exclude built-in costs for depreciation, operations, maintenance, and payments to external vendors. • Payments in arrears must include up to six consecutive months. • Payments cannot be made in advance for future months. • If rent or mortgage assistance is provided beyond 100 days, the organization's staff must conduct and document a Visual Assessment for Lead-Based Paint. Training is free and available online.		X
Mental Health Care Appointments, Case Management, Healthcare Appointments, Stress Management Programs, & Support Groups	• Payments must be made directly to the provider, not beneficiaries. • Activity delivery costs incurred for implementing and carrying out services including: ○ Employee salaries and benefits for those carrying out the activity. ○ Materials acquired, consumed, or expended to carry out the activity. ○ Vehicle or computer leasing costs. ○ Fuel costs related to carrying out the activity. ○ Equipment purchases may be eligible if the equipment is used solely and exclusively to carry out a public service activity.	Applicant organizations must demonstrate they have policies, procedures, and tracking mechanisms to monitor equipment location and use according to CDBG Property Disposition requirements. • Equipment must be controlled and monitored for at least five years. • Applicant organizations must demonstrate capacity to carry out free, open, and competitive processes when procuring equipment.	X	
Food Delivery, Food Boxes, Meal Distribution, & Food Pantries			X	
Adult Education, Job Coaching, Resume-Building, Literacy, Job Placement				X
Childcare, Summer and After School Programming for Children			X	
Child Education, Tutoring			X	

Public Service Activity Categories	*Eligible Activities*	*Additional Terms & Conditions*	*Pandemic Impact*	
			Health Impact	*Economic Impact*
			No proof of lost income required	*Proof of lost income required*
Non-Congregant Shelter	Per-diem costs to provide shelter for individuals needing isolation or quarantine.	• Applicant organizations must demonstrate Emergency Shelter Grant financial resources are unavailable to meet the need. • Beneficiaries must demonstrate medical necessity and inability to pay.	X	
Broadband and / or Wireless Internet Access for Services	Providing on-site computer and / or internet access to low-income individuals to increase access to the services an organization provides.	• Equipment cannot be purchased for beneficiaries for individual use. • Applicant organizations must demonstrate they have policies, procedures, and tracking mechanisms to monitor equipment location and use according to CDBG Property Disposition requirements. • Equipment must be controlled and monitored for at least five years. • Applicant organizations must demonstrate capacity to carry out free, open, and competitive processes when procuring equipment and services.	X	
Virtual Services Capacity	Increasing an agency's ability to provide a specific virtual service to low-income clients. This can include: • Software platforms • Broadband upgrades		X	
Vaccination and Public Health Activities	Providing testing, diagnosis, treatment, and vaccination services to benefit low-income populations.	All other funding sources must have been utilized prior to accessing CDBG-CV funding.	X	
FEMA Match	Services addressing pandemic health related needs in the community.		X	
Increased Frequency of Public Restroom Cleaning	Providing additional cleaning cycles for public restrooms in order to prevent the spread of the coronavirus.		X	

City of Billings - Community Development Division

Staff Time Tracking & Grant Draw Procedures

Community Development's time-tracking practices and accounting methods are continually monitored by the U.S. Department of Housing and Urban Development, the Corporation of National and Community Service, the City's Finance Department, and the City's external auditing team.

Staff Time Tracking

Personnel Expenses - 2 CFR 200.430:

> **(i)** ***Standards for Documentation of Personnel Expenses*** (1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:
>
> **(i)** Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;
>
> **(ii)** Be incorporated into the official records of the non-Federal entity;
>
> **(iii)** Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);
>
> **(iv)** Encompass federally-assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;
>
> **(v)** Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and
>
> **(vi)** [Reserved]
>
> **(vii)** Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

Each staff member has a spreadsheet with the grant programs they may be working in. They track the number of hours they spend for every day in the week. Here is an example:

Week Beginning	Monday						Tuesday					
	HOME		CDBG			VISTA	HOME		CDBG			VISTA
	HOME Admin	*Aff Hsg*	*COVID*	*Rehab*	*Foreclosure*		*HOME Admin*	*Aff Hsg*	*COVID*	*Rehab*	*Foreclosure*	
7/1/2020	Last fiscal year											
7/6/2020				0.25		7.75				3.00	1.50	3.50
7/13/2020			1.25	2.50	2.25	2.00				3.50	3.25	1.25
7/20/2020				1.00	4.50					1.25	6.75	
7/27/2020				0.50	2.50	5.00			0.50	5.25	1.75	0.50
8/3/2020			1.50	2.00		4.50			2.00	3.75		2.25
8/10/2020			4.00	1.00	0.75	2.25			4.25	0.75	0.50	2.50
8/17/2020			0.50	1.75	0.75	6.00			3.00	3.25	0.50	1.25
8/24/2020			0.75	2.25	0.50	4.50			0.50	4.25	2.75	0.50
8/31/2020				0.75		7.75			1.50	4.25	0.50	1.75
9/7/2020	Holiday									0.50	1.75	5.75
9/14/2020			1.00	0.75	3.50	2.75			3.50	0.50	1.25	2.75

Every quarter, Finance sends the Community Development manager the exact amount that was spent for each staff member in the Division for wages, unemployment insurance, industrial accident, health insurance, FICA, retirement, Medicare, etc.

The average percentage of time a staff member spends in each grant program is calculated every quarter. The personnel costs are then multiplied by the percentage for each grant program and drawn accordingly.

Internal Grant Draw Procedures

The City of Billings is tracking the expenses corresponding to the HUD grant years by reserving a different fund for each grant year. Expenses are tracked within the accounting system by type of expense in each grant year.

Quarterly reports:

1. During the quarter each expense and project is tracked in a fund that corresponds to the correct origin year.

2. At the end of the quarter, a report is pulled from the City's accounting system by the Finance Department and sent to the Community Development Manager.
    a. The report gives the quarter's budget (which matches the amount in IDIS), the amount expended year-to-date, and the amount left in the budget. This report also tracks the Revenue by Program Income or Entitlement.
    b. This report from the accounting software is entered by the Community Development Manager into a spreadsheet "Innoprise Draw Report" tracking the budgeted amount, the current quarter's expenses (difference between prior YTD amount and current YTD amount) and any necessary changes against the IDIS balance to determine the amount of the draw.
    c. Salaries and Benefits are tracked in a separate fund and are reallocated at the end of the quarter according to the time spent in each program per employee, not to exceed the budgeted amount in the funds.
        i. The HR Department pulls a payroll report by employee for the quarter (by the date paid) to be sent to Finance and the Community Development Manager.
        ii. The Community Development Manager allocates the salaries and benefits for each employee for each program by the number of hours tracked during the quarter – "Staff Allocations by Program".
    d. Necessary changes to the expenses during the quarter including the salaries allocation will be adjusted in the City's accounting software by journal entry to match the total expenses in each fund and the spreadsheet created by the Community Development Manager "Innoprise Draw Report".
    e. The Innoprise Draw Report also tracks the closed and pending loans by name and IDIS #.

3. A Quarter Draw Summary is created by the Community Development Manager.
    a. The Quarter Draw summary summarizes the IDIS number, and activity, the draw expected from IDIS and which grant year(s) and amount per grant year to be drawn.

4. The Community Development Manager tracks the sum total of the programs and grant years according to the Origin Year Test and the Program Year Test within the Community Development Drawdowns spreadsheet.
    a. The program year test is filled out per quarter to test that no more than 20% of Program Income and Entitlement shall be obligated.

b. The origin year test pulls the CDBG Administration amounts in the Quarter Draws Summary by Grant Origin Year and compares it to 20% of the total Entitlement funds for the origin year for Planning and Administrative Expenses. This is tracked over multiple years/quarters to compare the admin expense totals for the origin year.

5. The Community Development Manager also tracks the Program Income and Entitlement amounts by year in the spreadsheet entitled IDIS & Revenue Book to track which revenues are used by IDIS # and Activity.

6. The Innoprise Draw Report, Quarter Draw Summary, Community Development Drawdowns, and Staff Allocations by Program are returned to the Finance Department to create the journal entry for changes and compare the final amounts to the City's accounting system. After the Journal Entry, the balance of the City should match the Innoprise Draw Report. The difference between the final City balances (Budget less Actual) at the end of the quarter, less the balance of the IDIS report on the website should equal the draw amount.

7. Once compared, the Community Development Manager reports the projects within the IDIS system.

City Council Regular

Date:	12/20/2021
Title:	Downtown Billings Partnership - Tax Increment Assistance - Montana Avenue Pedestrian Crossing Flashing Beacon
Presented by:	Wyeth Friday
Department:	Planning & Community Services
Presentation:	Yes

RECOMMENDATION

The Downtown Billings Partnership (DBP) Board has re-reviewed this TIF funding request from the Historic Montana Avenue Association (HMAA) in coordination with the City of Billings Public Works Department, Montana Department of Transportation and the Downtown Billings Alliance, and recommends the City Council approve up to $15,000 from Downtown Urban Renewal tax increment finance district funds to upgrade (1) pedestrian crossing along Montana Avenue with pedestrian-activated, rectangular, rapid flashing beacons (RRFB). Actual expenditure will be based upon 100% of the actual costs incurred for the pedestrian crossing installation.

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

The application was vetted by DBP and City staff, and the project funding recommendation was presented to the DBP Board at its meeting on November 19, 2021. The DBP Board made its recommendation to City Council to fund the project at that meeting. The project is planned as an initial pilot project to increase the safety of pedestrians crossing Montana Avenue and prepare for a larger street reconfiguration project of Montana Avenue in the next few years in coordination with the City and MDT. The future project would follow the recommendations of the City's 2019/2020 Downtown Traffic Study by reducing the travel lanes to two, reconfiguring parking, improving crosswalks, including adding additional rapid flashing beacon crossings, and looking to add a bike lane. Currently, Montana Avenue businesses and visitors are dealing with vehicles traveling at high rates of speed, three lanes of traffic to cross, and unlit crossing zones for pedestrians. HMAA Members in support of this project include the Billings Depot, Griffin Development, Computers Unlimited, The Marble Table, First Montana Title, Dickey’s BBQ, Buchanan Capital, Liberty & Vine, and BarMT.

The DBP Board and HMAA support the project and found it was a very strong match for accessing urban renewal funds because:

- It adds an important piece of public safety infrastructure to the Montana Avenue Corridor
- It may reduce the rate of vehicle speeds when pedestrians want to cross
- It will improve walkability for the Montana Avenue district
- It provides a greater sense of safety for visitors and Billings residents on Montana Avenue
- It aligns with Crime Prevention Through Environmental Design practices promoting safe environments
- It may reduce the threat of vehicle accidents along Montana Avenue
- 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
- It conforms to the 27th Street District Urban Renewal Plan.

The DBP Board and HMAA is recommending 100% TIF funding towards this safety improvement because it is purely public infrastructure and traffic/pedestrian safety related. If this request is approved by the Council, its outcome will benefit the public where pedestrians feel safer, accidents may be reduced, and businesses can continue to thrive.

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, the HMAA, DBP and City will have to find other sources of funds to install this pedestrian safety infrastructure.

FISCAL EFFECTS

In July of 2020, the City sold TIF bonds ($2,038,253) to fund improvements to the Parking Garages, the one-way to two-way street conversions for North 29th and North 30th, and other eligible City improvements downtown. As a result of the City receiving bids that were better than expected, and the Engineering division managing significant savings on the street project, there is approximately $177K remaining from the bond sale to be used on eligible City improvements downtown. Staff is recommending that a portion of these funds be used to purchase and install the crossing signal, not to exceed $15,000. The estimate includes parts, labor, and installation.

Attachments

Crosswalk Project TIF Request and Description

Example Crosswalk Photos

2008 Downtown Urban Renewal Plan

City TIF Policy

Action Item **Agenda Item 3-b**

Meeting Date: Friday, November 19, 2021, 7:30 am

Location: The Post/Billings Depot

RE: Montana Avenue Pedestrian flashing beacons TIFD Assistance

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Background:

On behalf of the Historic Montana Avenue Association (HMAA), the Billings Depot is submitting an application for TIF funding towards one Pedestrian Crosswalk project.
At some point in the day, everyone is a pedestrian, and unfortunately pedestrian incidents in Billings remain high. Specifically, on Montana Avenue, high rates of speed, three lanes of traffic, and unlit crossing zones make it extremely unsafe for pedestrians.

HMAA would like to request TIF funding to upgrade (1) pedestrian crossing along Montana Avenue with pedestrian-activated, rectangular, rapid flashing beacons (RRFBs). As this is a state highway, HMAA has already addressed this safety concern with MDT and has received authorization for this project. Each RRFB comes as a set of 2 and costs an estimated $15,000 per set. The estimate includes parts, labor, and installation.

HMAA thinks the benefit of this project will support the following outcomes:

- Reduce rate of speed when pedestrians want to cross
- Improve walkability for the Montana Avenue district
- Provide greater sense of safety for visitors and Billings residents
- Align with CPTED practices promoting safe environments
- Reduce threat of vehicle accidents along Montana Avenue

HMAA Members in support of this project:

• Billings Depot	• Griffin Development	• Computers Unlimited
• The Marble Table	• First Montana Title	• Dickey's BBQ
• Buchanan Capital	• Liberty & Vine	• BarMT

Proposal:

HMAA is requesting 100% TIF funding towards this improvement because it is purely infrastructure and traffic related. If successful, its outcome will benefit the public where pedestrians feel safer, accidents are reduced, and businesses can continue to thrive.

Financials:

If recommended/approved, the City of Billings will be able to order parts and schedule installation. FY22 has enough excess funds for miscellaneous projects. $15,000 would be taken out of Fund203 to pay for this project.

This is a similar Rapid Flashing Beacon Pedestrian Crossing installation at Virginia Lane and Avenue E to what would be installed on Montana Avenue.

This is a similar Rapid Flashing Beacon Pedestrian Crossing installation at Virginia Lane and Avenue E to what would be installed on Montana Avenue. The crossing is pedestrian activated to trigger the flashing lights.

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.

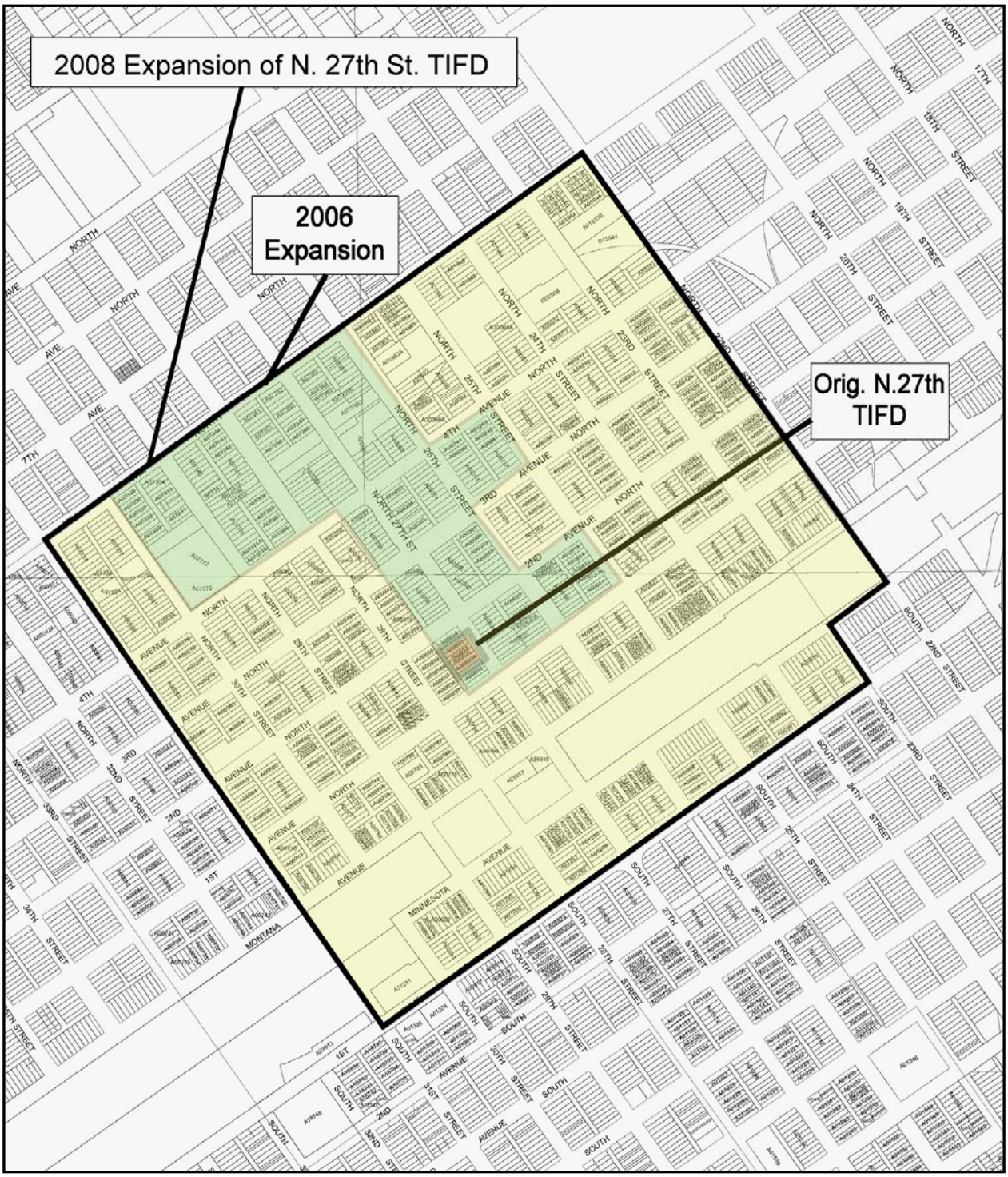
_____
Ron Tussing, Mayor

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

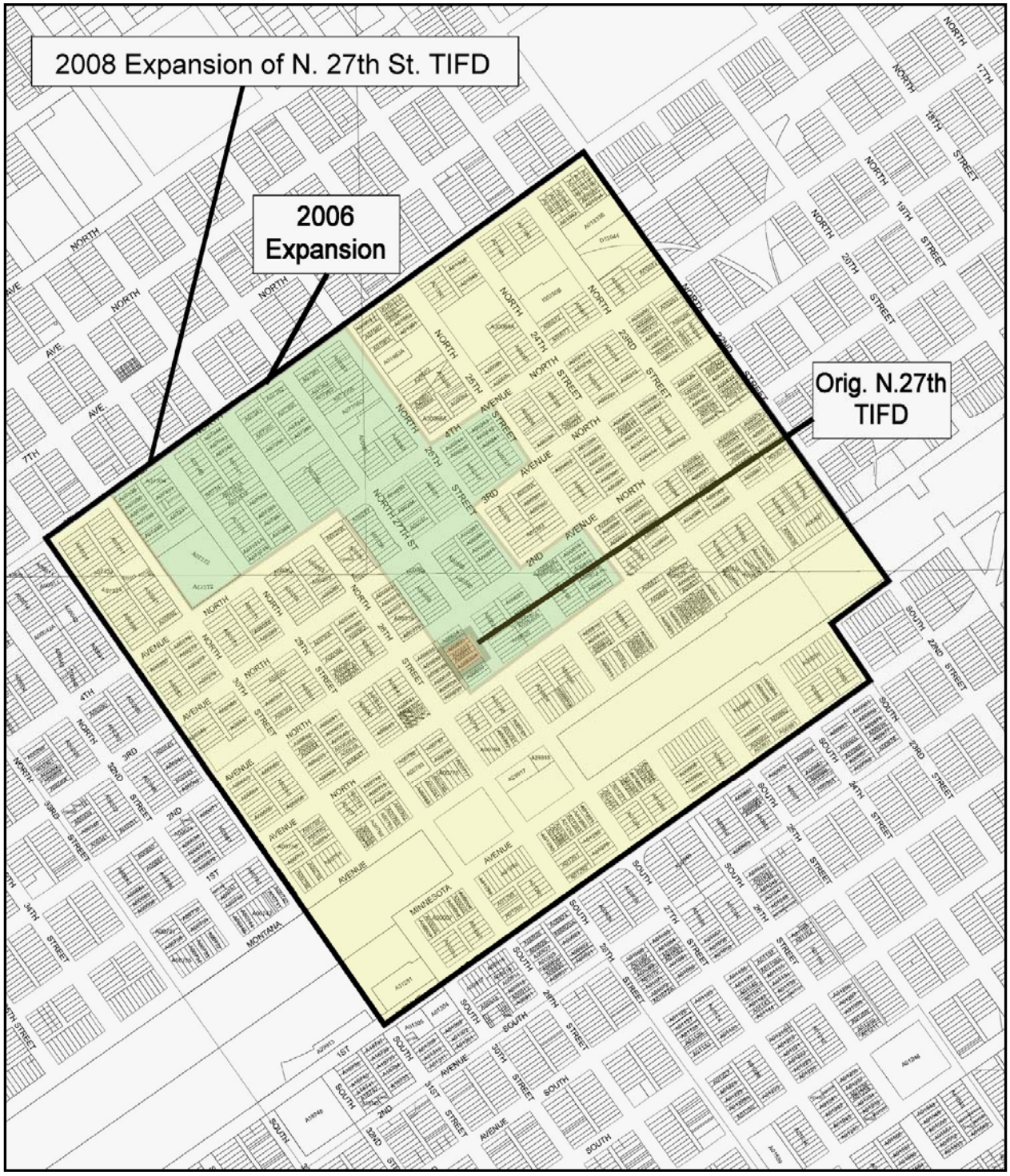
As noted, the expanded North 27th Street Urban Renewal Area comprises most of the Central Business District (CBD) of the City of Billings.

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

City Council Regular

Date:	12/20/2021
Title:	Law and Justice Center/City Hall Design Contract
Presented by:	Iverson Jessica
Department:	City Hall Administration
Presentation:	Yes

RECOMMENDATION

Staff recommends Council approve a professional services design contract to JLG Architects for Phase I of the Law and Justice Center/City Hall design project.

- Master planning, schematic planning, and preliminary design phase: $195,000.00
- Reimbursables: Not to exceed $12,500.00

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

The City of Billings recently purchased the "Stillwater Building" located at 316 N. 26th Street to meet the City's current and future facilities needs by remodeling the building for a Law and Justice Center and City Offices. A design RFP was issued on October 14, 2021, and advertised on October 15 and 22, 2021. Four proposals were received by November 10, 2021.

The RFP selection committee reviewed the proposals and selected two finalists for interviews after the initial review. Interviews were conducted the week of November 22nd, and the committee selected JLG Architects based on the following criteria:

- Firm Experience
- Project Manager
- Key Project Staff and Consultants
- Available Resources and Consultant Location
- Project Methodology and Approach

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve

FISCAL EFFECTS

The costs for design services will be funded by the General Fund.

