****ATTENTION****

The City Council meeting will be held in a hybrid format that may include both in-person AND virtual attendance via Zoom. Unless they have cause to appear virtually, Councilmembers will attend the meeting in person at the **Royal Johnson Community Room at the Billings Public Library, 510 N. Broadway.** In order to honor the Right of Participation and the Right to Know in Article II, sections 8 and 9, of the Montana Constitution, the City of Billings and City Council are making every effort to meet the requirements of the open meeting laws.

Citizens are invited to:

- Review the Agenda Packet on the City's website at: www.billingsmt.gov and click on "Your Government," "City Council," and "Agendas & Minutes".
- View the meeting:
  - On Community 7 TV - Channel 7 or Channel 507 -- Spectrum Cable. *(On evenings when there is a conflict with School District No. 2 Board meetings, the City Council meeting will be broadcast on Channel 8 - Spectrum Cable.)*
  - Online at www.comm7tv.com and click on the "Watch Live" icon. Community 7 also has links to their Facebook page and YouTube channel.
  - On the City's website at www.billingsmt.gov and click on "Watch Meetings Online" on the homepage.
  - In-Person.
  - Virtually via Zoom (see the link below).

Citizens may submit public comment via the following methods:

- Mail: City Clerk, P.O. Box 1178, Billings, MT 59103
- Email: Council@billingsmt.gov.
  - Emails received after 3:00 PM on the day of the meeting, may be posted on the Council's webpage the following day for public viewing.
- Attend the meeting in person.
- Attend the meeting virtually through Zoom by entering the Webinar ID and Passcode indicated below. Click on *Zoom Meeting Instructions* and *Zoom Hybrid Meeting Details* below for more information. The link will allow you to attend, view and participate in the meeting on your computer, laptop or smart phone. (You must have the Zoom App on your device Click Here to Download Zoom App) To provide public comment at the appropriate time, click on the "raise hand" icon located at the bottom of the screen and the moderator will unmute your device.
  - **Don't have a smart phone, computer or laptop?** That's okay -- you can attend a Zoom meeting using your **landline phone.** Call the Zoom phone number, **1.253.215.8782** to join the meeting and follow the operator's instructions. Want to give public comment? Simply *"raise your hand"* by pressing *9 and the moderator will give you permission to speak when it is your turn. **Note this is a long distance toll number and charges may apply depending on your plan.*

- Click Here for City Council Zoom Hybrid Meeting Details and Schedule
- Click Here for Zoom Meeting Instructions for Attendees (as guests)

Webinar ID: 839 0376 4672
Passcode: 521256
Or join by phone: US: +1-253-215-8782

Please contact Denise Bohlman, City Clerk, at bohlmand@billingsmt.gov, or at 406.657.8205, with any questions.

CITY OF Billings

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

CITY COUNCIL
REGULAR BUSINESS MEETING
AGENDA

February 28, 2022 **5:30 P.M.**

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

CALL TO ORDER: Mayor Cole

PLEDGE OF ALLEGIANCE: Mayor Cole

INVOCATION: Councilmember Neese

ROLL CALL: Councilmembers present on roll call were: ☐ Shaw, ☐ Gulick, ☐ Neese, ☐ Owen, ☐ Joy, ☐ Choriki, ☐ Tidswell, ☐ Purinton, ☐ Boyett, ☐ Rupsis

MINUTES:
January 10, 2022
January 24, 2022
February 14, 2022

COURTESIES:

PROCLAMATIONS:

COUNCIL REPORTS:

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 and 7b 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. <u>CONSENT AGENDA</u> -- Separations:

   A. <u>Bid Awards:</u>

      1. **W.O. 22-03: Contract No. 2 City Chip Seal.** (Opened 2/8/22) Recommend Hardrives Construction, Inc.; $1,355,014.24.

      2. **W.O. 22-04: City ADA Project.** (Opened 2/8/22) Recommend J & J Concrete, Inc.; $310,568.

      3. **W.O. 22-11: Staples 6 MG Reservoir Repair.** (Opened 2/8/22) Recommend Hydro-Tech, Inc.; $118,900.

   B. **City-County Special Investigations Unit (CCSIU) Agreement** with Yellowstone County for 2022.

   C. **Compensation Agreement** with Alkali Timbers, LLC.

   D. **Professional Services Contract** for W.O. 27-27: Landfill Gas Emissions Compliance; Jacobs Engineering Group, Inc.; $279,895.

E. **Memorandum of Understanding** between the City of Billings and Bright n' Beautiful; $12,000 annually for three years.

F. **Memorandums of Understanding** between the City of Billings and Billings Public Schools and Billings Catholic Schools for School Resource Officer Program; $365,311.

G. **Grant Application Request** to submit application for Recreational Trails Grant Program for trail segment along the Torgerson property and acceptance of award; up to $30,000.

H. **Acceptance** of three (3) American Rescue Plan Act (ARPA) Grants for 2021 Water Main Replacements, West End Plant and Raw Water Delivery, and Influent Lift Station Projects for $2 million each, a total of $6 million; and authorization for the Mayor to sign the grant agreements.

I. **Acceptance** of applicant's request to withdraw applications for Annexation 21-15 and Zone Change 1004.

J. **Preliminary Major Plat** of Timbers Subdivision, 1st Filing, generally located south of Alkali Creek Road and west of