Phase I design service contract cost: $195,000.00 plus $12,500.00 allowance for reimbursable expenses

Phase II design service contract cost: Estimated to be $670,000.00 - $828,000.00, depending on final scope of services determined during phase I design process

Attachments

Design Contract for Phase 1 of City Hall Project

Contract for Professional Architectural and Engineering Services

Project: Law & Justice Center/City Hall Offices – Phase I

This agreement is made and entered into _____, by and between **City of Billings, Montana,** a municipal corporation organized and existing under the laws of the State of Montana, PO Box 1178, Billings, MT 59103, and **JLG Architects,** 416 E. Main Ave, Bismarck, ND 58501**,** agree as follows.

This Contract consists of the following documents, which are incorporated by reference:

Part I, consisting of 15 Sections of Special Provisions;

Part II, consisting of 11 Sections of General Provisions;

Appendix A consisting of Original RFP including ***Scope of Services***

Appendix B consisting of JLG Proposal

Appendix C consisting of JLG Fee Proposal

Appendix D consisting of Project Schedule

Appendix E consisting of Certificate(s) of Insurance

PART I
SPECIAL PROVISIONS

Section 1. Definitions.

In this Contract:

A. "Administrator" means the City of Billings Building and Facilities Manager, Jessica Iverson, or her designee.
B. “Billings” means the City of Billings.
C. "Consultant" means JLG Architects and designated Project Manager, Nick Lippert, AIA.

Section 2. Scope of Services.

A. The Consultant shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this Section by reference. The basic scope includes:

Phase I: Master Planning and Preliminary Design

The Consultanat will develop a comprehensive Master Plan for the City of Billings for remodeling approximately 100,000 sq ft of the recently acquired building located at 316 N 26th Street, for a new Law and Justice Center and City Offices, which will include the following departments:

- City Administration
- City Attorney
- City Council
- Facilities Management
- Finance
- Human Resources
- Information Technology (IT)
- Municipal Court
- Parks, Recreation and Public Lands – Administration
- Building
- Planning
- Community Development
- Code Enforcement
- Police – Administration/Records
- Police – Detectives
- Police – Drug & Fugitives
- Public Works Administration
- Engineering

Support and shared spaces, such as community space, conference rooms, break rooms and collaboration spaces of different sizes must be incorporated into the design.

Phase I report should include a detailed plan for each department's build-out, recommended location and area for each department within the building and methodology for co-locations with other departments. Proposal shall include costing and evaluation of options, including recommendations regarding sequencing and phasing.

The firm should analyze existing facilities and processes, develop conceptual designs and be detailed enough to derive good cost estimates of approved concepts.

B. Billings shall pay the Consultant in accordance with the Schedule of Professional Fees attached as Appendix C and incorporated herein by reference for services

actually performed under this Contract. This contract incorporates only 'Phase I' fees including base fee ($195,000.00) plus reimbursibles (not to exceed $12,500.00) as outlined in the Fee Schedule.

C. Billings shall not allow any claim for services other than those described in this Section. However, the Consultant may provide, at its own expense, any other services that are consistent with this Contract.
D. The Consultant shall provide deliverables as outlined in the Scope of Services in Appendix A for Phase I in hard copy and digital format, as approved by the City of Billings, to the Administrator.

Section 3. Time for Performance.

A. This Contract becomes effective when signed on behalf of Billings.
B. The Consultant shall commence work upon execution of the contract and complete Phase I deliverables in accordance with the schedule set forth in Appendix D. The Consultant understands and acknowledges that time is of the essence in completing the work set out in this Contract.
C. This Contract shall terminate at midnight on May 1, 2022.

Section 4. Compensation; Method of Payment.

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

Section 5. Termination of the Consultant's Services.

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

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

Section 6. Duties Upon Termination

A. If Billings terminates the Consultant's services for convenience, Billings shall pay the Consultant for its actual costs reasonably incurred in performing before termination and Billings shall pay for services rendered prior to termination. Payment under this Subsection shall never exceed the total compensation allowable under Section 4 of this Part. All finished and unfinished documents and materials prepared by the Consultant shall become the property of Billings.
B. If the Consultant's services are terminated for cause, Billings shall pay the Consultant the reasonable value of the services satisfactorily rendered prior to termination, less any damages suffered by Billings because of the Consultant's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed ninety percent (90%) of the total compensation allowable under Section 4 of this Part. Any finished or unfinished documents or materials prepared by the Consultant under this Contract shall become the property of Billings at its option.
C. If the Consultant receives payments exceeding the amount to which it is entitled under Subsections A or B of this Section, he shall remit the excess to the Administrator within 30 days of receiving notice to do so.
D. The Consultant shall not be entitled to any compensation under this Section until the Consultant has delivered to the Administrator all documents, records, Work product, materials and equipment owned by Billings and requested by the Administrator.
E. If the Consultant's services are terminated for whatever reason, the Consultant shall not claim any compensation under this Contract, other than that allowed under this Section.
F. If a final audit has not been performed before the Consultant's services are terminated, Billings may recover any payments for costs disallowed as a result of the final audit. The Consultant reserves the right the selected auditor and be involved in the drafting of the directives for the audit. There are to be no ex parte meetings between anyone and the auditor.
G. Except as provided in this Section, termination of the Consultant's services under Section 5 of this Part does not affect any other right or obligation of a party under this Contract.

Section 7. Insurance.

A. The Consultant shall maintain in continuous effect the insurance described in Subsection B of this Section. Before rendering any services under this Contract, the Consultant shall furnish the Administrator with proof of insurance in accordance with Subsection B of this Section.
B. The Consultant shall provide the following insurance:

    1. Workers' compensation and employer's liability coverage as required by Montana law.
    2. Commercial general liability, including contractual and personal injury coverage's -- $2,000,000.00 per occurrence.
    3. Commercial automobile liability -- $2,000,000.00 per accident.

4. Professional liability in the amount of $2,000,000.00 per claim.
5. $5,000,000.00 aggregate coverage.

C. Each policy of insurance required by this Section shall provide for no less than 30 days' advance notice to Billings prior to cancellation.
D. Billings SHALL be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies. In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against Billings.

Section 8. Assignments.

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

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

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

Section 10. Notices.

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

Billings: City of Billings
Jessica Iverson
Building and Facilities Manager
2825 3rd Ave N
4th Floor
Billings, Montana 59101 Email: iversonj@billingsmt.gov

Consultant: JLG Architects
Nick Lippert, AIA
301 2nd St E
Suite A
Williston, ND 58801 Email: nlippert@jlgarchitects.com

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

Section 11. Contract Budget.

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

Section 12. Force Majeure.

A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
B. As used in this Contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this Contract, including without limitation:

1. Any interruption, suspension or interference resulting solely from the act of Billings or neglect of Billings not otherwise governed by the terms of this Contract.
2. Strikes or Work stoppages.
3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
4. Order of court, administrative agencies or governmental officers other than Billings.

Section 13. Financial Management System.

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

A. Provides accurate, current, and complete disclosure of all financial transactions relating to the Contract;
B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Consultant's performance

under this Contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;

C. Effectively controls and accounts for all municipal funds and Contract property;
D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;
E. Allocates administrative costs to direct service delivery units;
F. Minimizes the time between receipt of funds from Billings and their disbursement by the Consultant;
G. Provides accounting records supported by source documentation; and
H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

In the event that any funding source for this Contract should impose additional requirements upon Billings for the use of those funds, the Consultant agrees to abide by those additional requirements immediately, to the extent they are able to, upon receipt of written notice thereof from Billings. Consultant and owner shall negotiate procedures to accommodate requirements.

Section 15. Subcontracts.

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

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

PART II
GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

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

Section 2. Nondiscrimination.

A. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability" (as that phrase is defined in the Americans With Disabilities Act of 1990). The Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical impairment/disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Consultant agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
B. The Consultant shall state, in all solicitations or advertisements for employees to Work on Contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.
C. The Consultant shall comply with any and all reporting requirements that may apply to it which the City of Billings may establish by regulation.
D. The Consultant shall include the provisions of Subsections A through C of this Section in every subcontract or purchase order under this Contract, so as to be binding upon every such sub-consultant or vendor of the Consultant under this Contract.
E. The Consultant shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.
F. The Consultant and sub-consultant shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime consultants, contractors, and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.
G. The Consultant and subcontractor shall abide by the requirements of 41 CRF 60-1.4, which states employees or applicates may not be discharges or in any other manner discriminated against because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees

or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the Consultant's legal duty to furnish information.

Section 3. Permits, Laws, and Taxes.

The Consultant shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this Contract. All actions taken by the Consultant under this Contract shall comply with all applicable statutes, ordinances, rules and regulations. The Consultant shall pay all taxes pertaining to its performance under this Contract.

Section 4. Nonwaiver.

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

Section 5. Amendment.

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

    Consultant: Jennifer Burke-Jackson, Principal Architect AIA

    Billings: City Council or Authorized Designee

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

Section 6. Jurisdiction; Choice of Law.

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

Section 7. Severability.

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

Section 8. Integration.

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

Section 9. Liability.

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

A. The Consultant shall not indemnify, defend, save and hold Billings harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Billings occurring during the course of or as a result of the performance of the Contract.
B. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Consultant, the Consultant shall indemnify, defend, save, and hold Billings harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the Consultant's or any sub-consultant's wrongful or negligent acts occurring as a result from the Consultant's performance pursuant to this Contract.

Section 10. Inspection and Retention of Records.

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

Section 11. Availability of Funds.

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

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

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BILLINGS, MONTANA

_____

WILLIAM A. COLE,
MAYOR

APPROVED AS TO FORM:

_____

CITY ATTORNEY'S OFFICE

ATTEST:

_____

DENISE BOHLMAN, CITY CLERK

JLG ARCHITECTS

_____

SIGNATURE

_____

PRINT NAME

_____

PRINT TITLE

Appendix 'A'

REQUEST FOR PROPOSALS

Architectural and Engineering Services for New City Hall Facility Remodel

Requested by:
City of Billings Facilities Division

October 14, 2021

CITY OF Billings

Request For Proposals
Table of Contents

SECTION 1: GENERAL INFORMATION

SECTION 2: RULES GOVERNING COMPETITION

SECTION 3: SCOPE OF WORK

SECTION 4: PROPOSAL AND SUBMISSION REQUIREMENTS

SECTION 5: EVALUATION CRITERIA AND SELECTION PROCESS

ATTACHMENT A – CONDITIONS AND NON-COLLUSION FORM

ATTACHMENT B – MASTER Q & A FORM

ATTACHMENT C – INTENT TO RESPOND FORM

ATTACHMENT D – SUPPLIER CONTACT INFORMATION

SECTION 1: General Information

1.1 Purpose

The City of Billings is soliciting proposals from qualified Consultants to provide architectural and engineering design services necessary to remodel an existing building the City purchased located at 316 N 26th St W, Billings, MT, 59101.

The selected firm may be required to make an oral presentation to City Council. The selected firm must have extensive experience in Municipal Facility Design, specifically with courts, police, city department operations, and centralized city services.

Respondents must provide at least three references for projects demonstrating said experience. Respondents shall provide reference contact information for verification.

Respondents must provide a comprehensive narrative explaining their process and approach to planning, design, and execution of this project.

A. **Phase I –** The successful firm will develop a comprehensive plan for the City of Billings for a phased build-out of the New City Hall facility to meet current and future needs of the city departments to be relocated to the facility. The firm should analyze existing facilities and processes, develop conceptual designs and provide enough detail to derive good cost estimates of approved concepts.

B. **Phase II –** Upon completion of Phase One and approval of funding, the City of Billings intends to retain the successful firm to provide final design and specifications for Bidding documents and Construction Administration Services for adherence to specifications and design throughout the project.

The firm will work closely with City Staff to develop an understanding of the needs and the processes within the individual departments and divisions, as well as citywide needs.

The New City Hall Facility plan should include consideration of the findings within the City's Facilities Master Plan developed with CTA Architects Engineers and CGL Companies in September of 2015 and revised in December of 2019.

1.2 General Submission Information

The Facilities Division intends to award a single contract for architectural and engineering services. The proposal should address the Consultant's capabilities for performing all aspects of the project development process while presenting specific project information and substantiating the Consultant's methodologies and approach for completing the work requested.

1.3 Questions

Questions regarding this proposal shall be submitted by using **Attachment B: Master Q & A Form,** and submit to:

City of Billings
Attention: Jessica Iverson
Building and Facilities Manager
2528 3rd Ave N, 4th Floor
Billings, MT 59101
406-657-8271
iversonj@billingsmt.gov

1.4 Preparation Costs

The City shall not be responsible for proposal preparation costs, nor for costs including attorney fees associated with any (administrative, judicial or otherwise) challenge to the determination of the highest-ranked Proposer and/or award of contract and/or rejection of proposal. By submitting a proposal each Proposer agrees to be bound in this respect and waives all claims to such costs and fees.

SECTION 2: Rules Governing Competition

2.1 Examination of Proposals

Proposers should carefully examine the entire RFP, any addenda thereto, and all related materials and data referenced in the RFP. Proposers should become fully aware of the nature of the Work and the conditions likely to be encountered in performing the Work.

2.2 Proposal Acceptance Period

Award of this proposal is anticipated to be announced within **forty-five (45) calendar days**, although all offers must be completed and irrevocable for **ninety (90) days** following the submission date.

2.3 Confidentiality

The content of all proposals will be kept confidential until the selection of the Contractor is publicly announced. At that time the selected proposal is open for review. After the award of the Contract, all proposals will then become public information.

2.4 Proposal Format

Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of the Proposer's capabilities to satisfy the requirements of this RFP. Emphasis should be placed on:

- Conformance to the RFP instructions
- Responsiveness to the RFP requirements
- Overall completeness and clarity of content

2.5 Signature Requirements

All proposals must be signed. An officer or other agent of a corporate vendor, if authorized to sign Contracts on its behalf; a member of a partnership; the owner of a privately owned vendor; or other agent if properly authorized by a Power of Attorney or equivalent document may sign a proposal. The name and title of the individual(s) signing the proposal must be clearly shown immediately below the signature.

2.6 Proposal Submission

Five (5) hard copies, with one electronic copy (PDF on thumb drive or emailed to iversonj@billingsmt.gov), of the proposal must be received by the City prior to 4:00 PM, Wednesday, November 10, 2021. Proposals shall be mailed to:

City of Billings
Attention: Jessica Iverson
Building and Facilities Manager
2825 3rd Ave N, 4th Floor
Billings, MT 59101

2.7 News Releases

News releases pertaining to the award resulting from the RFPs shall not be made without prior written approval of the City of Billings Facilities Division.

2.8 Disposition of Proposals

All materials submitted in response to this RFP become the property of the City of Billings. One copy shall be retained for the official files of the Facilities Division and will become public record after award of the Contract.

2.9 Modification/Withdrawal of Proposals

A respondent may withdraw a proposal at any time prior to the final submission date by sending written notification of its withdrawal, signed by an agent authorized to represent the agency. The respondent may thereafter submit a new or modified proposal prior to the final submission date. Modifications offered in any other manner, oral or written, will not be considered. A final proposal cannot be changed or withdrawn after the time designated for receipt, except for modifications requested by the City after the date of receipt and following oral presentations.

2.10 Oral Change/Interpretation

No oral change or interpretation of any provision contained in this RFP is valid whether issued at a pre-proposal conference or otherwise. Written addenda will be issued when changes, clarifications, or amendments to proposal documents are deemed necessary by the Municipality.

2.11 Late Submissions

PROPOSALS NOT RECEIVED PRIOR TO THE DATE AND TIME SPECIFIED IN THE ADVERTISEMENT (4:00 PM, November 10, 2021) WILL NOT BE CONSIDERED AND WILL BE RETURNED UNOPENED AFTER RECOMMENDATION OF AWARD.

2.12 Rejection of Proposals

The City of Billings reserves the right to reject any or all proposals if determined to be in the best interest of the City.

SECTION 3: Scope of Work

3.1 Type of Services

Below is a general outline of the anticipated scope of work. However, the final scope of work will be negotiated with the successful proposer.

Phase I: Master Planning and Preliminary Design

The successful firm will develop a comprehensive Master Plan for the City of Billings for remodeling approximately 100,000 sq ft of the recently acquired building located at 316 N 26th Street, for a new Law and Justice Center and City Offices, which will include the following departments:

- City Administration
- City Attorney
- City Council
- Facilities Management
- Finance
- Human Resources
- Information Technology (IT)
- Municipal Court
- Parks, Recreation and Public Lands – Administration
- Building
- Planning
- Community Development
- Code Enforcement
- Police – Administration/Records
- Police – Detectives
- Police – Drug & Fugitives
- Public Works Administration
- Engineering

Support and shared spaces, such as community space, conference rooms, break rooms and collaboration spaces of different sizes must be incorporated into the design.

Phase I report should include a detailed plan for each department's build-out, recommended location and area for each department within the building and methodology for co-locations with other departments. Proposal shall include costing and evaluation of options, including recommendations regarding sequencing and phasing.

The firm should analyze existing facilities and processes, develop conceptual designs and be detailed enough to derive good cost estimates of approved concepts.

Phase II: Final Design Services

The successful firm will provide final design services and provide final detailed drawings and specifications for the City's Bidding Documents and provide some construction oversight services to assure compliance of construction to design and meeting all specifications and best construction standards. The professional services will include, but not necessarily be limited to the following:

1. Meet with City Staff as necessary.
2. Obtain programming information as necessary and determine a base layout.
3. Conduct multiple design review meetings with Staff to meet needs of the City.
4. Provide schematic layouts and designs in electronic formats as well as printed; prepare plans, specifications and other supporting documents to be merged with City Bid Documents.
5. Answer questions during the bid process and issue addenda, if needed.
6. Administer pre-bid walk-through, participate in bid opening, tabulation and make recommendations for bid award.
7. Provide Construction oversight and quality control until project completion, including collection of operating manuals, warranties, and provide as-built documents to City.
8. Conform to all City of Billings Contractual obligations and procedures through project completion.
9. Coordinate as necessary with permitting agencies including plan review and all utilities or others as needed.
10. Comply with all Federal, State and Local Laws, regulations and guidelines pertaining to this project. Comply with current ADA Laws and coordinate with the City any specific questions to assure compliance. Meet or exceed all applicable industry standards.
11. Perform to budgetary figures and make necessary changes or adjustments if Bids exceed Budget.
12. Present final design to appropriate City Staff and Management, keeping in mind that this could include more than one presentation.
13. Provide all necessary printing and published reports, presentations, or other materials.

3.2 Scope of Professional Services

Professional service desired by this RFP include, but are not limited to:

1. Possess extensive experience in designing Municipal Facilities including at least 3 projects of a scope this size or larger with the past five (5) years.
2. Possess extensive knowledge of current trends in municipal and office environments, court operations, police departments, customer service areas, along with the most recent best practices and standards to maximize efficiency and operational productivity.
3. Provide critical analysis, assessments and recommendations to guide the work.
4. Conduct options meetings with Staff to arrive at final recommendations.
5. Provide accurate professional estimates to determine budgetary funding.
6. Comply with current building codes and ADA requirements.
7. Comply with all Federal, State, and Local requirements.

3.3 Project Development Schedule:

The proposed project schedule is:

RFP/legal ad done:	10/12/2021
Advertise:	10/15/2021 & 10/22/2021
Preliminary Council memo due:	11/24/2021
Proposals must be received by 4:00PM:	11/10/2021
Evaluate and choose:	11/11/2021 - 11/23/2021
Contract Negotiations:	11/24/2021 - 11/30/2021
Finalized Council memo and contract due:	12/2/2021
Council meeting:	12/13/2021
Bid set complete:	May 2022
Bid Construction Contract:	June 2022
Begin Phase 1 Construction:	July 2022
Complete Phase 1 Construction:	Early 2023

(Actual schedule to be discussed and agreed to with selected consultant)

SECTION 4: Proposal and Submission Requirements

To achieve a uniform review process and obtain the maximum degree of comparability, the proposals shall be organized in the manner specified below. Proposals shall not exceed three (3) pages in length (**excluding** resumes, title page(s), index/table of contents, attachments, or dividers). Information in excess of those allowed will not be evaluated/scored. One page shall be interpreted as

one side of single-spaced, typed (11 pt font or greater), 8½" X 11" sheet of paper. Firms are encouraged to include resumes and any applicable past projects in an appendix that will **NOT** count toward the pages of the narrative.

The submittal shall include a provision under Section 4.4.D - Available Resources for notifying the Facilities Division within thirty (30) days of any changes of personnel that are included in this statement and the addition to the Consultant's staff of personnel who may contribute to the discipline specialties for which the Consultant has been selected. The City reserves the right to approve all personnel changes. The Department also reserves the right to cancel any task request in effect should it determine that the proposed staff is not available or assigned to the task order.

4.1 Title Page (1 Page)

Show the RFP project name, the name of your firm, address, telephone number(s), name of contact person, and date.

4.2 Letter of Transmittal (Limited to 1 Page)

A. Identify the RFP project or contract for which proposal has been prepared.
B. Briefly state your firm's understanding of the services to be performed and make a positive commitment to provide the services as specified.
C. Provide the name(s) of the person(s) authorized to make representations for your firm, their titles, address, and telephone numbers.
D. The letter of each proposal must be signed by a corporate officer or other individual who has the authority to bind the firm. The name and title of the individual(s) signing the proposal must be clearly shown immediately below the signature.

4.3 Table of Contents (1 Page)

Clearly identify the materials by Section and Page Number.

4.4 Proposal Narrative (Limited to 3 Total Pages)

A. Firm Experience (0-30 Points)

1. Detail the firm's experience in the same or similar areas of expertise, stability, and its adaptability to providing the required services.
2. Provide at least three references for which your firm has provided the same or similar services. Include a point of contact, current telephone number, and a brief description of the services provided.

3. Identify your firm's performance on similar projects, especially noting City work, City work in the project area, and task work of this type. Provide a point of contact for all City work identified. A current telephone number should also be provided if applicable.

B. Project Manager (0-15 Points)

Provide detailed information on the qualifications and relevant experience of the Project Manager as it relates to the required services. Include project reference contact name(s) and current telephone number(s).

C. Key Project Staff and Subconsultants (0-15 Points)

Identify key project staff, task leaders, and subconsultants, along with their availability, expected to provide services on behalf of the firm. Resumes should be included, in an appendix that will **NOT** count toward the page count of the narrative, for each of the individuals and subconsultants referenced, which details their relevant experience. Performance on projects, especially City, should be noted.

D. Available Resources and Consultant Location (0-15 Points)

1. Provide information on personnel resources available to your firm, which indicates that you have access to the services necessary to perform the work in the time available and within the required standard.
2. Describe the firm's location where the primary services are to be provided and the ability to meet in person with department personnel when required during the performance of the Contract.

E. Project Methodology and Approach (0-25 Points)

Provide detailed information on the firm's methodology in meeting the scope of work requirements identified in Section 3. Describe overall approach to include special considerations, which may be envisioned in scoping, completing, and managing small tasks. Provide detailed information on the Project Manager's role in scoping tasks with the City and working with key staff or task leaders.

F. Total Possible Score (100 Points)

SECTION 5: Evaluation Criteria and Selection Process

5.1 Evaluation Criteria

Submittals will be evaluated in accordance with the following criteria:

A.	Firm Qualifications and Experience	**0-30 Points**
B.	Project Manager	**0-15 Points**
C.	Proposed Project Staff and Subconsultants	**0-15 Points**
D.	Available Resources and Firm Location	**0-15 Points**
E.	Project Methodology and Approach	**0-25 Points**
	Maximum Score	**100 Points**

A committee of individuals representing the City of Billings will perform evaluation of the proposals. The committee will rank the proposals as submitted.

The City of Billings reserves the right to award Contract(s) solely on the written proposal.

The City also reserves the right to request oral interviews with the highest-ranked firms (short-list). The purpose of the interviews with the highest-ranking firms is to allow expansion upon the written responses. If interviews are conducted, a maximum of three firms will be short-listed. A second score sheet will be used to score those firms interviewed.

The final selection will be based on the total of all evaluators' scores achieved on the second rating. The highest-ranked Proposer(s), after the second scoring, if performed, may be invited to enter into final negotiations with the City for the purposes of Contract Award.

SECTION 6: Contract Negotiation Process

The highest-ranked Proposer(s) may be invited to enter into Contract negotiations with the City of Billings. If an agreement cannot be reached with the highest-ranked Proposer, the City shall notify the Proposer and terminate negotiations. The second highest Proposer may be contacted for negotiations. This process may continue until successful negotiations are achieved. However, the City reserves the right to terminate negotiations with any Proposer should it be in the City's best interest. The City of Billings reserves the right to reject any and all proposals submitted.

ATTACHMENT A

CONDITIONS AND NON-COLLUSION FORM

To receive consideration, this form must be signed in full by a responsible, authorized agent, officer, employee or representative of your firm.

CONDITIONS AND NON-COLLUSION AGREEMENT

We have read and agree to the conditions and stipulations contained herein and to the Standard Terms and Conditions contained on the attached.

We further agree to furnish the services specified at the prices stated herein, to be delivered to the location and on that date set forth herein.

In signing this proposal, you also certify that you have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a proposal; that this proposal has been independently arrived at without collusion with any other proposer, competitor or potential competitor; that this proposal has not been knowingly disclosed prior to the due date and time to any other proposer or competitor; that the above statement is accurate under penalty of perjury.

Legal Name of Firm/Corporation	Authorized Signature
Address	Printed Name
City/State/Zip	Title
Date	Telephone Number

ATTACHMENT B

MASTER Q & A FORM

PROJECT: City Hall Design RFP

Master Q&A	Any questions regarding this Request for Proposals should be submitted according to the process outlined below. The City will make every effort to answer within two (2) days of receiving the questions.
Q&A Process	1. Prepare questions or concerns on the template provided. 2. Complete the table in full, providing a date for each question and a section of the RFP to reference (if applicable). 3. Submit the completed form via email to iversonj@billingsmt.gov . Attach associated documents as necessary. Please contact Jessica Iverson (406-657-8271) with any questions regarding this process.

Questions from: _____ Company: _____

Email Address: _____

#	Date	Reference Section	Question or Comment	City Response
1				
2				
3				
4				

ATTACHMENT C

INTENT TO RESPOND FORM

RFP: City Hall Design RFP **Dated_____**

Fax or email the following Intent to Respond form to within two (2) days of RFP date even if your company chooses NOT to participate in the RFP.

To: **City of Billings**
Attn: Jessica Iverson
Email: iversonj@billingsmt.gov

From: _____ Contact Name
_____ Company Name
_____ Company Address
_____
_____ Phone Number
_____ Fax Number
_____ Email Address

We intend to respond to this RFP by the specified due date:

Yes _____ No _____

_____ _____
Company Name Date

_____ _____
Contact Name (please print) Title

_____
Signature of Contact Person

By signing the above, I certify that I am authorized by the Company named above to respond to this request.

ATTACHMENT D

PROPOSER CONTACT INFORMATION

A. Company Contacts

Primary Contact Person (Name):	
Title/Function:	
Address	
Business Hours Phone:	
Fax:	
Internet E-mail Address:	
Name of Person Responding to Request:	
Title/Function:	
Address:	
Phone:	
Fax:	
Internet E-mail Address:	

B. General Company and Financial Information

Company Name:	
Headquarters Address:	
City, State, ZIP	
Headquarters Phone:	
Headquarters FAX:	
Company Owned By:	
Percent % Ownership:	
Years In Business	
Name of CIO	
Name of CEO/President:	

ADDENDUM #1

Name of project: RFP for Architectural and Engineering Services for New City Hall Facility Remodel

Addendum #1 Date: October 28, 2021

Original Issue Date: October 14, 2021

The following text shall be added to the RFP:

Section 1.1 Purpose:
The new Law and Justice Center and City Hall facility shall be designed with long-term use in mind. The design methodology should consider the infrastructure investments needed in such a facility, along with long term maintenance and operating costs. The facility is an important investment and asset for the City of Billings to meet the immediate and future needs of the organization, its staff, citizens, and visitors. Proposals should clearly demonstrate the design team's methodology in achieving these goals.

Section 3.1 Type of Services:
As part of Phase I services, the design team shall provide an analysis of the existing building and recommend upgrade, replacement, or repair projects to the building, its systems, and components, along with cost estimates for those projects. Such recommendations may or may not be included in the bid scope for the build-out project.

As part of both Phases I and II, the design team shall provide planning and design services for a proposed Emergency Operations Center (EOC). In the event of an incident, the EOC serves as the community's command center for strategic direction and operations decisions across multiple organizations. The EOC space shall meet the following minimum criteria:

- Be integrated into a multi-use space that could be quickly and easily converted to serve as the EOC in case of an incident.
- The space should accommodate at least 25 people along with their equipment and work stations.
- Contain all necessary communication and A/V equipment.
- Incorporate EOC best practices based on the design team's past experience and/or utilize a consultant knowledgeable in EOC design.

Appendix 'B'

TITLE PAGE

ARCHITECTURAL AND ENGINEERING SERVICES FOR NEW CITY HALL FACILITY REMODEL

PROPOSER: JLG ARCHITECTS | 301 SECOND STREET EAST, SUITE A, WILLISTON, ND 58801 | 701.609.5175
CONTACT PERSON: NICK LIPPERT | NLIPPERT@JLGARCHITECTS.COM

JLG architects | C2 ARCHITECTS

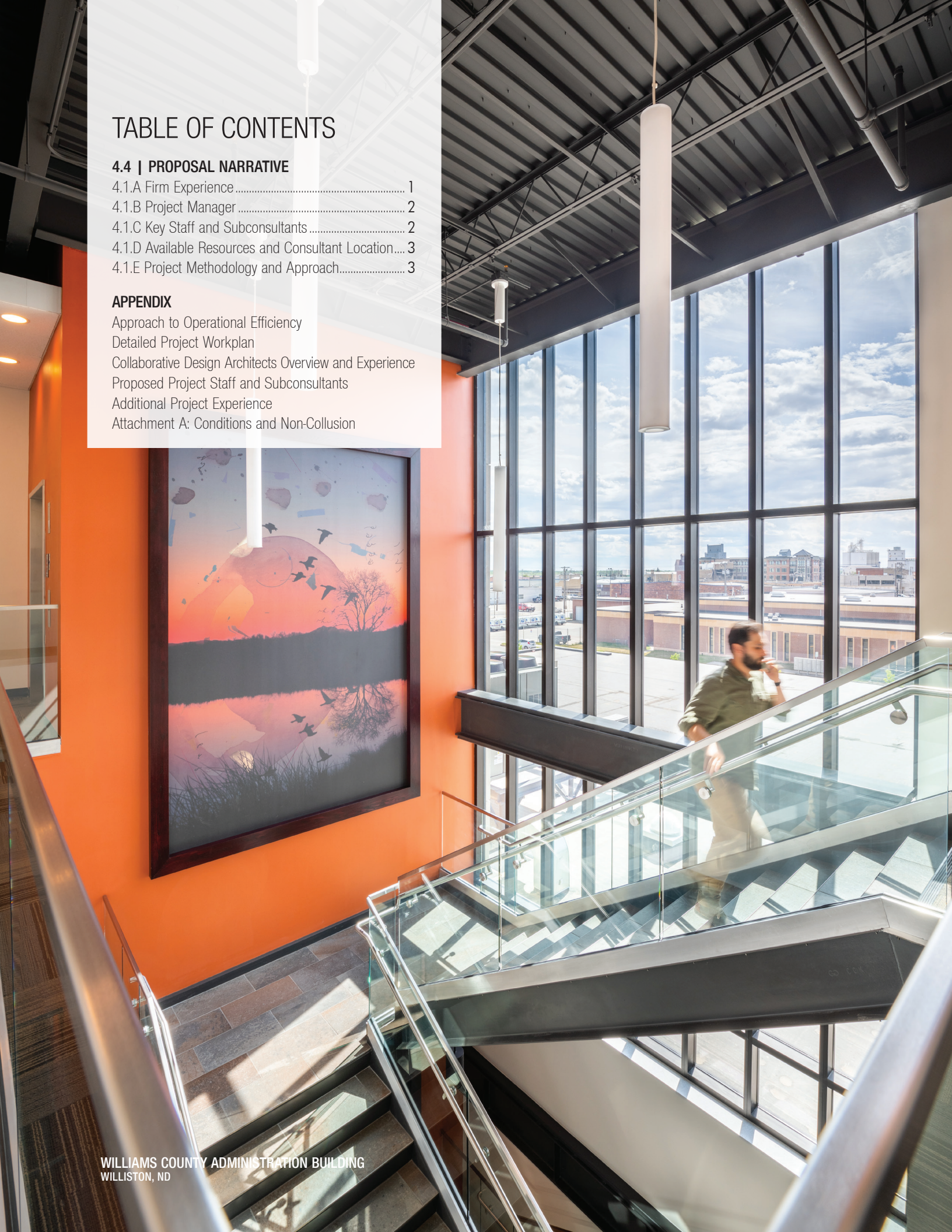
TABLE OF CONTENTS

4.4 | PROPOSAL NARRATIVE

4.1.A Firm Experience 1
4.1.B Project Manager 2
4.1.C Key Staff and Subconsultants 2
4.1.D Available Resources and Consultant Location 3
4.1.E Project Methodology and Approach 3

APPENDIX

Approach to Operational Efficiency
Detailed Project Workplan
Collaborative Design Architects Overview and Experience
Proposed Project Staff and Subconsultants
Additional Project Experience
Attachment A: Conditions and Non-Collusion



WILLIAMS COUNTY ADMINISTRATION BUILDING
WILLISTON, ND

JLG Architects
301 2nd Street E, Suite A
Williston, ND 58801
701.609.5175 | jlgarchitects.com

Collaborative Design Architects
2280 Grant Road, Suite C
Billings, MT 59102
406.248.3443 | cd-mt.com

Architectural and Engineering Services for New City Hall Facility Remodel
November 10, 2021

Dear Jessica Iverson,

It's with great excitement for the future that we submit our qualifications for your project of impact. This large-scale, downtown renovation for a Midwestern municipality is the exact type of project we are passionate about.

The potential for this project is immense, offering a great opportunity to build for collaboration, simplicity, clarity, safety, and activation. Altogether, this will become an iconic building for Billings today and into the future. We have an exceptional team that can deliver on the critical basics for project success and elevate your design solution with specialized expertise in municipal buildings and justice.

WE ARE RESPONSIVE AND DEEPLY COMMUNICATE – BEYOND THE PROJECT

Call us (or text us), we will answer. Our team is comprised of responsive team members who care deeply and communicate effectively. Not only will we deliver a project that is successful on opening day, but we will also provide the City of Billings with the tools to ensure the building is just as successful at inception as it is over the facility's lifespan. We have a team that is nearby and remains a resource and a partner – through design and construction, but also into the future. Our responsiveness doesn't sunset, and our dedication to your project never expires.

WE DELIVER PROJECTS ON TIME AND UNDER BUDGET – BY BUILDING IN LAYERS OF RISK MANAGEMENT

Creativity... Collaboration... Community... but it can all come down to dollars and cents. We take your project seriously and show that by bringing principal level experience into the day-to-day processes of your project. This elevates project delivery, with higher quality solutions and strategies. We build projects with levers fully prepared for ownership to pull, if market circumstances change. We are prepared for the worst, but plan for the best. We design in scope and budget flexibility, to capitalize on opportunity and weather roadblocks.

Our team is populated with professionals dedicated to enlightened pragmatism. We understand the need to stretch every dollar while still delivering creative, functional, and attractive solutions. This means staying on budget, meeting schedules, and exceeding client expectations.

WE LEAD A SMOOTH, CONFIDENCE-BUILDING, COLLABORATIVE DESIGN PROCESS

JLG is a great team partner. Our award-winning project management process maximizes value, and our efficient and effective team is comprised of great communicators – providing you a process that hits the "easy button" on decisions, and results in a facility that will be one of the highlights of your city. We think it's crucial to select the best consultants for each unique project.

Our team combines national expertise in the design of municipal facilities with deep expertise in what it takes to plan, manage, and execute projects in Billings—on schedule and within your funding. We look forward to meeting with you in person to share our ideas and our detailed road map for how we can successfully deliver this project for Billings.

Sincerely,

Jennifer Burke Jackson, AIA, LEED AP
Principal-in-Charge | 701.989.7723
Bismarck, ND | jjackson@jlgarchitects.com

William Haynes, AIA
Principal Architect | 406.248.3443
Billings, MT | bill@cd-mt.com

SECTION 4.4

PROPOSAL NARRATIVE

GRAND FORKS COUNTY OFFICE BUILDING
GRAND FORKS, ND

About JLG Architects

In 1989, JLG Architects emerged in the Midwest as a two-person firm founded by Gary Johnson and Lonnie Laffen. With a **"Design for Life"** approach to architecture, their integrity and vision became the firm's catalyst for national growth in leadership, peer education, and client connectivity.

Our clients love us, not only because we bring the best meeting snacks, but because we work as an extension of their internal team, bringing the type of passion, understanding, and intelligent ideas that deliver long-term, strategic solutions. We love our clients because they allow us to elevate what it means to provide value; to collaborate in ways that increase well-being, brands, and bottom lines; to create communities that thrive and environments that inspire; and do it all within responsible budgets.

GOOD DESIGN & GOOD SENSE JLG lives and breathes design excellence, making it our priority at every level, and within every role. **We use innovative design to generate solutions that solve problems and prepare our clients for the future**. Function is the baseline; form is what lifts the spirit and elevates the experience.

RAISE THE BAR, NOT THE BUDGET Our clients' budgets are as intertwined in our design solutions as the architecture itself. We work closely with our clients to create value-driven "experiences" that are regularly cost-checked by our in-house cost estimating team. **Led by JLG's Director of Construction Services, this group averages 1.4% under budget on thousands of projects over 32 years.**

POSITIVE PERFORMANCE At JLG, we do more than merely follow sustainable design certification systems like LEED. We advance comprehensive sustainability by addressing Human Experience, Positive Performance, and Financial Prosperity. We are explorers driven to discover, looking for new insights that support your own operational wellbeing needs. **We create solutions that meet our clients' goals while potentially lowering operation costs and designing flexible, resilient buildings that last well into the next generation.** This future-considerate mentality recognizes the City of Billings' investment in this project, as well as the need for it to be flexible, self-sufficient, and resilient through the unpredictability of the future.

Firm Performance and References

A regional firm with national expertise in city and county facilities, JLG Architects has successfully completed dozens of public projects and hundreds of renovation projects in the last five years. JLG's in-house public design studio is one of the Top 50 Local Government Architecture Firms in the United States. We focus on helping our clients be the best stewards of taxpayer dollars within City, County, and State facilities that are resilient sources of pride. We forecast future needs to create comfortable and flexible spaces that foster collaboration without distraction.

Collaborative Design Architects has a 40-year history of delivering architectural services in Billings, including some of the most recognizable and transformational recent projects in Billings.

Morrison-Maierle is a multiple-discipline engineering firm capable of delivering a wide range of engineering assessments and operational cost studies, helping to engineer the building for the future.

MINOT CITY HALL REHABILITATION
Lance Meyer, City Engineer
701.857.4100
Lance.Meyer@MinotND.Org
Work Performed: Pre-design through design services, project in progress

WARD COUNTY GOVERNMENT CAMPUS
Jim Rostad, County Commissioner
701.833.8511
JimRostad@SRT.Com
Work Performed: Planning, design, & remodeling on multiple projects

WILLIAMS COUNTY EMERGENCY OPERATIONS CENTER
Helen Askim, Director of HR
701.577.4547
HelenA@Co.Williams.ND.US
Work Performed: Design through construction administration

NICK LIPPERT
AIA

Project Manager | Point-of-Contact
JLG

EDUCATION
Master of Architecture - 2012,
Bachelor of Architecture - 2011;
North Dakota State University

LICENSES
Registered Architect: ND

EXPERIENCE
9 Years Experience

As Project Manager, Nick will coordinate consultants and manage the design team to ensure that the project meets its established goals for budget and schedule.

As a Project Manager at JLG, Nick's primary focus is communication – he will be the main point of contact with the client throughout design and construction, working to ensure the design team incorporates client goals, and clients are kept up to date every step of the way. Nick has led dozens of projects to successful outcomes in the region, often exceeding client expectations with his attention to detail and dedication to every project he serves. He is President of the Williston Community Builders and a recipient of the 2020 Williston Herald's 20 under 40.

Nick brings a depth of renovation project experience that is often leveraged on critical projects with specific budgets. This experience helps project teams foresee challenges and surprises to mitigate risk through design and construction.

SELECT EXPERIENCE
- City of Williston Office Building; Williston, ND
- Williams County Office Expansion and Courthouse Renovation; Williston, ND
- Williams County Social Services; Williston, ND
- Williams County Emergency Operations Center; Williston, ND

Project Team

NAME	ROLE	% DEDICATED TO THIS PROJECT
NICK LIPPERT | JLG	PROJECT MANAGER	60%
JENNIFER BURKE JACKSON | JLG	PRINCIPAL-IN-CHARGE	40%
ERIC HOFFER | JLG	CIVIC DESIGN SPECIALIST	20%
MIKE SCHELLIN | JLG	JUSTICE SPECIALIST	20%
BILL HAYNES | CDA	PRINCIPAL ARCHITECT	60%
NICK PANCHEAU | CDA	MANAGING PRINCIPAL	50%
ANDREW HOULIHAN | CDA	PROJECT DESIGNER	40%
DAVE CARLSON | AE2S	CIVIL ENGINEER	20%
JEFF KRAFT | MORRISON-MAIERLE	MECHANICAL ENGINEER	20%
RYAN THOMSON | MORRISON-MAIERLE	ELECTRICAL ENGINEER	20%
JAY FISCHER | MORRISON-MAIERLE	FIRE PROTECTION ENGINEER	20%
RUSSELL WILLIAMS | MORRISON-MAIERLE	ICT LOW-VOLTAGE DESIGNER	20%
PETE WEBER | MORRISON-MAIERLE	STRUCTURAL ENGINEER	20%

Ability to Meet Scope, Schedule & Budget

Our team is committed to meet your scope, schedule, and budget. We ensure our ability to do this through several established project management processes, some of which are outlined below:

PREDICTABLE DECISION-MAKING. The most important element of schedule control is getting the right decisions made at the right time. To make this easy, we build a roadmap to navigate the full process, allowing everyone involved to see where they fit into the process and what they are responsible for contributing.

BUILDING A TOTAL PROJECT BUDGET. Construction costs are only one portion of the full financial picture. Our team builds a comprehensive project budget that includes owner items (furniture, moving expenses, etc), contingencies, escalation, and phasing – in addition to the base project construction costs. This complete picture eliminates surprises and allows all entities to track with their scopes of work and target values.

DESIGNED CONTINGENCIES. In uncertain times for construction, we have designed a process that builds in risk management for our clients. We design a base project to 80-90% of the total construction budget, then work with Ownership to design optional add alternates totaling up to 120% of the construction budget. This mitigates risks of high numbers on bid day, and also creates easy-to-pull levers for owners if bids come in unexpectedly favorable.

MEANINGFUL PRICING DATA. We take our estimates seriously, because the entire project is built upon them. Our historical data represents thousands of projects, trending material inflation and stability, and cutting edge insights on the industry challenges and opportunities. We establish relationships with local suppliers and collaborate to improve our accuracy-- we even ask for third party estimates, if the situation or a specific scope deems it necessary.

JLG will notify the Facilities Division within thirty (30) days of any changes of personnel that are included in this statement and the addition to the Consultant's staff of personnel who may contribute to the discipline specialties for which the Consultant has been selected.

Consultant Location

301 2nd Street E, Suite A | Williston, ND 58801

Our project leadership is in Williston and Bismarck, ND, and our team includes Collaborative Design Architects, as our local partner in Billings. Our local partners are fully integrated into our team, leveraging strengths to best serve our client.

Methodology and Approach

Our approach to your project is systematic, collaborative, transparent, and always subject to owner input for improvement.

PHASE 0 - HIGH LEVEL PROJECT PLANNING Before the work begins, we see a critical need for a worksession with the owner's leadership team to lay out the project timeline and initial thoughts on department phasing / priorities over time. Our team has extensive experience in phasing projects, coordinating renovation work to result in the least amount of future disruption, while maintaining a sense of completeness for users and guests.

PHASE 1 - MASTERPLANNING & PRELIMINARY DESIGN Phase 1 would be to confirm the existing planning & design work that has been done, while creating space to discuss how recent events may have impacted City Departments in unexpected ways. The goal would be to update previous masterplan documents and move to a preliminary design and cost estimate that represents the best understood needs and values for the City of Billings.

PHASE 2 - BASIC SERVICES We expect this phase of work to be separated into multiple workscopes. However, if it is the City's desire, or there is a financial benefit, to keeping the full building design in one pathway, we have the team and ability to execute accordingly. We are flexible to move at the pace that makes the most sense for the City of Billings and the project, maximizing opportunity while mitigating roadblocks.

APPENDIX

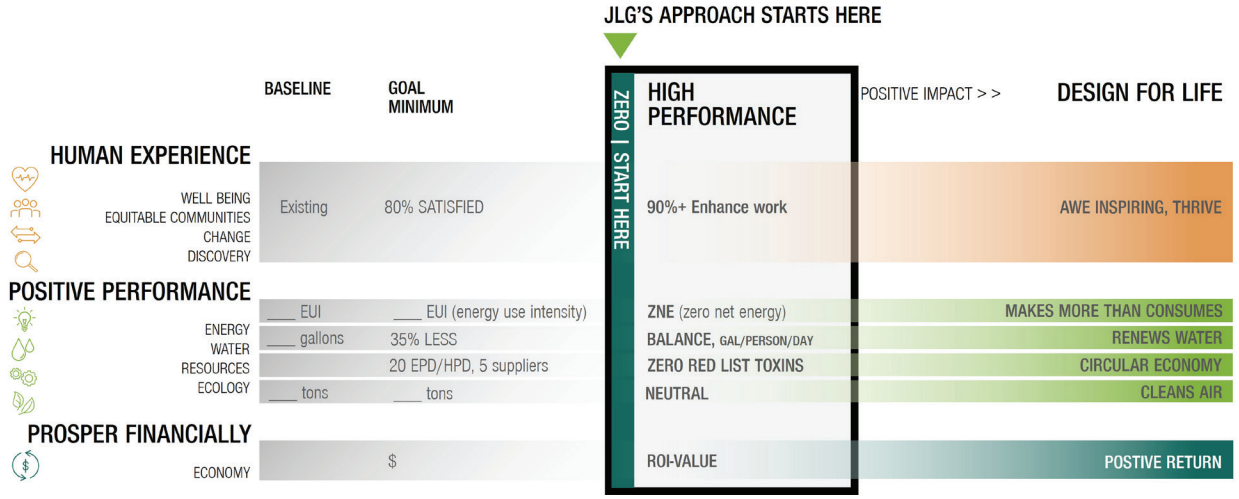
DUNN COUNTY COURTHOUSE EXPANSION
MANNING, ND

Smart Stewardship | The Future of Operational Effectiveness

For years, sustainability has been part of the conversation on many government projects; considering the impact of daylight and fresh, clean air on workplace efficiency, understanding how material selection impacts your office staff, and how to best utilize the space on site.

At JLG, we Design for Life – we look beyond the building at how people and operations will benefit, long into the future. Our performance team goes beyond the standard certification system to create customized solutions for Human Experience, Positive Performance, and Financial Prosperity. **We do this by working with Billings City Hall to understand YOUR sustainability goals while presenting you with options to go beyond what you may be familiar with, in order to be the best stewards of public dollars and set you up as leaders in the community.** We are dedicated to due diligence and to implementing sustainable practices into each project. These principles can be integrated at any scale; from using durable, low VOC, and environmentally preferable materials to exploring innovative mechanical and electrical systems that set your building up for your optimum balance of first cost, comfort, health, and long-term operating cost.

The following diagram illustrates the difference between the traditional approach to design, and JLG's. Common practice is to design buildings, then integrate any desired sustainability goals into the design (starting on the left side). JLG's approach is to start every project at smart design – or "zero" (in the middle) – and, depending on the goals of the City, work towards a positive impact.



With this baseline as the new norm, JLG can provide a more efficient design for total building wellness.

In a recent project example, during the design of the Minot City Hall in a renovated downtown building, we studied the opportunity for PV panels on the roof of the existing building being included in the design of the project and carried through as an alternate for bidding and construction. In this instance, the City Commissioners chose not to proceed with the PV panels. However, the information was provided to help them make the best decision.

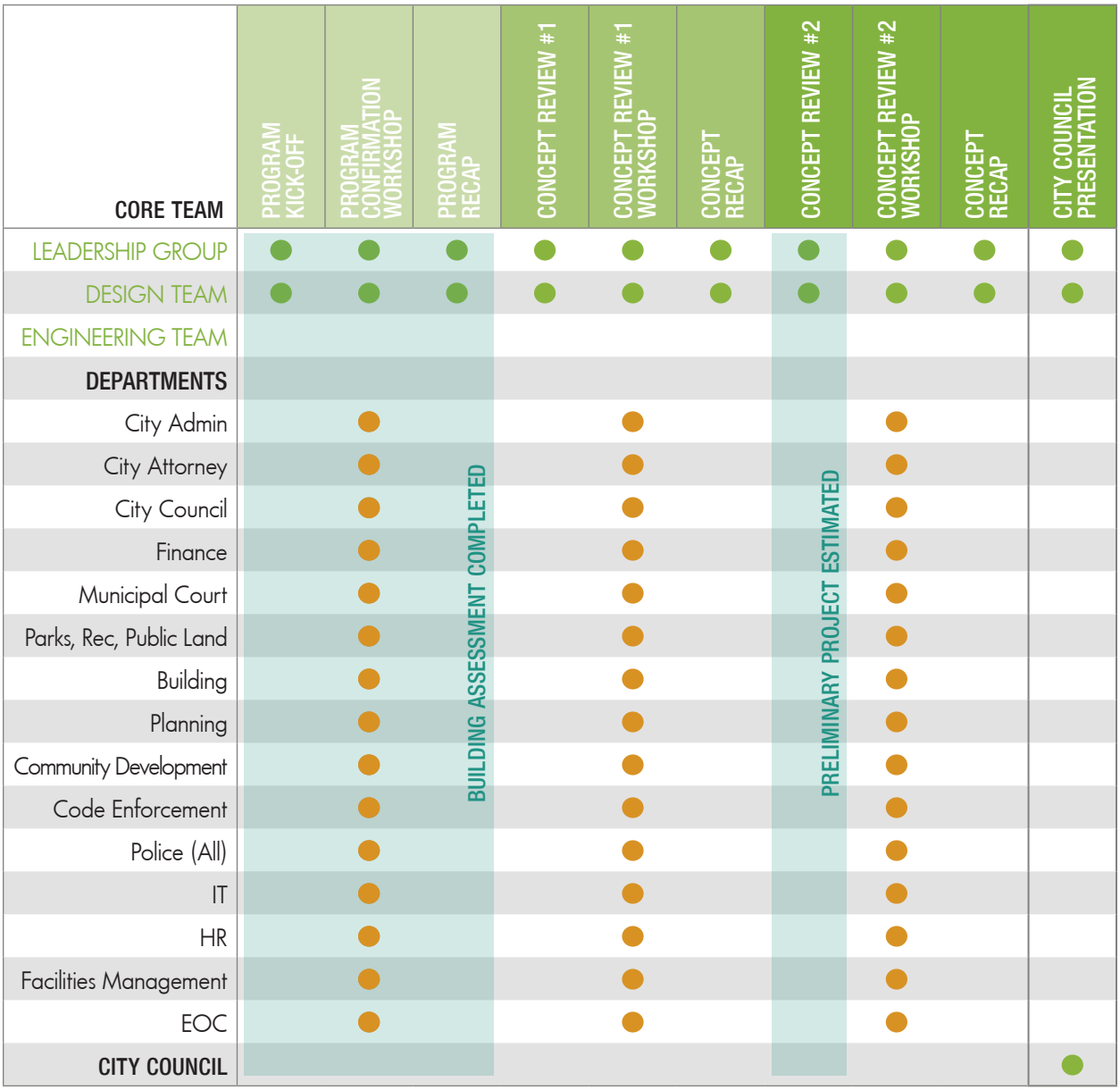
We also carried a PV panel alternate on the Stark County Social Services building in Dickinson, ND. The panels have been installed and are currently reducing up to 30% of utility costs, and their monthly energy production can be viewed by the public on the county's website.

We know the systems costs, and we provide the information necessary for our clients to effectively study their options and make the best decisions for themselves and their communities.

Project Workplan: Detailed Overview

Phase 1:

MASTER PLAN AND PRELIMINARY DESIGN



Project Workplan: Detailed Overview

Phase 2:

SCHEMATIC DESIGN (SD), DESIGN DEVELOPMENT (DD), AND CONSTRUCTION DOCUMENTS (CD)

CORE TEAM	SD CORE TEAM PLANNING	SD KICK-OFF	SD CONFIRMATION WORKSHOP	SD RECAP	SD CORE TEAM UPDATE	CITY COUNCIL PRESENTATION	DD CORE TEAM PLANNING	DD REVIEW #1	DD REVIEW #1 WORKSHOP	DD RECAP	DD CORE TEAM UPDATE	CITY COUNCIL PRESENTATION	CD CORE TEAM PLANNING	CD REVIEW #2	CD REVIEW #2 WORKSHOP	CD RECAP	CD CORE TEAM UPDATE	CITY COUNCIL PRESENTATION
LEADERSHIP GROUP	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
DESIGN TEAM	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
ENGINEERING TEAM			●						●	●	●		●	●	●	●	●	
DEPARTMENTS																		
City Admin			●						●						●			
City Attorney			●						●						●			
City Council			●						●						●			
Finance			●						●						●			
Municipal Court			●						●						●			
Parks, Rec, Public Land			●						●						●			
Building			●						●						●			
Planning			●						●						●			
Community Development			●						●						●			
Code Enforcement			●						●						●			
Police (All)			●						●						●			
IT			●						●						●			
HR			●						●						●			
Facilities Management			●						●						●			
EOC			●						●						●			
CITY COUNCIL						●						●						●

UPDATED PROJECT ESTIMATE

UPDATED PROJECT ESTIMATE

UPDATED PROJECT ESTIMATE

● Project Team ● User Group

This workplan would likely encompass one phase of work as strategically identified within Phase 1. Each workscope, or area of the building, will go through a similar process as that identified above.

Collaborative Design Architects: Firm Overview

Collaborative Design Architects is a professional architectural, planning, and project management firm servicing public and private clients throughout the western U.S. from our office located in Billings, Montana.

COMMITMENT For 40 years, we have been dedicated to improving the built environment of Billings, Montana—delivering over 100 significant projects in our hometown. We are passionate about our community. We are driven to make Billings a better place to live, a great city to visit, and the ideal city to relocate a business. How? We do this by ensuring that our shared, constructed environment is superbly planned, safe, and well designed.

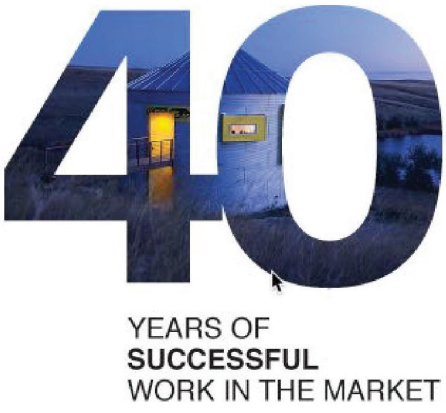
CAPABILITIES Collaborative is a growing firm of 15 architects and design professionals. Our reputation is finding creative and practical solutions to unique building challenges. We seek opportunities in which our combination of expertise, passion, and skills are a good fit for a client and their project. **We see the transformation of the Stillwater Building into City Halls as an assignment where we can make a difference for the City.**

ACHIEVABLE SOLUTIONS Common to our projects is our clients' desire for intelligent solutions, exhibiting aesthetic and technical excellence with a strict adherence to established budgets and schedules. We consistently meet these goals as evidenced by the remarkable number of clients who return to us for additional projects. We encourage you to contact our references for confirmation of past performance in meeting budgets and schedules. We thank our clients for inviting us into their world and allowing us to exceed their expectations.

PEOPLE ARE AT THE CENTER OF WHAT WE DO. We understand successful projects are as much about the process undertaken as they are about the final project. Process means meeting with people, building relationships, listening, asking questions, imagining, adapting, and refining. Our process centers on design thinking, creativity, cross-pollinating ideas, and delivering services of value at all levels and in all places.

At Collaborative Design, we are eager to face the challenges of our region, and we are ready to ask the questions that hold others back. Our work strives to be timeless, inspiring, and kind to the environment. We tailor our approach to leverage the unique opportunities inherent in each assignment.

We are energized by the opportunity to team with JLG Architects to assist the City in transforming the Stillwater Building into the new home for city departments and city governance. The proposed timeline, scope of work, and budget are similar to projects we have undertaken and completed in the past.



KEY STRENGTHS AND CAPABILITIES

- A deep understanding of the unique realities, challenges, and opportunities of completing large projects in Billings
- Facility programming and space planning focused on the right-sizing of spaces. Project experience in the design and construction of work spaces, meeting spaces, and support spaces
- Experience with projects located on tight urban sites
- Superior conceptual visualization and graphic communication including immersive videos, renderings, and presentations
- Project cost and schedule accountability
- Facility Condition Assessments and feasibility analysis
- Office interior design and coordinating efforts of multiple engineering disciplines

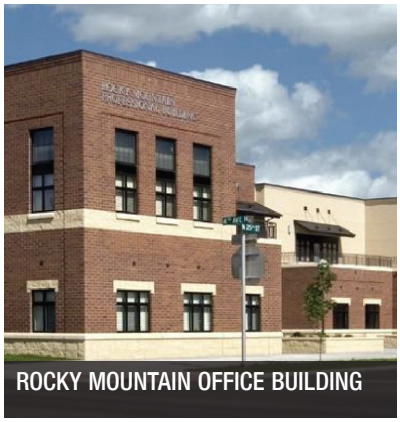
Collaborative Design Architects: Project Experience in Billings

BILLINGS PARK III

DEPARTMENT OF INTERIOR

LOCKWOOD HIGH SCHOOL

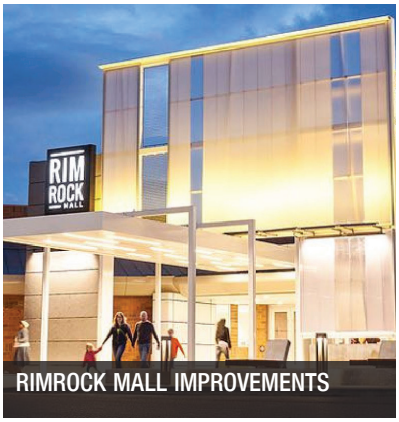
MSU MCMULLEN HALL


ROCKY MOUNTAIN OFFICE BUILDING

AVENUE C APARTMENTS

WEST PARK PROMENADE PHASE III

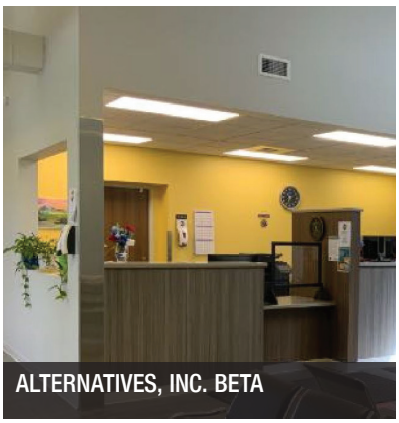
SHILOH CROSSING



RIMROCK MALL IMPROVEMENTS

LABOR TEMPLE REMODEL/REUSE

RIMROCK FOUNDATION


ALTERNATIVES, INC. BETA

Proposed Project Staff and Subconsultants

JENNIFER BURKE JACKSON
AIA, LEED AP

Principal-in-Charge
JLG Architects

EDUCATION
Master of Architecture - 2007,
Bachelor of Environmental Design,
Mass Communication - 2006;
North Dakota State University

LICENSES
Registered Architect:
MT #22170, ND

EXPERIENCE
12 Years Experience

Jennifer will oversee the administration of contracts, allocate staff, and monitor schedules and design solutions.

As a Principal-in-Charge, Jennifer provides leadership and clarity to the project schedule, process, and owner objectives. She is ultimately responsible for keeping your project under budget and on schedule and has successfully led various project typologies over the past decade-plus years. She puts all of her education to use alongside her professional experience. Jennifer is active in the community and was recently named The Bismarck Tribune and Prairie Magazine's "40 under 40" – over the past decade, she has been Chair on the board for a homeless shelter in Bismarck, she volunteers for Junior Achievement in the local grade schools, and she is pursuing an MBA in Virtuous Leadership from the University of Mary. Jennifer has significant renovation/rehabilitation experience, as well as acute awareness of how to easily mitigate the complexities of existing buildings. She is a problem solver who empowers teams and ownership with a meaningful process.

SELECT EXPERIENCE
- Theodore Roosevelt Presidential Library; Medora, ND
- Stark County Social Services; Dickinson, ND
- Minot City Hall Rehabilitation; Minot, ND
- Monument Health Arena & Event Center; Rapid City, SD
- Dickinson State University Pulver Hall Renovation; Dickinson, ND

ERIC HOFFER
RA

Civic Design Specialist
JLG Architects

EDUCATION
Master of Architecture - 2011,
Bachelor of
Environmental Design - 2010;
North Dakota State University

LICENSES
Registered Architect: ND

EXPERIENCE
10 Years Experience

Eric brings extensive knowledge in all phases of public projects, from pre-design through construction.

Eric brings over 10 years of experience working on multi-disciplinary projects across the region. He has extensive knowledge in all phases of public projects, from pre-design thru construction. He has strong communication skills and is highly effective at managing multiple tasks and complex projects. Eric also brings detailed technical building knowledge, building code expertise, and experience working with local and state regulatory agencies. Eric was born and raised in Minot, ND and graduated Magna Cum Laude from North Dakota State University with both a Master of Architecture and a Bachelor of Science in Environmental Design.

SELECT EXPERIENCE
- Minot City Hall Rehabilitation; Minot, ND
- Ward County Office Building, Jail Expansion, & Courthouse Renovation; Minot, ND
- Bottineau County Jail Expansion; Bottineau, ND
- Minnehaha County Jail; Sioux Falls, SD
- Dickinson Law Enforcement Center Remodel; Dickinson, ND
- Bottineau County Courthouse; Bottineau, ND

MIKE SCHELLIN
AIA, CID

Justice Specialist
JLG Architects

EDUCATION
Bachelor of Architecture - 1999,
Bachelor of
Environmental Design - 1998;
North Dakota State University

LICENSES
Registered Architect: ND
Certified Interior Designer

EXPERIENCE
22 Years Experience

Mike will leverage his courtroom experience to ensure the project anticipates the justice needs of today and the future.

A principal at JLG, Mike has over 21 years of experience and understands the unique complexities of civic facilities. He will work closely with City staff, addressing key concerns related to the court and law enforcement components of this project. Mike's commitment to providing the highest level of design standards, which achieve functionality and sustainability, will foster project success in a communicative and collaborative process.

SELECT EXPERIENCE
- GSA Duluth Federal Building; Duluth, MN*
- USDC District Courtroom Remodeling; Minneapolis, MN*
- USDC Magistrate Courtroom Remodeling; Minneapolis, MN*
- USBC Bankruptcy Courtroom Remodeling; Minneapolis, MN*
- USCG Marine Safety Unit; Duluth, MN*
- USMS DOJ Office Remodeling; Minneapolis, MN*

WILLIAM HAYNES
AIA

Principal Architect
Collaborative Design Architects

EDUCATION
Bachelor of Architecture,
Bachelor of Arts;
University of Notre Dame

LICENSES
Registered Architect: MT

EXPERIENCE
35 Years Experience

Bill will provide local leadership for the project, including assessment, code analyses, and estimating.

With 35 years of experience as a licensed architect, Bill specializes in guiding clients through complex remodeling projects spanning the full range of building types. He is known for his calm demeanor and the confidence he brings to the design process – helping clients make informed decisions and build consensus with stakeholders. Bill will provide local leadership for the project, including assessments of the Stillwater Building; building code and accessibility analyses; permitting; estimating; and communications with Billings construction firms. He has experience in multiple project delivery methods, including the General Contractor as Construction Manager (GCCM) process.

SELECT EXPERIENCE
- Department of Interior Office Building; Billings, MT
- City of Billings Water Office Remodeling; Billings, MT
- West Park Promenade Remodeling and Reuse; Billings, MT
- MSU Billings McMullen Hall Remodeling; Billings, MT
- Billings Central Catholic High School Condition Report & Accessibility Study; Billings, MT
- Alternatives, Inc. Beta Program Adaptive Reuse; EBIRD Billings, MT

**Prior to current firm*

NICK PANCHEAU
AIA

Managing Principal
Collaborative Design Architects

EDUCATION
Master of Architecture,
Bachelor of Architecture;
Montana State University

LICENSES
Registered Architect: MT

EXPERIENCE
20 Years Experience

Nick will help lead staff in the production of documents, coordination of drawings, and generation of project specifications.

Nick is a principal architect and president of Collaborative Design Architects. With over 20 years of experience in construction and architecture, Nick works with clients to explore concepts from site master planning to building design and construction. Nick's project experience spans the state, including industrial, medical, educational, and residential typologies. As managing principal, Nick will oversee contracts, assign team resources, and monitor quality of service and firm commitments.

SELECT EXPERIENCE

- Rimrock Foundation, New Healthcare Campus; Billings, MT
- SCL Healthcare, Multiple New Clinical Facilities; Various Locations, MT
- Bridger High School Addition & Remodel; Bridger, MT
- Lockwood High School; Lockwood, MT
- Shepherd School District Addition and Improvements; Shepherd, MT

ANDREW HOULIHAN
ASSOCIATE AIA

Project Designer
Collaborative Design Architects

EDUCATION
Master of Architecture,
Bachelor of Architecture;
University of Michigan

LICENSES
Associate AIA

EXPERIENCE
14 Years Experience

Andrew is a skilled and creative designer who will be involved in the project from preliminary design through construction.

With 14 years of experience as a professional designer, technical coordinator, and project manager, Andrew brings broad experience in a wide range of building types. Prior to joining Collaborative Design he was a designer and project manager at IKEA, focusing on workplace solutions. Andrew is experienced in all phases of projects from initial planning and concept development through project completion and construction administration. He is skilled in the application of building information modeling (BIM) software to create both stunning project imagery and deeply accurate construction drawings. Andrew creates up-do-date project specifications using the Spec-Link platform.

SELECT EXPERIENCE

- City of Billings Solid Waste Maintenance & Parking; Billings, MT (with Morrison-Maierle)
- Lovell Community Court; Lovell, WY
- Rocky Mountain Supply; Townsend, MT
- SCL Health Care Clinics; Various Locations
- Gallatin Valley Mall Remodel; Bozeman, MT
- Lockwood High School; Billings, MT
- Stillwater Mine Warehouse and Training Remodel; Columbus, MT

DAVID CARLSON
PE

Civil Engineer
AE2S

EDUCATION
Bachelor of Civil Engineering;
University of North Dakota

LICENSES
Professional Engineer: MT, ND

Certified MT Water System
Operator Class 1A/1B

EXPERIENCE
11 Years Experience

David brings his experience working with the Billings Public Works department to ensure that site planning meets the requirements of all departments.

David has over 11 years of planning, design, and construction experience working for the Municipalities and Communities in Montana. His experience includes large project planning, site design, community stakeholder engagement, interdepartmental coordination, utility planning, technical design, and alternative project delivery methods. He located the AE2S office to the Billings Southside as part of the communities focus redevelopment efforts along Minnesota Ave.

SELECT EXPERIENCE
- Babcock Boulevard Drainage Improvements; Billings, MT
- Chippewa Cree Tribe Middle Dry Fork Development Area Master Planning; Rocky Boy's Reservation, MT
- Augusta Ranch Drainage Evaluation and Design; Billings, MT
- Rocky Boy's Justice Center; Box Elder, MT

JEFF KRAFT
PE

Senior Electrical Engineer
Morrison-Maierle

EDUCATION
Bachelor of Electrical and Electronic Engineering Technology;
Montana State University

LICENSES
Professional Engineer: MT

EXPERIENCE
24 Years Experience

Jeff will be responsible for electrical, power, lighting, and special systems on this project.

Jeff is a senior electrical engineer for Morrison-Maierle in the Billings, MT, Buildings Group. He specializes in commercial electrical engineering for buildings, including power, lighting, and fire alarm systems. Jeff has managed a wide range of projects including educational, retail, and commercial projects throughout Montana and Wyoming.

SELECT EXPERIENCE
- Bridger Public School Addition & Remodel; Bridger, MT
- Jackson Court Homes; Billings, MT
- SCL Lockwood Clinic; Lockwood, MT
- Casper Western Ranch Supply; Casper, WY
- Ethanol US Processing Building; Torrington, WY
- Glacier Express II Car Wash; Billings, MT

RYAN THOMSON
PE

Senior Mechanical Engineer
Morrison-Maierle

EDUCATION
Bachelor of
Mechanical Engineering;
Montana State University

LICENSES
Professional Engineer: MT, WY

EXPERIENCE
18 Years Experience

Ryan will coordinate mechanical, plumbing, and automatic control systems for this project.

Ryan is a senior mechanical engineer with experience in project management and design of healthcare HVAC, plumbing, and hydronic systems. This includes constant and variable volume airflow and hydronic systems for isolation rooms, emergency and operating rooms, imaging, nursing, and recovery room design. His design experience includes both new and renovations of hospital and healthcare projects from all around Montana and Wyoming.

SELECT EXPERIENCE

- Stillwater County Law and Justice Center; Columbus, MT
- Gallatin County Courthouse; Bozeman, MT
- Pryor School Addition & Remodel; Pryor, MT
- Crow Tribes of Indians, Administration Building Design; Billings, MT
- CSKT Health Clinic Isolation Room; St. Ignatius, M
- Bridger Public School Addition & Remodel; Bridger, MT

JAY FISCHER
PE

Senior Structural Engineer
Morrison-Maierle

EDUCATION
Master of Structural Engineering;
Montana State University,
Bachelor of Civil Engineering;
University of Idaho

LICENSES
Professional Engineer: MT

EXPERIENCE
22 Years Experience

Jay will design and document sound, economical structural systems to achieve the Owner's goals.

Jay is a senior structural engineer and project manager with Morrison-Maierle. He is experienced in the project management, design, analysis, evaluation, construction administration, and special inspection of many types of buildings and engineering projects. As a project manager, Jay is well versed in the design and construction phase processes. He thrives in integrated design processes, team collaboration, communication, cost-effective design approaches, and creative problem-solving, helping create successful project teams and project completions. Jay knows that a positive and inclusive client experience will always create successful projects for Owners and end users.

SELECT EXPERIENCE

- Murdoch's Corporate Headquarters Addition/Expansion; Bozeman, MT
- Bozeman Yellowstone International Airport Terminal Expansion and Renovation; Belgrade, MT
- Archie Bray Education Center Renovation and Expansion; Helena, MT
- Park County High School Addition and Renovation; Livingston, MT
- Wilson Auditorium Renovation, Bozeman School District #7; Bozeman, MT
- Montana State University Gaines Hall Renovation; Bozeman, MT

PETE WEBER
RCDD

Senior Communications Designer
Morrison-Maierle

EDUCATION
Bachelor of Psychology;
Wheaton College

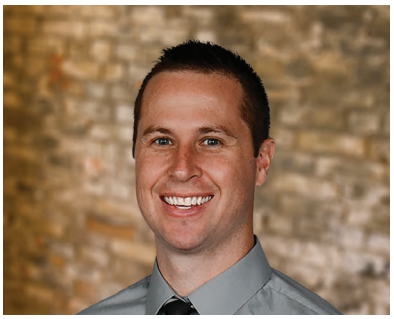
LICENSES
Registered Communications
Distribution Designer

EXPERIENCE
28 Years Experience

Pete will be responsible for telecommunications and IT systems design.

Pete brings a wealth of experience in all facets of telecommunications, physical security, and A/V design for a range of clients. His design experience ranges from copper and fiber optic cabling, telecommunications room design, wireless, voice, access control, video surveillance, and overhead paging.

SELECT EXPERIENCE
- Belgrade Elementary School; Belgrade, MT
- Billings Logan International Airport; Billings, MT
- Missoula Rural Fire Department, Bonner Fire Station; Bonner, MT
- Missoula International Airport Terminal Expansion; Missoula, MT
- Columbia Falls Aluminum Company; Columbia Falls, MT
- State of Montana, Montana Developmental Center; Boulder, MT
- Missoula International Airport TSA Relocation; Missoula, MT



RUSSELL WILLIAMS
NICET III

Fire Protection Designer
Morrison-Maierle

EDUCATION
Bachelor of Mechanical Engineering;
Montana State University

LICENSES
National Institute for Certification in
Engineering Technologies

EXPERIENCE
8 Years Experience

As a licensed fire protection engineer, Russell will provide direction for the design of fire protection systems.

Russell is a fire protection engineer with experience in planning and design of water-based fire suppression systems and high expansion foam systems. His fire sprinkler design background includes both new construction and retrofit residential, commercial, and industrial projects. His design background includes full 3D coordination of wet, dry, and deluge systems, along with high expansion foam, ESFR, standpipes, and fire pumps.

SELECT EXPERIENCE
- Gallatin County Courts Facility; Bozeman, MT
- Stillwater County Law & Justice Center; Bridger, MT
- Bridger Public School Addition & Remodel; Bridger, MT
- Cow Creek Clinic Medical TI; Roseburg, OR
- Flathead Food Bank Remodel; Kalispell, MT
- Helena Montana Meetinghouse; Helena, MT
- MSU Wellness Center Full Design; Bozeman, MT
- Simplot Nampa Warehouse Project; Nampa, ID

Additional Relevant Experience

Key experience projects that have programmatic elements directly related to the core needs of Billings City Hall.

Minot City Hall Rehabilitation

MINOT, NORTH DAKOTA

Relevance: This project is a downtown renovation that transformed the community's experience of city government.

The City of Minot is transforming the existing Wells Fargo Bank building into a new, resilient, and citizen-friendly City Hall. Relocating City Hall from the outskirts of downtown into the heart of the community will make the new City Hall a significant destination for public services that can convert this now-empty facility into an additional catalyst that drives the continuing resurgence and vitality of downtown. As "the People's House" for the Minot community, one of the important goals is to create a place that welcomes citizens, encourages them to connect with public servants, and get things done.

The Scandinavian-inspired design relates to Minot's sister city in Norway. Instead of traditional departments that are completely self-isolated and partitioned off, the client opted to allow the departments to flow together without barriers. The team also moved away from their current meeting room setup where each department had a dedicated meeting room. Rather, the new design sprinkled shared meeting rooms of varying sizes throughout the facility to encourage staff to move throughout the building; serendipitous encounters with their co-workers from other departments and the general public are made possible and more frequent. JLG and consultants kept a "live" project budget based on actual market conditions throughout design to help the City maximize the impact of taxpayer resources and stay on budget.

Completion Date
TBD

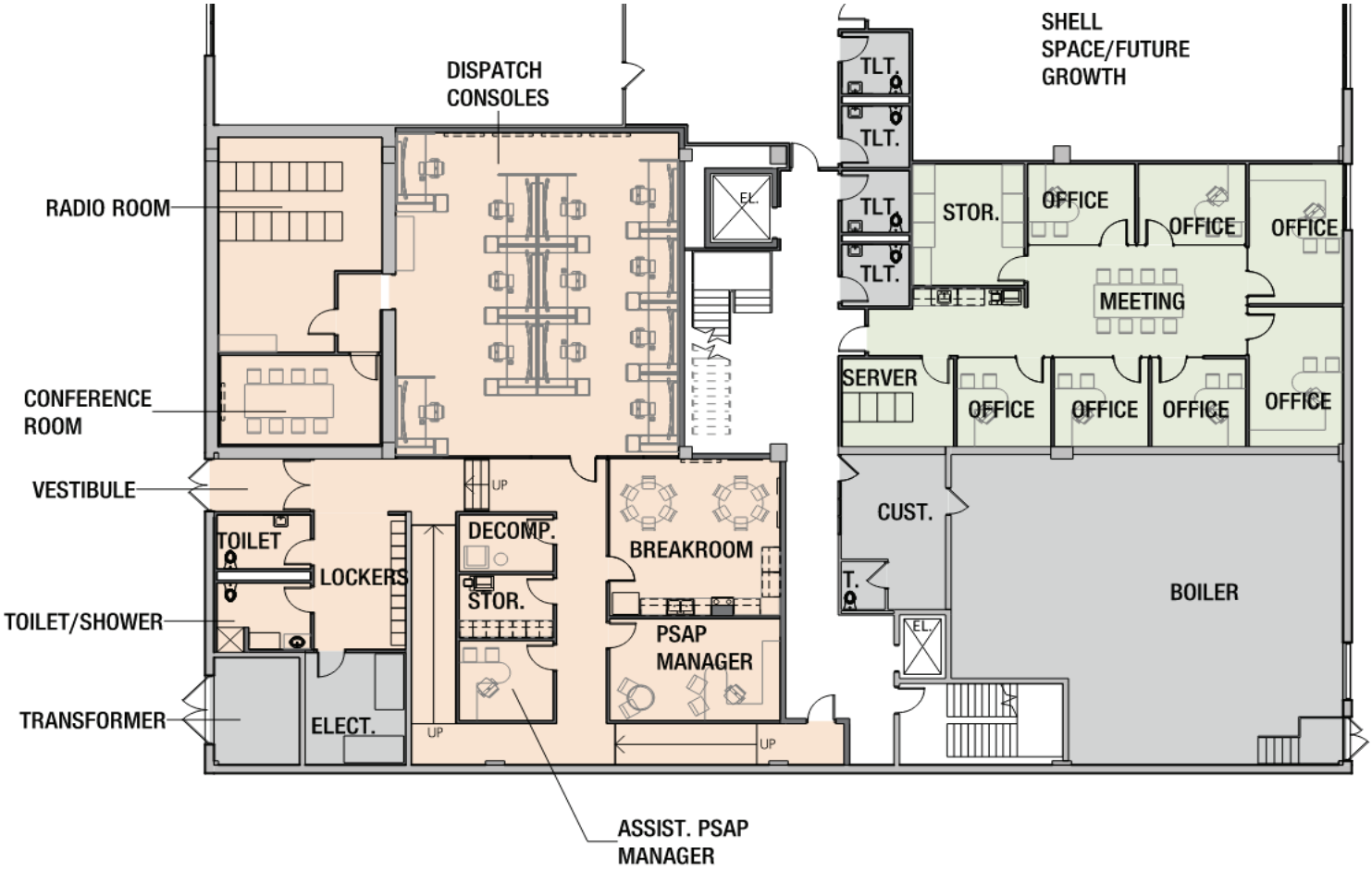
Square Footage
46,000 renovation

Cost Information
Project Budget: $13,800,000
Construction Budget: $7,500,000

Delivery Method
Design-Bid-Build

Client Reference
Lance Meyer, City Engineer
701.857.4100

JLG



Proposed City Hall Building Analysis

MINOT, NORTH DAKOTA

Relevance: This project involved analysis and programming of an existing downtown building for unifying city departments.

In January of 2020, JLG Architects was commissioned by the City of Minot to perform an independent analysis of two separate existing facilities in Downtown Minot under consideration as locations for Minot City Hall. The assessments considered all aspects of the building's current condition, Architectural, Civil, Structural, Mechanical, Electrical, and Environmental. The analysis assumed the complete interior demolition of either structure in preparation for a new interior build-out to suit the needs of the City of Minot. The assessments also included preliminary Building Code analysis and high-level cost estimates that enabled the City of Minot to make the most fiscally and programmatically responsible decision in the possible purchase of the Wells Fargo Building. Without a doubt, this assessment team is the most knowledgeable group of professionals of every component of each structure.

Completion Date
2020

Cost Information
N/A

Client Reference
Lance Meyer, City Engineer
701.857.4100

JLG

Eau Claire City Hall Assessment & Renovation

EAU CLAIRE, WISCONSIN

Relevance: This project is a City Hall renovation that created improved clarity and safety for city departments and community members.

The Eau Claire City Hall is comprised of two historic 100-year-old buildings located on a prominent site within the heart of downtown Eau Claire – the original City Hall and a Carnegie Library that was converted into City Hall offices. Changes in security concerns, accessibility issues, and approach to public engagement drove city leadership to ask JLG Architects to re-imagine their City Hall. JLG's fresh vision created a unified entrance, simplified circulation and navigation to departments, enhanced public service windows to provide staff safety while engaging the public, consolidated and clarified departmental spaces, and reorganized department locations to assure most-used departments are easily accessible to citizens.

Design Award
American Public Works Association, Public Works Project of the Year

Completion Date
2019

Square Footage
33,455 renovation

Delivery Method
Design-Bid-Build

Cost Information
Construction Budget: $5,509,000
Construction Cost: $5,400,000

Client Reference
David Solberg, City Engineer
715.839.4934

JLG

St. Cloud City Hall at Tech High School

ST. CLOUD, MINNESOTA

Relevance: This project is a renovation of an existing building into a City Hall, demonstrating how old buildings can be timeless through thoughtfull design.

With the help of JLG, the City of St. Cloud is relocating the St. Cloud City Hall into the historic Tech High School that has been recently vacated. Recognizing the value of the historic building, the City will utilize the most historically significant portions of the 1916 and 1937 buildings, then master plan the other major portions of the site for redevelopment.

The new City Hall will feature an easily identifiable entry created by a multi-story window throughout the lobby area. Once inside, the design creates a simple circulation system to provide easy access to departmental service counters for visiting citizens. In order to minimize demolition to the interior spaces, the City Hall will use much of the existing office space and room configurations, only renovating where necessary to create the desired flexible open office environment. Existing windows throughout will flood natural daylight into office spaces and take advantage of views to Lake George Park.

Completion Date
TBD

Square Footage
58,000 remodeled

Delivery Method
CMAR

Cost Information
Project Budget: $9,500,000
Construction Budget: $5,509,000

Client Reference
Matt Glaesman, City of St. Cloud,
Community Development Director
320.650.3110

JLG

Killdeer City Hall

KILLDEER, NORTH DAKOTA

Relevance: This project demonstrates how a City Hall can provide spaces that are welcoming to the community.

As the City of Killdeer is experiencing unprecedented growth due to increased activity in the Bakken oil fields, they identified the need for increased city services for their citizens. The existing City Hall and Police Department, located in a metal building, has proved to be undersized and lacking in civic presence. JLG came on board in 2015 to assess current and future needs – as well as to create a fresh vision for City Hall and Police facilities. The proposed City/Police complex creates a citizen-friendly civic plaza between the two welcoming arms of the building. The goal is to engage citizens in the workings of their government and create a public gathering place for art fairs, farmer's markets, or City Hall concerts on the plaza.

Completion Date
2015 predesign

Square Footage
8,900 new construction

Cost Information
Project Budget: $5,700,000

Client Reference
Dawn Marquardt,
City Administrator
701.764.5295

JLG

Ward County Government Campus

MINOT, NORTH DAKOTA

Relevance: This project involved strategic phasing and planning over time to execute a long-term vision.

JLG Architects, in collaboration with BWBR, expanded the Ward County Government Campus to include an addition to their jail, a courthouse remodel, and a new four-story office building. JLG led planning and design of this initiative, beginning with a feasibility study. BWBR provided programming, planning, and secure environments consulting for the jail component.

OFFICE BUILDING The office building is connected to the existing County Courthouse with a skyway and new welcoming pedestrian plaza. Inside, the light-filled atrium provides internal orientation to visitors and brings natural light into internal spaces. The office building exterior compliments the appearance of the 1929 Courthouse while exuding a more contemporary feel. A similar pattern of narrow vertical windows and materials closely matches the Indiana limestone in color and finish, while glass curtainwall details project an open and modern image.

COURTHOUSE REMODEL Several departments moved from the existing courthouse building to the new office building. The existing courthouse building was renovated to better accommodate the departments which are remaining in the building without affecting the historic integrity of the facility. Those departments include Juvenile Probation, State's Attorney, Veteran's Administration and NDSU Extension Services.

JAIL The Jail expansion includes a seven-level, 200-bed Jail tower with a new Sheriff's office, connected to the existing Jail by a link that contains new indoor Recreations areas. The existing Jail was remodeled to enhance Intake, Medical Services, Jail Administration, and overall Security systems. To provide additional separation, Juvenile Detention was relocated into the remodeled Courthouse.

Completion Date
2017

Square Footage
75,398 new construction

Cost Information
Budget: $67,000,000
Final Cost: n/a

Client Reference
Jim Rostad, County Commissioner
701.833.8511

JLG

Williams County Campus Remodeling and Expansion

WILLISTON, NORTH DAKOTA

Relevance: Adaptive reuse of the courthouse and new administration building created a phased campus approach to consolidate the County's services.

Due to extensive growth, Williams County saw the need for an expansion that would connect new employees, communities, and buildings, while staying true to their historic roots. JLG was hired to increase the space utilization of their existing facilities, improve workspace efficiencies and public access, and unify the County buildings into a distinguished campus.

A three-story expansion and renovation to the MDU building (now the Williams County Administration Building) provides efficient administrative space with a clear, transparent, and accessible path for the public to access departments on the floors above and the council chamber space in the lower level of the existing building.

This added office space was paralleled by the need for more courtrooms to the original Williams County Courthouse that is across the street. The 16,000 SF renovation creates a courts complex right-sized to house the influx of cases and streamline the process through better use of space and flow of the overall building. The renovation provided three additional courtrooms, including the independent municipal court and office spaces. The project was completed in phases to provide movement and flexibility while improving operations. The addition of two courtrooms, two conference rooms, and chamber space made way for the municipal court to expand into a more central and accessible to the public location.

For the exterior of the new administrative building expansion, the design intent was to draw from the architectural character of the Courthouse to give these buildings a distinct, yet unified campus feel.

Completion Date
2018

Square Footage
9,500 remodel

Delivery Method
CMAR

Cost Information
Construction Cost: $14,990,706

Client Reference
Wayne Aberly,
Williams County Commissioner
701.770.6902

JLG

Williams County Emergency Operations Center

WILLISTON, NORTH DAKOTA

Relevance: Often an overlooked community service, 911 Dispatch and Emergency Management is the organization that holds the community together.

Call volumes have increased yearly by upwards of 20% over the last five years in the Williston area – currently reaching call volumes equivalent of communities twice their size. Williams County, in collaboration with the city of Williston, called on JLG for a new facility that will allow the dispatch center to triple in positions and call volume for future growth. This new facility will create a regional resource to serve northwestern North Dakota as a life safety and welfare communication and planning point. This facility was designed to be as flexible as possible to coordinate regional responses to a multitude of emergencies.

Completion Date
2021

Square Footage
14,027 new construction

Delivery Method
CMAR

Cost Information
Construction Budget: $6,750,000

Client Reference
Helen Askim, Williams County
701.577.4547

JLG

Ravalli Electrical Co-Op

HAMILTON, MONTANA

Relevance: This project acutely studied first costs and operation costs to optimize the engineering design solution.

The Ravalli Electric Co-op is a nonprofit electrical utility provider in Ravalli County, MT. While serving over 10,000 members, the Co-op's primary goals were to give back to the community within efficient, sustainable operations. Keeping these two priorities in mind, Morrison-Maierle provided energy-efficient and sustainable mechanical, electrical, and structural engineering designs for the Co-op's new multi-building workplace.

Morrison-Maierle varied the structural systems to balance performance and cost. For example, we designed a light-framed, wood building for the office spaces, adding steel members to provide wider window bays. We also linked prefabricated metal buildings for the vehicle storage areas to create a continuous space. Each prefabricated building was connected with expansion joints so all spaces could be easily connected. Morrison-Maierle also added Concrete Masonry unit block walls for the vehicle wash area to allow for long-term durability. A wood-framed roof shelters the wash area to keep project costs down.

The project also uses efficient heating, cooling, and lighting systems to optimize individual occupant comfort while keeping operating costs down.

Completion Date
2019

Square Footage
58,264 new construction

Cost Information
Project Cost: $12,300,000

Client Reference
Kent Means, MMW Architects
406.543.5800

Morrison Maierle
engineers • surveyors • planners • scientists

ATTACHMENT A

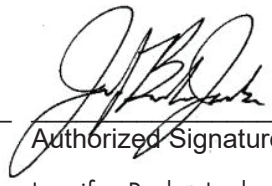
CONDITIONS AND NON-COLLUSION FORM

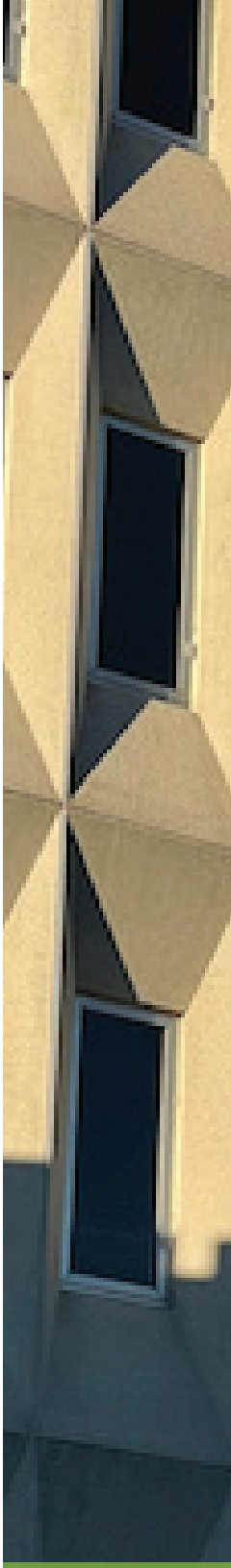
To receive consideration, this form must be signed in full by a responsible, authorized agent, officer, employee or representative of your firm.

CONDITIONS AND NON-COLLUSION AGREEMENT

We have read and agree to the conditions and stipulations contained herein and to the Standard Terms and Conditions contained on the attached.

In signing this proposal, you also certify that you have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a proposal; that this proposal has been independently arrived at without collusion with any other proposer, competitor or potential competitor; that this proposal has not been knowingly disclosed prior to the due date and time to any other proposer or competitor; that the above statement is accurate under penalty of perjury.

JLG Architects	
Legal Name of Firm/Corporation	Authorized Signature
416 E Main Ave	Jennifer Burke Jackson
Address	Printed Name
Bismarck, ND 58501	Principal Architect
City/State/Zip	Title
11.8.2021	701.989.7723
Date	Telephone Number



JLG architects | C2 ARCHITECTS

Appendix 'C'

PROPOSAL - REV 1

JLG 21379 - Billings City Hall - Stillwater Renovation

RE: Proposal

December 6, 2021

Dear Mr. Caterino and Ms. Iverson:

Thank you for considering JLG Architects and Collaborative Design Architects for this opportunity. Based on the information provided, we have developed the following scope of work; once accepted and signed, you are authorizing our team to begin work, even so, we understand that a signed contract is to be executed by December 16th at 10:00am MT. We do have a draft AIA B133 contract attached for your review to initiate this alignment effort.

To:	CC:	
☒	☐	John Caterino City of Billings
☒	☐	Jessica Iverson City of Billings

PROJECT DESCRIPTION

Approximately 100,000 SF build-out of the Stillwater Building in Downtown Billings, MT. This project includes three floors of renovation, leaving the remaining area for out-of-scope tenant areas. The project will first confirm the program and priorities, then establish a masterplan approach that will consolidate City services within the building. If system assessments, recommendations and/or owner direction move to upgrade systems partially or fully, the design scope and fee will need to be re-negotiated.

PROJECT TEAM

OWNER:	City of Billings	John Caterino & Jessica Iverson
ARCHITECT:	Prime Architect	JLG Architects
	Consulting Architect	Collaborative Design Architects (CDA)
	Project Manager:	Nick Lippert, JLG
	Design Principal:	Bill Haynes, CDA
	Principal-in-Charge:	Jennifer Burke Jackson, JLG
ENGINEERING		
	Civil Engineer	AE2S
	Structural, Electrical & Mechanical Engineering	Morrison-Maierle

BUDGET

The total project budget is estimated at $14-15 million in construction and contingencies. The final project budget to be determined upon completion of Phase 1.

OWNER RESPONSIBILITIES

Provide necessary information in a timely manner, including, but not limited to:

- Site control & existing building drawings., exploratory demolition, if required.
- Fire hydrant flow testing & IECC commissioning, if required.
- Coordination & communication with existing & future tenants.
- Site Survey – to provide information necessary to complete project (can be provided by AE2S for approx. +$12,000)
- Soil Engineering & Remediation, if required.
- Lead Paint and Asbestos Abatement (or any other hazardous material removal), if required
- Design feedback and direction and sign-off at each phase of work
- And as described in the Agreement Between Owner and Architect.

SCOPE OF WORK

The scope of this work is interior renovation and excludes all exterior work, with the exception of modifications required to accommodate the interior mechanical and electrical systems on the exterior walls and roof. The project also excludes and work scope within the basement. The existing electrical distribution on each floor is assumed to be maintained / re-used. Panels and Step-Down Transformers on each floor are currently assumed to be upgraded. Electrical service entrance equipment and a generator or other

form of back-up power is excluded. The existing mechanical air handlers, boiler plant and chilled water plant are expected to remain. Replacement would result in an increased project cost and compensation and any need for this will be determined in Phase 1 scope. Existing site conditions will be confirmed for parking requirements and ADA requirements. No civil design scope is assumed at this time related to parking, access and accessibility, but this will be confirmed upon the completion of Phase 1.

Unknown insurance requirements (such as design enhancements required by FM Global) are excluded from the understood scope of work. Commissioning is not included in the scope.

Phase 1

Existing building documentation and system recommendations

Description of work: Create and verify a 3-D model of the existing conditions, understand the options and costs for the existing and new systems.

- Verification of existing drawings, floor to ceiling heights, column sizes and locations, stair locations and details, and other major existing components expected to remain - to establish a baseline for new work and code analysis.
- Mechanical, electrical, civil, and structural system evaluation
    - Electrical Systems will be evaluated to confirm the assumptions and clarification on components to be replaced and components to be re-used.
    - Mechanical Systems will be evaluated to confirm the assumptions and clarification on components to be replaced and components to be re-used.
    - Structural efforts include the inspection of structural elements in case anything was damaged during abatement or showing excessing cracking, deflection, or other structural concerns.
    - Civil efforts include parking assessment, ADA review and site grading review of existing conditions.
- System recommendations report
- BIM model creation

Pre-Design, Masterplan, Programming

Description of work: Development of owner's program, the financial and time requirements, and the scope of the Project is established. Site-related limitations are identified; requirements and general scope of the components for the Project are established.

- Programming to be completed by Architect/Owner
- Owner to determine contractor procurement strategy, this proposal assumes a CM Delivery.
- Establish project goals /objectives / priorities
- Department and/or User Group Worksessions
- Preliminary Floor plan diagrams
- Phasing and/or Masterplanning Schedule to be completed by Architect/Owner
- Preliminary budget to be established by Owner/Architect
- Mechanical, electrical, civil, and structural system planning and consultation on conceptual floor plan diagrams and phasing scenarios, as they emerge.

Schematic Design to be provided per the standard scope of Architect's Basic Services as described in AIA B133 (CM Delivery Method)– Agreement Between Owner and Architect. Basic services include civil (limited), structural (limited), mechanical, and electrical engineering services; any other consultants will be provided as an additional service.

Schematic Design

Description of work: Conceptual design and the scale and relationship of the components for the Project are established. Mechanical and Electrical systems are defined, sustainability goals are confirmed, and project schedule and budget are finalized.

- Program confirmation by Owner
- Preliminary building plans
- Preliminary code review
- Preliminary building sections
- Entrance elevations only, as required.
- Development of approximate dimensions, areas and volumes
- Mechanical, electrical, civil, and structural system planning and consultation on Schematic Level Floor plans. Final determination of Mechanical and Electrical System types and parameters (multiple system options will not be carried beyond Schematic Design). Final determination on exterior civil scope. Final determination of structural modifications, interior added stairs, etc.
- Project Schedule & Phasing Plan (if applicable)

- Preliminary statement of probable construction cost to be provided by CM (Design Team is recommending a CM delivery method to leverage contractor expertise for construction estimates in Schematic Design)

The Owner shall sign-off on the Phase I package prior to Design Team proceeding into Phase 2 of work.

Phase 2

Design Development

Description of work: Refinement and development of the Schematic Design package; material selections, coordination with developing mechanical and electrical systems. On-going ownership and user group meetings.

- Architectural Scope
  - Demo Plans
  - Wall & Partition Assemblies
  - Floor plans and enlarged floor plans
  - Code Plan & Code Review
  - Interior Elevations
  - Exterior Elevations limited to entrance elevations, as required
  - Reflected Ceiling Plans
  - Specifications Table of Contents

- Electrical Scope
  - Electrical Lighting Plans
  - Power layout and circuiting
  - Fire Alarm Design for remodeled area
  - Wireless Access Design
  - Specifications Table of Contents

- Mechanical Scope
  - Performance based fire suppression drawings
  - Plumbing System Plans (domestic, hot water, sanitary waste and vent piping)
  - HVAC System Plans
  - Temperature Controls
  - Natural gas distribution system
  - Equipment Schedules
  - Specifications Table of Contents

- Structural Scope
  - Determining overhead capacity for suspending mechanical equipment, piping, transformers, etc.
  - Determining floor capacity in case they have a file storage area, heavy equipment, or need to put in wheelchair lift or something like that with a heavy concentrated load.
  - **if an interior stair is determined to be needed to connect two floors, additional structural scope will be needed to fulfill the design and detailing requirements. The study of this will be included in Phase 1, and if needed, the structural scope & compensation for Phase 2 will need be adjusted to accommodate the additional scope. In addition, there may be some structural modifications needed to remove columns or change the structure to accommodate spatial requirements, as the program and the plan diagrams emerge. If this is so determined, additional structural values will need to be negotiated for Phase 2.*

- Civil Scope
  - Parking Lot, ADA requirements and grading site review and recommendations.

The Owner shall sign-off on the Design Development package prior to Design Team proceeding into Construction Documentation.

Construction Documents & Bidding

Description of work: Further refinement and detailed development of the Design Development package; final material selections, detailed / finite coordination with the final mechanical and electrical systems. These values assume a single bid package for mechanical and electrical scopes.

- Architectural Scope:
    - Demo Plans
    - Wall & Partition Assemblies & STC Ratings
    - Floor plans and enlarged floor plans
    - Code plan & code review
    - Interior elevations
    - Finish Schedule
    - Finish Plans
    - Door Schedule, Elevations and Details
    - Casework details
    - Exterior Elevations limited to entrance elevations, as required
    - Reflected ceiling plans
    - Code related signage plans & details
    - Plan, Section, Ceiling and Finish Details
    - Final Specifications
    - Bidding Support, Questions, Addendums, etc related to Architectural Scope, and management of bidding support provided by engineering team.

- Electrical Scope
    - Power, Lighting & Controls System Plans & Details
    - Electrical Lighting & lighting control Plans
    - Power layout and circuiting
    - Fire Alarm Design for remodeled area
    - Fiber Optic Backbone, 6/6A Coaxial Cabling Infrastructure.
    - Equipment Schedules
    - Final Specifications
    - Bidding Support, Questions, Addendums.

- Mechanical Scope
    - Performance based fire suppression drawings and specifications
    - Plumbing System Plans & Details (domestic, hot water, sanitary waste and vent piping)
    - HVAC System Plans & Details
    - Temperature Controls
    - Natural gas distribution system
    - Equipment Schedules
    - Final Specifications
    - Bidding Support, Questions, Addendums.

- Structural Scope
    - Design parameters / details for any core drilling through slabs shear walls for ducts and pipes, etc.
    - Roof framing design / details for any new equipment on the roof.
    - Detailing and design for any exterior wall or roof structural supports or opening parameters for new systems and equipment.
    - **if an interior stair is determined to be needed to connect two floors, additional structural scope will be needed to fulfill the design and detailing requirements. The study of this will be included in Phase 1, and if needed, the structural scope & compensation for Phase 2 will need be adjusted to accommodate the additional scope. In addition, there may be some structural modifications needed to remove columns or change the structure to accommodate spatial requirements, as the program and the plan diagrams emerge. If this is so determined, additional structural values will need to be negotiated for Phase 2.*
    - Bidding Support, Questions, Addendums.

- Civil Scope
    - If found necessary, final drawings for limited site, sidewalks, and ADA upgrades.
    - Bidding Support, Questions, Addendums.

Design Development, Construction Documentation and Bidding to be provided per the standard scope of Architect's Basic Services as described in AIA B133 (CM Delivery Method)– Agreement Between Owner and Architect. Design Team recommends the CM delivery method given the provided schedule and budget goals, final delivery method per owner

direction. Basic services include civil (limited), structural (limited), mechanical, and electrical engineering services; any other consultants will be provided as an additional service.

Phase 3A

Comprehensive Construction Administration

Description of work: High level of Design Team involvement in construction thru to record drawings and one year walk thru.

- Submittal Reviews (up to 2 each submittal)
- Regular Construction Meeting Attendance & Construction Progress Site Visits (32 total)
- RFI Responses
- Responses to Change Order Requests
- Project Punch List & Final Walk-thru
- One Year Walk-Thru

Construction Administration to be provided per the standard scope of Architect's Basic Services as described in AIA B133 (CM Delivery Method)– Agreement Between Owner and Architect. Basic services include civil (limited), structural (limited), mechanical, and electrical engineering services; any other consultants will be provided as an additional service.

Phase 3B

Hourly Construction Administration

Description of work: Construction Administration provided on an hourly basis as requested by ownership (see attached hourly rate sheets). Typically, these rates increase 3-5% each year. However, for the purposes of this project we have confirmation from all team members that they will hold their hourly rates as indicated on the attached rate sheets.

SCHEDULE

Phase 1	Dec 13th, 2021 - April 1st, 2022
Existing Building Documentation	
Programming, Pre-Design & Masterplanning	
Schematic Design	

Phase 2 & 3 Schedule to be confirmed upon completion of Phase 1.

Phase 2	
Design Development Phase	April 4th - June 6th, 2022
Construction Documents	June 13th - Aug 26th, 2022
Bidding	Sept 1st - Sept 30th, 2022

Phase 3	
Construction Phase	Aug 1, 2022 - June 1st, 2023

COMPENSATION

The following Phase 1 scope and compensation is provided as a lump sum ready to be executed. The following Phase 2 & 3 scope and compensation is estimated under the current understanding of project scope and schedule, to be verified upon completion of Phase 1.

Phase 1	
Existing Building Documentation & Confirmation	$10,000
Programming, Pre-Design & Masterplanning	$25,000
Schematic Design	$160,000
Total	**$195,000**

Phase 2 (Final Fees to be established at end of Phase 1)	**LOW**	**HIGH**
Design Development	$310,000	$396,000
Construction Documents	$330,000	$396,000
Bidding	$30,000	$36,000
Total	**$670,000**	**$828,000**

	LOW	HIGH
Phase 3A - Comprehensive Construction Administration	$170,000	$204,000
Phase 3B - Hourly Construction Administration	Hourly	

REIMBURSABLE EXPENSES

All final documents will be delivered electronically. Cost of printing, postage, delivery, fees paid for securing approval of authorities having jurisdiction over the Project, and any Owner requested and approved out of town travel expenses for design team and consultants will be reimbursed at JLG rates with no additional mark-up from JLG or from Consultants. The estimated allowance for reimbursables for your project from December 2021 through July of 2023 is $50,000.

OTHER

Scope change: If the Scope of Work changes materially from that noted above or if, due to the Owner's failure to perform their responsibilities in a timely and responsible manner, the anticipated value of the above-noted compensation should increase, the Architect shall seek the Owner's prior approval to proceed with one of the following courses of action:

- execute an appropriate Owner-Architect Agreement to provide compensation to the Architect for the additional Scope; **OR**
- terminate this Agreement, at the option of either the Owner or the Architect

Ownership of Architect's Instruments of Services:

- Drawings, specifications, and other documents prepared by the Architect are instruments of the Architect's service and are for the Owner's use solely with respect to this Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. Upon completion of the Project, or termination of this Agreement by either party, the Owner's right to use the instruments of service shall cease.
- The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project and aptly credit any/all drawings, renderings, and other documents by including JLG's logo or otherwise crediting JLG Architects by name in writing.

Contingency

The Owner shall include "reasonable contingencies" in the budget for the project. Please contact us if you'd like to discuss the industry standard ranges. The Owner further acknowledges that this contingency allowance is to cover funding of unpredictable changes in the work or items of work during the construction phase, serving three core purposes:

(1) to account for coordination issues in the Construction Documents, including errors and omissions
(2) to modify or change the scope of the project
(3) to accommodate unknown conditions

Additional Services

All the below scopes are based upon the Project Description parameters above of 100,000 SF interior renovation.

- LEED & LBC Certification Design and Documentation (architecture + engineering) - estimated at **$80,000 - $98,000**
    - *In the event that full certification is not desired, sustainable systems can be studied for a lower value, such as the viability and payback of Solar Panels on the roof. The cost and scope of certification will be better understood as a result of Phase 1, and we request the ability to explore this with you through that phase.*
- Detailed Furniture Design, Documentation, Cost Summary, Furniture Fair (to see and try furniture options), Public Bidding and Construction Administration - **$126,000** (a detailed breakdown of the planned deliverables can be provided, upon request).
    - *General Workstation and Furniture Layouts will be provided in the development of the floor plans under Basic Services. This scope facilitates the detailed level selection of workstations, fabrics, furniture, etc in a comprehensive design approach, in coordination with the interior finishes package. It also supports ownership decision-making thru sample furniture procurement and costs to optimize selection and confidence, public bidding support and construction administration.*
- 3-D images will be provided through the design process to study spaces and finishes. High-quality renderings of the design can be provided to the owner as an additional service at **$4,000** per rendering.

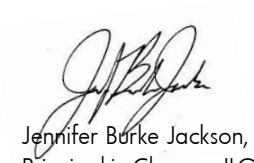
Changes in scope to increase design scope due to unforeseen conditions or new direction from ownership would be provided at an additional service, as mutually agreed upon, in advance of the service being rendered.

ATTACHMENTS: Design Team Hourly Rate Sheets & Draft AIA B133

Thank you for the opportunity to submit this proposal and to work with the City of Billings on this impact-filled project. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

Nick Lippert, AIA
Project Manager, JLG Architects



Jennifer Burke Jackson, AIA, LEED AP
Principal-in-Charge, JLG Architects

Please sign and date below to acknowledge your acceptance of this proposal.

_____ _____

Client: Date

JLG ARCHITECTS
HOURLY COMPENSATION

EXHIBIT C

Schedule of Hourly Compensation (As of 1/1/2021)

Principal Practice Leader - Senior	$380/Hour
Principal Practice Leader	$280/Hour
Principal Architect - Senior	$380/Hour
Principal Architect	$250/Hour
Project Designer - Senior	$230/Hour
Project Designer	$180/Hour
Practice Studio Specialist - Senior	$230/Hour
Practice Studio Specialist	$180/Hour
Project Manager - Senior	$230/Hour
Project Manager	$180/Hour
Project Architect - Senior	$210/Hour
Project Architect	$160/Hour
Landscape Architect - Senior	$220/Hour
Landscape Architect	$130/Hour
Practice Studio Consultant	$200/Hour
Construction Services Specialist - Senior	$180/Hour
Construction Services Specialist	$130/Hour
Business Assistant - Senior	$180/Hour
Business Assistant	$145/Hour
Technical Assistant - Senior	$180/Hour
Technical Assistant	$145/Hour
Interior Designer - Senior	$150/Hour
Interior Designer	$115/Hour
Interior Designer - Project Support	$90/Hour
Job Captain - Senior	$125/Hour
Job Captain	$115/Hour
Project Support - Senior	$95/Hour
Project Support	$90/Hour
Project Assistant	$85/Hour
Student Intern	$65/Hour

Reimbursable Expense Charges — **Cost Per Sheet**

Standard Printing	**Size (Inches)**	**Standard**	**Glossy**	**Marketing**	**Cardstock**
B & W	8.5 x 11	$ 0.20	$ 1.30	$ 0.40	$ 0.45
B & W	11 x 17	$ 0.40	$ 2.60	$ 0.80	$ 0.90
B & W	12 x 18	$ 0.45	$ 3.00		
Color	8.5 x 11	$ 1.00	$ 4.00	$ 1.55	$ 1.65
Color	11 x 17	$ 2.00	$ 8.00	$ 3.10	$ 3.30
Color	12 x 18	$ 2.30	$ 9.20	$ 3.57	

Plotted Printing	**Size (inches)**	**Standard**	**Glossy**
B & W	18 x 24	$ 1.35	$ 5.40
B & W	15 x 31	$ 1.45	$ 5.80
B & W	22 x 34	$ 2.35	$ 9.40
B & W	24 x 36	$ 2.70	$ 10.80
B & W	30 x 42	$ 3.95	$ 15.80
B & W	34 x 44	$ 4.70	$ 18.80
B & W	36 x 48	$ 5.40	$ 21.60
Color	18 x 24	$ 13.50	$ 18.90
Color	15 x 31	$ 14.50	$ 20.30
Color	22 x 34	$ 23.50	$ 32.90
Color	24 x 36	$ 27.00	$ 37.80
Color	30 x 42	$ 39.50	$ 55.30
Color	34 x 44	$ 47.00	$ 65.80
Color	36 x 48	$ 54.00	$ 75.60

Mounted Gator Board	
3/16" Thickness	$.045/Sq. in.
Mileage	$.56/mile
Any Size Scan to File	$4.50/ea. + $5.50/CD
CD's	$15.00/ea.
Telephone	At Cost
Photos	At Cost plus 10%
Postage/UPS/Fed Ex	At Cost plus 10%
Consultant Fees	@ 1.1 (10%) Hourly Compensation @ 33% Fixed Fee/Percentage Compensation
Consultant Reimbursable Expenses	@1.1 (10%) times Consultant Cost

(NOTE: This schedule is subject to adjustment by JLG Architects)

C O L L A B O R A T I V E D E S I G N

HOURLY BILLING RATES:

Effective January 2021

Senior Principal	$160.00
Principal Architect	$150.00
Staff Architect	$110.00
Design Professional/ Interior Design	$80.00
Clerical	$60.00

PLOTTING AND PRINTING:

8.5x11

Black & white	$0.25/page
Color	$0.50/page

Oversize

Black & white	$0.25/sf
Color	$0.50/sf

ADDITIONAL EXPENSES:

Staff travel per diem	$1.00/mile, ea. staff member

DIRECT REIMBURSABLE COSTS:

Car rental ($70/day + per diem)
Fuel
Lodging
Meals
Postage/shipping
Airline tickets
Misc. travel costs

All major credit cards are accepted; however, a 3.0% credit card fee surcharge will be added to the balance. ACH payments are available at no charge. Please email accounts@cd-mt.com for details on CC and ACH options.

Hourly Billing Rates are reviewed in January of each year and adjustments made, if any, at that time. Projects utilizing Hourly Billing Rates are subject to updated rates annually in January.

Morrison Maierle
engineers • surveyors • planners • scientists

Standard Billing Rate Schedule
Effective Thru
December 31, 2021

		Standard Rate	Overtime Rate
Engineer	**Supervising Engineer IV**	226.00	226.00
	Supervising Engineer III	211.00	211.00
	Supervising Engineer II	201.00	201.00
	Supervising Engineer I	190.00	190.00
	Senior Engineer II	180.00	180.00
	Senior Engineer I	163.00	163.00
	Design Engineer II	153.00	153.00
	Design Engineer I	143.00	143.00
	Engineer Intern II	124.00	124.00
	Engineer Intern I	109.00	109.00
Planner	**Supervising Senior Planner**	196.00	196.00
	Senior Planner	163.00	163.00
	Planner III	132.00	132.00
	Planner II	120.00	120.00
	Planner I	105.00	105.00
Scientist	**Supervising Environmental Scientist**	204.00	204.00
	Environmental Scientist III	163.00	163.00
	Environmental Scientist II	122.00	122.00
	Environmental Scientist I	105.00	105.00
	Environmental Technician	92.00	92.00
	Supervising Geologist	205.00	205.00
	Senior Geologist	194.00	194.00
	Geologist III	167.00	167.00
	Geologist II	143.00	143.00
	Geologist I	122.00	122.00
Designer and Technician	**Senior Communications Designer**	153.00	153.00
	CAD Designer III	136.00	136.00
	CAD Designer II	125.00	125.00
	CAD Designer I	116.00	174.00
	CAD Tech III	114.00	171.00
	CAD Tech II	99.00	148.50
	CAD Tech I	87.00	130.50
	Senior Engineering Technician	158.00	158.00
	Engineering Technician	109.00	109.00
Resident Project Representative	**Senior Resident Project Representative**	152.00	152.00
	Resident Project Representative III	145.00	145.00
	Resident Project Representative II	128.00	128.00
	Resident Project Representative I	110.00	165.00
Administrative	**Administrative Manager**	110.00	110.00
	Administrative Coordinator III	102.00	102.00
	Administrative Coordinator II	96.00	144.00
	Administrative Coordinator I	79.00	118.50
	Project Coordinator III	103.00	154.50
	Project Coordinator II	91.00	136.50
	Project Coordinator I	79.00	118.50
	Technical Intern	75.00	112.50
	Senior Communication Specialist	108.00	108.00
	Graphic Designer	92.00	92.00
	Health & Safety Administrator	122.00	122.00
Survey	**Senior Survey Manager**	179.00	179.00
	Survey Manager	153.00	153.00
	Land Surveyor IV	147.00	147.00
	Land Surveyor III	138.00	138.00
	Land Surveyor II	126.00	126.00
	Land Surveyor I	116.00	116.00
	Remote Sensing Specialist	116.00	174.00
	Survey Technician IV	107.00	160.50
	Survey Technician III	100.00	150.00
	Survey Technician II	87.00	130.50
	Survey Technician I	73.00	109.50
Expert Witness	Recommended rate for expert witness services (depositions and/or time in court) is charged at an hourly rate of 150-200% of the standard billing rate.		

ADVANCED ENGINEERING AND ENVIRONMENTAL SERVICES, LLC
2022 HOURLY FEE AND EXPENSE SCHEDULE

Labor Rates*

Engineer 1	$125.00
Engineer 2	$148.00
Engineer 3	$177.00
Engineer 4	$203.00
Engineer 5	$215.00
Engineering Technician 1	$75.00
Engineering Technician 2	$96.00
Engineering Technician 3	$117.00
Engineering Technician 4	$131.00
Engineering Technician 5	$149.00
Sr. Designer 1	$165.00
Sr. Designer 2	$183.00
Sr. Designer 3	$194.00

Reimbursable Expense Rates

Transportation	$0.65/mile
Survey Vehicle	$0.85/mile
Laser Printouts/Photocopies	$0.30/copy
Outside Services	cost *1.15
Geotechnical Services	cost *1.30
Out of Pocket Expenses	cost*1.15
Rental Car	cost*1.20
Project Specific Equipment	Negotiable

* Position titles are for labor rate grade purposes only.

These rates are subject to adjustment each year on January 1.

APPENDIX 'D'

Project Schedule

Phase 1 December 20, 2021 to May 1, 2022

Existing building documentation and system recommendations
December 2021 to February 2022

Description of work: Create and verify a 3-D model of the existing conditions, understand the options and costs for the existing and new systems.

- Verification of existing drawings, floor to ceiling heights, column sizes and locations, stair locations and details, and other major existing components expected to remain - to establish a baseline for new work and code analysis
- Mechanical, electrical, civil, and structural system evaluation

    - Electrical Systems will be evaluated to confirm the assumptions and clarification on components to be replaced and components to be re-used

    - Mechanical Systems will be evaluated to confirm the assumptions and clarification on components to be replaced and components to be re-used

    - Structural efforts include the inspection of structural elements in case anything was damaged during abatement or showing excessing cracking, deflection, or other structural concerns

    - Civil efforts include parking assessment, ADA review and site grading review of existing conditions

Deliverables:
- System recommendations report
- BIM model creation

Pre-Design, Masterplan, Programming
January 2022 to March 2022

Description of work: Development of owner's program, the financial and time requirements, and the scope of the Project is established. Site-related limitations are identified; requirements and general scope of the components for the Project are established.

- Programming to be completed by Architect/Owner
- Owner to determine contractor procurement strategy, this proposal assumes a CM Delivery
- Establish project goals /objectives / priorities
- Department and/or User Group Work sessions
- Preliminary Floor plan diagrams
- Phasing and/or Master-planning Schedule to be completed by Architect/Owner
- Preliminary budget to be established by Owner/Architect
- Mechanical, electrical, civil, and structural system planning and consultation on conceptual floor plan diagrams and phasing scenarios, as they emerge

Deliverables:

- Conceptual floor plans
- Phasing scenarios
- Preliminary cost estimating

Schematic Design

March 2022 to May 1, 2022

Description of work: Conceptual design and the scale and relationship of the components for the Project are established. Mechanical and Electrical systems are defined, sustainability goals are confirmed, and project schedule and budget are finalized.

- Program confirmation by Owner
- Preliminary building plans
- Preliminary code review
- Preliminary building sections
- Entrance elevations only, as required
- Development of approximate dimensions, areas and volumes
- Mechanical, electrical, civil, and structural system planning and consultation on Schematic Level Floor plans. Final determination of Mechanical and Electrical System types and parameters (multiple system options will not be carried beyond Schematic Design). Final determination on exterior civil scope. Final determination of structural modifications, interior added stairs, etc.

Deliverables:

- Preliminary plans, sections, and code review
- Entrance elevation design options
- Project Schedule & Phasing Plan
- Preliminary statement of probable construction cost

The Owner shall sign-off on the Phase I package prior to Design Team proceeding into Phase 2 of work.

City Council Regular

Date: 12/20/2021
Title: Opioid litigation options
Presented by: Gina Dahl
Department: Legal
Presentation: No

RECOMMENDATION

Staff recommends Council consider whether to sign on to the settlement agreements described below or to proceed with litigation against the Distributors and Janssen Pharmaceuticals.

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

The State of Montana has been investigating and litigating opioid claims in state court for several years. Seven Montana local governments have also filed claims in the federal multidistrict litigation (MDL) in the Northern District of Ohio, Judge Polster presiding. Those seven local governments are Missoula, Missoula County, Great Falls, Cascade County, Gallatin County, Lake County, and Anaconda/Deer Lodge.

The City of Billings is eligible to receive payments from two separate Settlement Agreements with (1) the three major opioid Distributors (McKesson Corporation, Cardinal Health, Inc., and Amerisource Bergen) and (2) with Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson, as part of two nationwide settlement agreements to resolve all opioid litigation brought by states and local political subdivisions.

The proposed settlements require the Distributors and Janssen to pay billions of dollars to abate the opioid epidemic. Specifically, the settlements require the Distributors to pay up to $21 billion over 18 years and Janssen to pay up to $5 billion over no more than 9 years, for a total of $26 billion. Of the settlement amount, approximately $22.7 billion is earmarked for use by participating states and subdivisions to remediate and abate the impacts of the opioid crisis.

The settlements provide for payments to States, Local Governments and other entities to provide for opioid abatement, attorney fees, a portion of litigating costs, and administrative burdens. Many States, including Montana, have decided to participate in this settlement process while others have chose not to participate. The Janssen and Distributor Settlement Agreements, which largely overlap, are available for review on the national settlement website at National Opioid Settlement (nationalopioidsettlement.com). Montana's share of the settlement was determined by interstate allocation metrics based upon population and the intensity of opioid impacts in the state. Again, although Montana stands to receive up to approximately $80 million, maximum payments require full local government participation.

A Memorandum of Understanding (MOU) that the Attorney General has approved is attached. The purpose of the MOU is to determine governance; intrastate allocation between the State, Abatement regions, and Local Governments; attorney fees, and other administrative issues,

such as effectuating the important requirement that the settlement monies be used only for approved opioid abatement strategies or programs. Montana's seven litigating local governments are not likely to join the Settlement Agreements and the MOU.

The settlements also contain injunctive relief provisions governing the opioid marketing, sale, and distribution practices at the heart of the states' and subdivisions' lawsuits and further require the Distributors to implement additional safeguards to prevent diversion of prescription opioids.

In order to receive direct payments and benefits, the City of Billings needs to join the Settlement Agreements. Although the Settlement Agreements are complex, for present purposes it is important that you know the following:

- The monetary payments to the States depend on the level of local government participation: Montana and its Local Governments will receive up to $80 million in total payments (over a period of years) only if ALL fifty-six counties and Montana's six largest cities by population join. This is because the Settlement Agreements provide for bonus payments to each State as the level of local government participation goes up.
- January 2, 2022, is the Local Government Participation Deadline: According to the Settlement Agreements, local governments have until January 2, 2022, to join. After that date, the States, including the State of Montana, have until January 17, 2022, to determine whether the level of local government participation is sufficient to proceed forward with the settlement process.

If Council decides to sign on to the Settlement Agreements/MOU, staff will register the City of Billings on the national settlement website in order to receive the two Distributor and Janssen sign-on forms for the Settlements electronically. Council will also need to sign on to the MOU. The key points and principles of the MOU are:

- Funds will be allocated between the State and Local Governments with 15% to the State, 15% to local governments, and 70% to a Statewide Abatement Trust that is administered by a Trust Advisory Committee comprising equal representation from the State and local governments.
- 80% of the funds going into the Abatement Trust (which itself comprises 70% of the total abatement funds) shall be allocated for use by local governments. Consequently, at least 71% of the total settlement funds will be disbursed locally.
- Local government participation in the Trust and Trust Council will be through Abatement Regions based primarily on the existing Department of Health and Human Services Health Planning regions. Exhibit A of the attached MOU.
- The allocation of funds for use by the Abatement Regions is based on the percentages shown in Exhibit B which are derived from population and opioid impact on those regions. The allocation for the City of Billings is approximately 9.13%
- Distribution of funds from the Abatement Trust will be reviewed and approved by the Trust Advisory Committee based on proposals submitted through the Abatement Regions or from the State.
- The MOU also provides the Attorney General with the ability to develop abatement programs and strategies intended to encourage Local Governments, particularly rural areas, to pool their resources in support of the most cost-effective abatement programs and strategies.

The AG's office has requested a hard-copy signature page to the MOU rather than an electronic signature. However, to be clear, the two sign-on forms will be executed electronically on the settlement website. Staff will be available to assist with this process.

ALTERNATIVES

City Council may:

- Authorize the Mayor to execute all necessary documents to sign on to the MOU and the settlement agreements;
- Not authorize the Mayor to sign on to the MOU and the settlement agreements. If the City does not sign the MOU and the settlement agreements, it may pursue litigation in state or federal court against the Distributors and Janssen Pharmaceuticals.

FISCAL EFFECTS

The proposed settlement with the Distributors provides for a maximum payment of approximately $21 billion dollars over the course of 18 years. Of that total, a maximum of approximately $19 billion would be paid to participating states for division among the states and the political subdivisions within them. The settlement provides for an allocation of .34% to the State of Montana, for a theoretical maximum of $65 million. The terms of the MOU approved by Attorney General Knudsen provide for a division of the funds allocated to Montana, with 15% going directly to political subdivisions, 15% to the State, and 70% to an opioid abatement trust. The settlement also includes an allocation for the political subdivisions within Montana, with 9.13% allocated to the City of Billings. So, the theoretical maximum which would be paid directly to Billings pursuant to the settlement is approximately $900,000. Additionally, the MOU requires 80% of the funds in the abatement trust to be "allocated" for the political subdivisions according to the same division. However, it is not clear what discretion, if any, the City of Billings may have in terms of how its share of the funds in the trust would be spent. The theoretical maximum allocated to the City of Billings from the trust would be $3.3 million dollars.

The settlement with Janssen/Johnson & Johnson is structured in a very similar manner, with a maximum payout over the course of 5 - 9 years in the amount of $5 billion. The divisions to Montana and its subdivisions are the same in both the Janssen and Distributor settlements. Under the Janssen deal, the maximum payout to Montana is approximately $15 million, of which approximately $200,000 would be paid directly to Billings. Billings share of the funds paid into the abatement trust pursuant to the Janssen settlement would be approximately $780,000.

SUMMARY

One of the major drawbacks of the proposed settlements is that the payments described above will never be paid in full. The settlement agreements provide for reductions in the payments based on a number of factors. One of the primary factors influencing the amount of the reductions is the level of participation in the settlements by political subdivisions, and particularly political subdivisions which filed lawsuits prior to the settlement agreements.

Additionally, the reduced amounts which would be paid are stretched out over a number of years, up to 18 years for the Distributor settlement, and up to 9 years for the Janssen settlement. In Montana, a number of the litigating political subdivisions have already indicated they do not intend to participate in the settlements. Therefore, we can predict with a high degree of confidence that the total payout in Montana will be substantially reduced.

Another factor influencing the total payments to be made under both agreements relates to future payments which may be made to non-participating subdivisions within the state. In other words, the payments to subdivisions opting into the settlement could be reduced based

on potential future recoveries by the subdivisions opting out.

For all of these reasons, the amount a participating subdivision may receive over the course of several years is highly uncertain. Again, and because of these reasons, some cities and counties in Montana will not be opting into the settlement and will instead proceed with lawsuits against these Defendants with the ultimate goal of achieving a better outcome for their citizens.

Council should consider whether the theoretical award from the settlement agreements outweighs the risk of a pursuing litigation. If the City of Billings chooses to pursue litigation, there is a group of attorneys with technical expertise in this area with access to specialized experts that are willing to take this case on a contingency basis. Therefore, there would be no cost of ongoing litigation to the City for attorney fees or expenses.

Attachments

MOU

MONTANA DISTRIBUTORS' AND JANSSEN OPIOIDS SETTLEMENT MEMORANDUM OF UNDERSTANDING

("MOU")

WHEREAS the people of the State of Montana and its communities have been harmed by serious and substantial wrongdoing committed by certain entities within the Pharmaceutical Supply Chain; and,

WHEREAS the State of Montana, through the State's Attorney's Office of the Montana Attorney General, and certain litigating cities and counties, through their elected representatives and counsel, are separately engaged in litigation seeking to hold manufacturers, distributors, and others in the Pharmaceutical Supply Chain accountable for the harms caused by their wrongdoing; and,

WHEREAS the State of Montana and Montana's cities and counties (hereafter Local Governments) share a common desire to abate and remediate the impacts of that wrongdoing throughout the State of Montana and to maximize the resources devoted to combatting the opioid crisis; and,

WHEREAS researchers and clinicians in Montana and elsewhere have now built a substantial body of evidence demonstrating which opioid abatement strategies work and which do not and there are public health leaders in the State and at the local level with expertise in addiction and substance use available to guide determinations for the use of any settlement funds; and,

WHEREAS recently the State of Montana agreed to join a settlement agreement process (hereafter Settlement Agreements) which, if finalized, will resolve litigation against certain specific defendants in the Pharmaceutical Supply Chain, namely the opioid distributors McKesson Corporation, Cardinal Health,

Inc., and Amerisource Bergen Corporation and also Janssen and the related entities listed in the Section I. 32 of the Janssen Settlement Agreement[1] (hereafter the Opioid Settlement Defendants) for harms caused by their wrongdoing that require – with limited exception-- that all settlement funds be used for forward-looking remediation and abatement of opioid associated harms; and

WHEREAS maximum monetary payments available to the State of Montana and its Local Governments depend upon maximum Local Government participation in the Settlement Agreements and in this Memorandum of Understanding (MOU);

NOW THEREFORE the State of Montana and its Local Governments, subject to completing any additional documents needed to effectuate their agreement, enter into this MOU for the allocation, management, and use of the proceeds of the Settlement Agreements: (a) to develop a fair and transparent process for making decisions based on medical and scientific evidence concerning where and how to spend the funds from the Settlement Agreements to effectuate forward-looking abatement strategies and to supplement rather than replace existing spending; (b) to establish a dedicated Montana Abatement Trust with representation that reflects the public health expertise and diversity of affected communities when allocating settlement funds that meets the requirements of Section V.E.2d. of the Settlement Agreements; and (c) to provide a framework for equitable distribution of funds from the Settlement Agreements among all participating Local Governments within the

[1] "Janssen" means Johnson & Johnson, Janssen Pharmaceuticals, Inc., OrthoMcNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc.

State of Montana that agree to be bound by this MOU and forego pursuing separate litigation against any of the settling defendants named above.

A. DEFINITIONS AND DESCRIPTIONS

1. "The State" shall mean the State of Montana acting through the Attorney General.

2. "Participating Local Governments" shall mean any Montana county or city that has chosen to participate in this MOU and the Settlement Agreements, including execution of all documents required to effectuate the Settlement Agreements and this MOU.

3. "The Parties" shall mean the State of Montana and the Participating Local Governments.

4. "Settlement Agreements" shall mean the Distributor Settlement Agreement dated as of July 21, 2021, and the Janssen Settlement Agreement dated as of July 21, 2021.

5. "Settlement Funds" shall mean all monetary amounts obtained through the Settlement Agreements as defined herein, according to the allocation percentage to the State provided for in Section F of the Settlement Agreements, and as determined by the Settlement Fund Administrator.

6. The "Settlement Funds Administrator" shall mean the person or entity in I. MMM of the Definitions section of the Settlement Agreements chosen by the settling defendants and the national plaintiffs' enforcement committee to determine the proper allocation of funds from the Settlement Agreements to each

participating state and to manage the distribution of the Settlement Funds to all participating states.

7. "Opioid Remediation" as defined or referenced in the Settlement Agreements shall include care, treatment, and other forward-looking programs and expenditures for Approved Purposes, including: to (1) address the misuse and abuse of prescription opioid products, (2) treat or mitigate opioid misuse or related disorders, or (3) mitigate other injuries or harms resulting from the overprescribing of opioids, including diversion and the misuse or abuse of Fentanyl or Fentanyl-containing products or substances. Opioid Remediation efforts shall involve evidence-based strategies, programming, and services used to: expand the availability of treatment for individuals affected by opioid use or polysubstance use disorders; develop, promote, and provide opioid-related or polysubstance use prevention strategies; provide opioid-related or polysubstance use avoidance and awareness education; decrease the oversupply of licit and illicit opioids, including Fentanyl or products or substances containing Fentanyl; support recovery through addiction services performed by qualified and appropriately licensed providers of persons suffering from opioid-related use disorder, polysubstance abuse, or chronic-pain patients and others who suffer from or are at substantial risk of opioid abuse or dependency; and support for law enforcements addressing the impact of opioid-related substance abuse in the communities they serve, including misuse or illicit use of heroin and/or Fentanyl. Exhibit E in the Settlements Agreements provides a non-exhaustive list of expenditures that qualify as Opioid Remediation. Qualifying expenditures may include reasonably related administrative expenses.

8. "Approved Purposes" shall mean forward-looking strategies, programming, and services to abate the opioid epidemic as identified by the terms of the Settlement Agreements.

9. "Opioid Settlement Defendants" shall mean McKesson Corporation, Cardinal Health Inc., Amerisource Bergen Corporation, and Janssen and their related entities and affiliates as delineated in the Settlement Agreements.

B. MONTANA ABATEMENT REGIONS

1. Local and regional use of Opioid Settlement Funds shall be implemented through Abatement Regions and the Local Governments within those regions. The Abatement Regions shall comprise nine Metropolitan Abatement Regions—consisting of the nine Montana counties with populations exceeding 30,000—and five Multi-County Abatement Regions—utilizing the five existing Health Planning Regions established by the Montana Department of Public Health and Human Services. *See* Montana Abatement Regions Map, attached as Exhibit A.

2. The Nine Metropolitan Regions having populations of 30,000 or more are Yellowstone, Missoula, Gallatin, Flathead, Cascade, Lewis & Clark, Silver Bow, Ravalli, and Lake Counties, provided they participate in this Agreement. Each of the nine Metropolitan Regions have consolidated city-county health departments with substantial public health expertise that can serve as the lead or co-lead agencies within their respective regions for administration and use of settlement funds.

3. The Multi-County Abatement Regions derived from the five existing Montana Department of Health and Human Services Health Planning Regions exclude any local governments not participating in this MOU and the Settlement Agreements. The five Multi-County Abatement Regions also exclude the nine Metropolitan Regions and all Local Governments within the nine Metropolitan Regions. *See* Exhibit A.

4. All the Metropolitan Regions that agree to the Settlement Agreements and this MOU as well as all the constituent Participating Local Governments comprising a Multi-County Abatement Region that have chosen to enter into this MOU and the Settlement Agreements shall be treated as Participating Abatement Regions. For the sake of clarification, any county or city listed in the MOU Abatement Region Allocation, attached as Exhibit B[2], within a Multi-County Region that does not enter into this MOU and the Settlement Agreements shall not be included in the Abatement Region where it is geographically located and shall not be entitled to receive any funds from the Settlement. Rather, the share(s) of the funds that a nonparticipating city or county would be allocated according to Exhibit B shall instead be allocated to the Abatement Trust.

C. THE MONTANA ABATEMENT TRUST

1. The Attorney General shall create a private, non-profit Abatement Trust ("Trust") with an Advisory Committee ("Committee"), as required by the Settlement Agreements for the purpose of receiving and disbursing Settlement Funds allocated to the Abatement Trust and to Participating Abatement Regions,

[2] Exhibit B of this MOU is comprised of the Montana Local Governments listed in Exhibit G of the Settlement Agreements.

Participating Local Governments and to the State of Montana for Opioid Remediation and Approved Purposes, which are to be distributed as set forth in this MOU, in the Settlement Agreements, and in the documents establishing the Trust.

2. The Trust shall be governed by the Advisory Committee consisting of ten voting members and an Executive Director appointed by the Attorney General who will only vote in the event of a tie.

3. The ten voting members of the Advisory Committee shall provide equal representation between the State and local governments as follows: three members chosen by the Metropolitan Regions, two members chosen by the Multi-County Regions, two members chosen by the Director of the Department of Health and Human Services (DPHHS), and three members chosen by the Attorney General.

4. At least one of the ten members of the Committee shall be a law-enforcement representative from the Montana Department of Justice's Division of Criminal Investigation (DCI) and/or Montana Highway Patrol (MHP). One of the ten members of the Advisory Committee may be, but is not required to be, a family member of a person who had or has suffered from opioid use disorder. All other Committee members must come from the fields of medicine, public health, mental health, or addiction.

5. Committee terms will be three years and initially staggered. Committee members may serve more than one term. In the first year, two members from the Metropolitan Regions and one member from the Multi-County Regions will have a one-year term, one member representing the Department of

Health and Human Services and one member representing the Attorney General will have two-year terms, and the remaining members will have three-year terms. Six members of the Committee shall constitute a quorum. Unless the Committee determines otherwise, the Metropolitan and Multi-County Abatement Regions shall determine for themselves how to choose their member representatives. No Committee member shall receive compensation but may be reimbursed for reasonable costs expended for work on the Committee.

6. To provide for health security and reduce expense, members of the Committee shall participate in meetings by telephone or video conference at least every three months, except, if feasible, one annual in-person meeting per year shall be set by consensus of the Committee. If a member of the Committee is unable to attend in-person or remotely, s/he may designate a proxy. A quorum exists if six members are voting in-person, remotely, or by proxy.

7. In all votes of the Committee, a measure shall pass if a quorum is present and the measure receives the affirmative votes from a majority of those Committee members voting. The Executive Director may vote to break a tie.

8. The Attorney General shall appoint the Executive Director at his/her discretion from a list of three candidates provided to the Attorney General by the Committee. If the Attorney General finds all three candidates to be unsatisfactory, the Attorney General may reject all three candidates and request that the Committee provide three new persons to select from.

9. In choosing candidates to be submitted to the Attorney General, with the exception of the one member who is a family member of a victim of the opioid

crisis, if applicable, and representative(s) from DCI and/or MHP, the Committee shall seek candidates with at least six years of experience in issues related to addiction, mental health, and/or public health and who have management experience in those fields.

10. The Executive Director shall serve as an *ex officio*, non-voting member of the Committee unless there is a tie vote, in which case the Executive Director may cast the tie breaking vote.

11. The Attorney General shall set a date for a first in-person meeting of the Committee. Once the Abatement Regions, the Attorney General, and the Director of the Department of Health and Human Services have designated their respective members of the Committee, the Attorney General shall designate an Interim Executive Director to conduct the meeting and other scheduled meetings until a permanent Executive Director can be named.

12. At the first meeting the Committee shall develop written guidelines for receiving input from the State of Montana, Abatement Regions, Local Governments**,** and others regarding how the opioid crisis is affecting their jurisdictions or communities and their respective abatement needs. These written guidelines shall provide procedures for Regions and Local Governments or communities to develop and submit proposals for distribution of funds from the Abatement Trust for Opioid Remediation programs for the Regions and/or throughout Montana.

13. The Committee shall draft its own bylaws or other governing documents, which must include appropriate conflict of interest and dispute

resolution provisions, in accordance with the terms of this MOU and Montana law. It shall not have rulemaking authority under Montana law. The Committee shall utilize the legal advice and assistance of the State's Attorney's Office and legal counsel for the Local Governments and Regions, who will work collaboratively to draft and finalize necessary bylaws, procedures and other governing documents with the goal of minimizing red tape and maximizing the efficient flow of funds to abate the opioid problem.

14. The Committee shall be responsible for accounting of all Opioid Funds it distributes. The Committee shall be responsible for releasing Opioid Funds in accordance with Approved Purposes, the Settlement Agreements, and this MOU and, with the help of the State's Attorney's Office and Local Government counsel, shall develop policies and procedures for the release and oversight of such funds.

15. The Committee may also require outcome related data from any Party or Local Government that receives Opioid Funds and may publish such outcome related data. In determining which outcome related data may be required, the Committee shall work with all Parties, Regions, and Local Governments to identify appropriate data sets and develop reasonable procedures for collecting such data sets so that the administrative burden does not outweigh the benefit of producing such outcome related data.

16. The Committee shall facilitate collaboration between the State, Regions, and Participating Local Governments regarding sharing information related to abating the opioid crisis in Montana.

D. ALLOCATION OF AND USE OF SETTLEMENT PAYMENTS TO THE STATE

1. According to the terms of the Settlement Agreements, when all requirements of the Settlement Agreements have been met to allow direct payments of Settlement Funds to the State of Montana, Local Governments, and Abatement Regions the Settlement Fund Administrator will determine the total amount of Settlement Funds to allocate and pay to the State of Montana, including base payments and incentive payments.

2. The funds from the Settlement Agreements for the State of Montana shall be direct-deposited into three separate funds: the State of Montana Fund, the Abatement Trust, and the Local Government Fund.

3. Of the total paid to the State of Montana, including incentive payments:

   a. Fifteen percent (15%) shall be allocated to directly to the State of Montana Fund;

   b. Seventy percent (70%) shall be allocated directly to the Abatement Trust, from which funds may be disbursed from the Trust, with approval of the Advisory Committee, for Opioid Remediation at the State, Regional, or Local Government levels; and,

   c. Fifteen percent (15%) shall be allocated directly to the Local Government Fund.

4. The Settlement Funds allocated to the State of Montana Fund shall be used by the State for Approved Purposes as determined by a separate committee

made up of representatives from the Attorney General and the Montana Department of Health and Human Services.

5. The Settlement Funds allocated to the Abatement Trust shall be paid into the Abatement Trust for Approved Purposes administered by the Advisory Committee and Executive Director as described herein.

6. The Abatement Trust, administered by the Advisory Committee, shall be designated the lead single point of contact for Montana's communications with the Settlement Fund Administrator. As lead agency it shall have primary responsibility for evaluating and distributing funds for evidence based Opioid Remediation proposals and programs for opioid-related substance abuse disorder services.

7. Of the amount apportioned to the Abatement Trust for Opioid Remediation as outlined in 3(b) above, eighty percent (80%) shall be allocated to the Participating Abatement Regions according to the Subdivision Allocation Percentages in Exhibit B, on the assumption that all Subdivisions within each region become Participating Subdivisions. The allocation of 80% of the Abatement Trust to the Participating Abatement Regions, however, does not change the calculation of attorneys' fees for Outside Counsel for Local Governments described in Section E below. That calculation, which is set forth in the Settlement Agreements Exhibit R, is based on dividing and allocating the total settlement funds received by the State, half to the State and half to Local Governments. Attorneys' fees are then calculated by multiplying the Local Government half

times the allocation percentage in Exhibit B to determine amount allocated to their respective Local Governments upon which the attorneys' fees is based.

8. Amounts apportioned to the Local Government Fund shall be distributed to Participating Local Governments included on Exhibit B per the Subdivision or Local Government Allocation Percentage listed in Exhibit B. No Non-Participating Local Government will receive any amount from the Settlement Funds allocated to the State of Montana, regardless of whether such Local Government is included on Exhibit B. Rather, any funds allocated to the Local Government Fund for Non-Participating Local Governments shall be transferred to the Abatement Trust for Approved Purposes by the Region in which that Non-Participating Local Government is geographically located.

9. Each Abatement Region shall create its own governance structure for the administration, management, and use of Opioid Remediation funds to ensure all Participating Local Governments within that Region have input and equitable representation regarding regional Opioid Remediation administration and decisions, including representation on the Montana Opioid Abatement Trust Committee, and selection of projects to be funded from the Region's share. That governance structure shall include designation of a fiscal agent within the Region to receive and distribute Settlement Funds allocated to it.

10. All Participating Abatement Regions shall have the responsibility to make decisions about planning, budgeting, and disbursement of funds for projects that will equitably and appropriately serve the needs of the entire Region and be

consistent with this MOU and the Settlement Agreements' definition and description of appropriate Opioid Remediation and Approved Purposes.

11. The Trust Committee and all the Regions shall be guided by the recognition that budgeting for operating expenditures should be conservative and carefully limited to ensure that the maximum funds are preserved for forward-looking abatement of the opioid epidemic and the prevention of future opioid-related addiction and substance misuse. In recognition of these core principles, the Committee and the Regions shall endeavor to assure the funds are disbursed only to support evidence-based Opioid Remediation for opioid-related substance abuse/misuse abatement, education, and prevention efforts as described in detail in this MOU and the Settlement Agreements.

12. Funds from the Abatement Trust may also be expended by the Trust for statewide programs, innovation, research, and education. Any statewide programs funded from the Trust would be only as directed by an affirmative majority vote of the Committee. Expenditures for these purposes may also be funded by the Trust with funds received from either the State of Montana's share (as directed by the Attorney General in consultation with DPHHS) or from sources other than Opioid Settlement Funds as provided for below.

13. Participating Abatement Regions may collaborate with other Participating Abatement Regions to submit joint proposals to be paid for from the Regional Shares of two or more Participating Abatement Regions for the use of those Regions.

14. Disbursements for proposed Opioid Remediation programs and services to Participating Abatement Regions shall be reviewed by the Committee to determine whether the proposed disbursements meet the criteria for Opioid Remediation and Approved Purposes.

15. The Trust and any entities receiving Opioid Remediation funds shall operate in a transparent manner. Meetings shall follow Montana constitutional and statutory law and be open and all documents shall be public to the same extent they would be if the Trust were a public, governmental entity. All operations of the Trust and all entities receiving Trust Funds shall, with respect to the receipt and use of such funds, be subject to audit. The bylaws of the Trust regarding governance of the Committee, as adopted by the Committee, may clarify any other provisions in this MOU, except this subsection. Rather, the substantive portion of this subsection shall be restated in the bylaws.

16. The Trust's financial resources shall be invested through the Montana Board of Investments to assure the Trust's investments are appropriate, prudent, and consistent with best practices for investments of public funds. The investment policy shall be designed to meet the Trust's long-term and short-term goals.

17. Any other matter concerning the allocation, management, and use of Settlement Funds from the Settlement Agreements not covered by this MOU, shall be controlled by the terms of the Settlement Agreements.

E. ATTORNEYS' FEES AND COSTS

1. The Settlement Agreements each provide very substantial separate funds for payment of fees for both outside counsel for litigating local

governments and outside counsel for litigating states such as Montana. If any Settlement is insufficient to cover the fee obligations owed to outside counsel representing the State of Montana and to outside counsel representing Local Governments (collectively, "Outside Counsel"), the deficiencies may be covered as set forth in further detail below.

2. Regarding attorneys' fees for local governments that filed suit, United States District Judge Dan Polster who is responsible for the MultiDistrict Litigation (MDL 2804*) IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION,* on August 6, 2021 (Docket No. 3804) notified:

> … all eligible participants to the July 21, 2021 Settlement Agreements, and … their private counsel, that a contingent fee in excess of 15% of the participant's award under the Settlement Agreements is presumptively unreasonable. Accordingly, the Court caps all applicable contingent fee agreements at 15%.

3. As such, total attorney fees to outside counsel collected from the Settlement Agreement attorney fee funds and the Montana Back Stop shall be capped at a 15% contingency fee of the amount allocated to their respective governmental entities.

4. Fees claimed and collected for common benefit work under the Settlement Agreements shall be calculated pursuant to the specific requirements of Exhibit R to the Settlement Agreements and shall not be utilized to reduce fees otherwise recoverable from the Montana Attorney Fee Back Stop Fund.

5. The State of Montana and Litigating Local Governments shall first seek to have their attorneys' fees and expenses paid through the attorneys' fee funds created by the Settlement Agreements. The Local Governments litigating in

the MDL proceeding in the Northern District of Ohio, the Honorable Judge Dan Polster presiding, shall endeavor to obtain the maximum recovery from the Settlement Agreements attorney fee fund. In addition, as a means of covering any deficiencies in paying Outside Counsel, a supplemental Montana Attorney Fee Back-Stop Fund shall be established.

6. The Montana Attorney Fee Back-Stop Fund shall be funded by 5.5% of the total settlement funds paid to the State of Montana. The Mathematical Model described in Exhibit R of the Settlement Agreements for calculation of attorneys' fees provides that each Settling State shall attribute 50% of the settlement funds it receives to its Local Governments. Therefore, Fifty percent (50%) of the Montana Attorney Fee Back-Stop Fund shall be allocated to the Montana Attorney General's Back-Stop Sub-fund and fifty percent (50%) to the Litigating Local Government Attorney Fee Back Stop Sub-fund. The Attorney General's Fund shall shall be used in the Attorney General's sole discretion to (a) reimburse the State of Montana for opioid-related investigation and litigation costs; (b) offset the costs of the legal and administrative burdens imposed upon the Attorney General's Office by the Settlement Agreements as well as future settlements or disbursements by bankruptcy courts; and (3) for approved remediation or abatement purposes including, without limitation, the development of plans or projects whereby the State of Montana and the Local Governments may pool their respective recoveries and resources to fund efficient and effective statewide or regional abatement programs or strategies.

The remaining Fifty percent (50%) of the Montana Attorney Fee Back-Stop Fund shall be allocated to the Montana Litigating Local Governments' Attorney Fee Back-Stop Sub-fund for payment of Outside Counsel attorneys' fees incurred by Participating Local Governments. As provided above, fifty percent (50%) of the total settlements funds the State receives from these settlements shall be attributed to Local Governments. The amount upon which the fees for Litigating Local Government Attorneys shall be based is calculated by multiplying the fifty percent Local Government share of all settlement funds by the allocation percentage for each respective Litigating Local Governmentas listed in Exhibit B to this MOU.

7. Outside Counsel for Litigating Local Governments may apply to the Montana Attorney Fee Back-Stop Fund only after applying to any contingency fee fund created pursuant to the Settlement Agreements.

8. Subject to the 15% cap, above, Outside Counsel for Litigating Local Governments may apply to the Montana Attorney Fee Back-Stop Fund for only a shortfall, that is, the difference between what their fee agreements would entitle them to minus what they have already collected from any contingency fee fund created pursuant to the Settlement Agreements. Payments out of the Montana Litigating Local Governments' Attorney Fee Back-Stop Sub-fund shall be fairly allocated by a neutral committee consisting of one representative from each Litigating Local Government.

9. Any funds remaining in the Montana Litigating Local Governments' Attorney Fee Back-Stop Sub-fund in excess of the amounts needed to cover the

fees and litigation expenses to Outside Counsel for Litigating Local Governments shall revert to the allocations described in Section (D).

10. Payments to Outside Counsel shall be made from the Montana Attorney Fee Back-Stop Fund in the same percentages and over the same period of time as the national Contingency Fee Fund for each settlement. The Attorneys' Fees and Costs schedule for the Settling Distributors is listed in the Exhibit R §(II)(A)(1) of the Distributor Settlement Agreement. The Attorneys' Fees and Costs schedule for Janssen is listed in Exhibit R §(II)(A)(1) of the Janssen Settlement Agreement.

F. INSTRUCTIONS FOR SIGNING THIS MOU AND THE SIGN-ON FORMS.

You have already received a NOTICE relating to the Settlement Agreements. To join this MOU and to execute sign-on forms for the Settlement Agreement you must FIRST go to the national settlement website at **https://nationalopioidsettlement.com/** in order to register.

SECOND, once you are at the website please register your Local Government, county or city. Registration will only take a minute. This requires knowing who is authorized to sign-on the Settlements for your Local Government and an email address to which the sign-on form will be sent. With that information you can register your Local Government using the registration code

in the NOTICE you have received. If you do not register, your Local Government will not receive the sign-on form for the Settlements electronically.

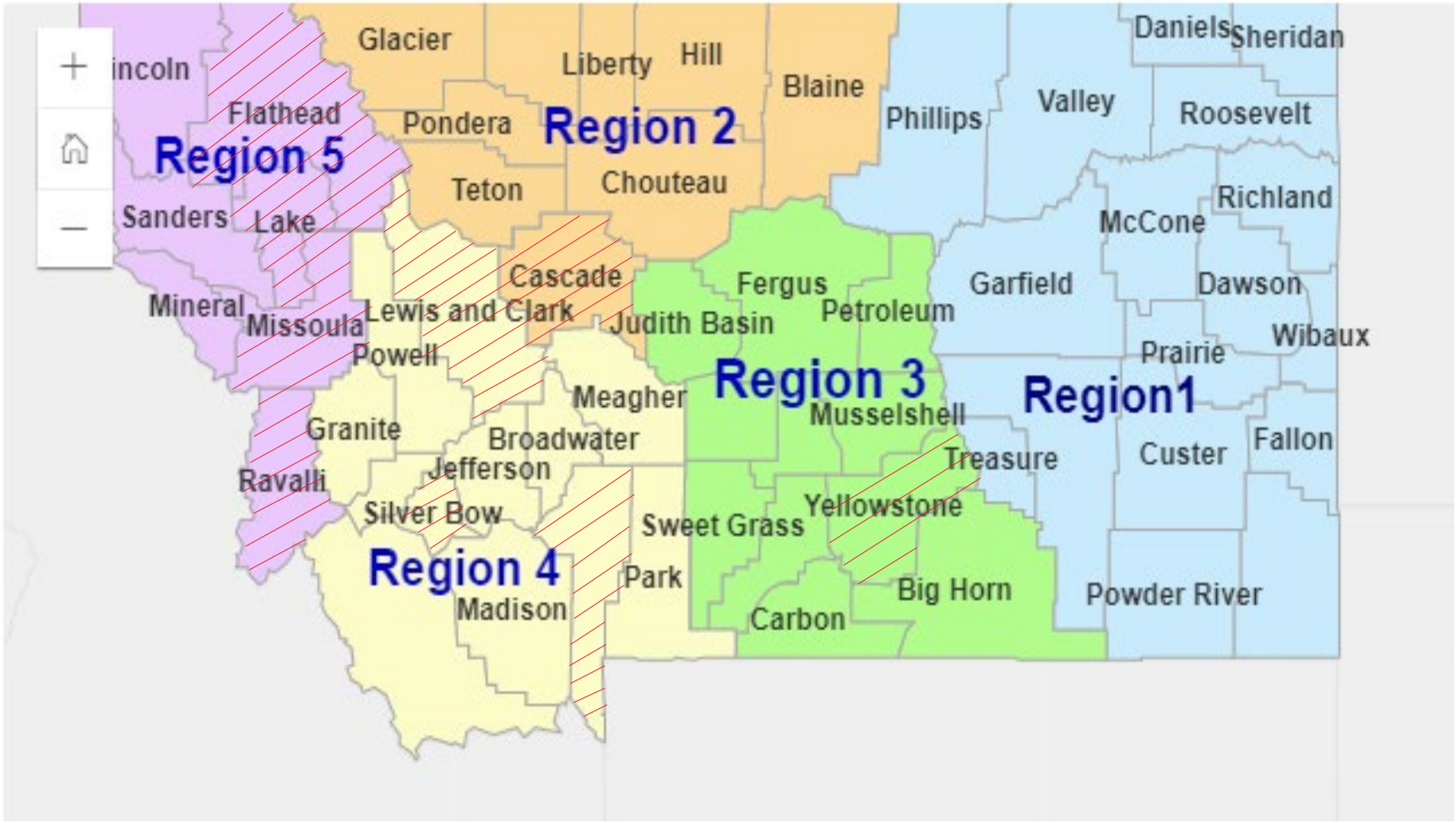
DATED this 26th day of November, 2021.

MONTANA ATTORNEY GENERAL

Austin Knudsen
Montana Attorney General

Exhibit A
Montana Abatement Regions

● Metropolitan Regions



MT1	Anaconda-Deer Lodge County, Montana	1.4480190514%
MT2	Beaverhead County, Montana	0.6841480225%
MT3	Big Horn County, Montana	0.8504903609%
MT4	Billings City, Montana	9.1331142413%
MT5	Blaine County, Montana	0.3691094337%
MT6	Bozeman City, Montana	2.0161886507%
MT7	Broadwater County, Montana	0.4143251264%
MT8	Butte-Silver Bow, Montana	5.6101260434%
MT9	Carbon County, Montana	0.7105360522%
MT10	Carter County, Montana	0.0374679104%
MT11	Cascade County, Montana	3.8993050480%
MT12	Chouteau County, Montana	0.4053063424%
MT13	Custer County, Montana	1.5139056450%
MT14	Daniels County, Montana	0.1787602908%
MT15	Dawson County, Montana	0.7800682133%
MT16	Fallon County, Montana	0.1543582011%
MT17	Fergus County, Montana	0.8667027669%
MT18	Flathead County, Montana	8.0141785369%
MT19	Gallatin County, Montana	4.0205572717%
MT20	Garfield County, Montana	0.0398838599%
MT21	Glacier County, Montana	1.5230709367%
MT22	Golden Valley County, Montana	0.0264303648%
MT23	Granite County, Montana	0.1831398237%
MT24	Great Falls City, Montana	4.3577779784%
MT25	Helena City, Montana	1.7360655042%
MT26	Hill County, Montana	1.8438532922%
MT27	Jefferson County, Montana	0.7770843087%
MT28	Judith Basin County, Montana	0.0614804228%
MT29	Kalispell City, Montana	2.4735432710%
MT30	Lake County, Montana	3.6175099064%
MT31	Lewis and Clark County, Montana	4.9326712334%
MT32	Liberty County, Montana	0.1210395973%
MT33	Lincoln County, Montana	2.1915597624%
MT34	Madison County, Montana	0.5498047673%
MT35	McCone County, Montana	0.0823035394%
MT36	Meagher County, Montana	0.0912086373%
MT37	Mineral County, Montana	0.7546909914%
MT38	Missoula City, Montana	4.4312558575%
MT39	Missoula County, Montana	8.0272833629%
MT40	Musselshell County, Montana	0.3895510594%
MT41	Park County, Montana	2.0831835653%
MT42	Petroleum County, Montana	0.0144742922%
MT43	Phillips County, Montana	0.2085622347%
MT44	Pondera County, Montana	0.4003873948%
MT45	Powder River County, Montana	0.1504386452%
MT46	Powell County, Montana	0.8872723490%
MT47	Prairie County, Montana	0.0572069653%
MT48	Ravalli County, Montana	3.6906819270%

MT49	Richland County, Montana	0.7541525281%
MT50	Roosevelt County, Montana	0.8182976782%
MT51	Rosebud County, Montana	0.5641981949%
MT52	Sanders County, Montana	1.0679134558%
MT53	Sheridan County, Montana	0.2700355225%
MT54	Stillwater County, Montana	0.5055604014%
MT55	Sweet Grass County, Montana	0.2836540766%
MT56	Teton County, Montana	0.5735903832%
MT57	Toole County, Montana	0.3258040487%
MT58	Treasure County, Montana	0.0226554138%
MT59	Valley County, Montana	0.5598291268%
MT60	Wheatland County, Montana	0.0720998508%
MT61	Wibaux County, Montana	0.0630373047%
MT62	Yellowstone County, Montana	7.3090889550%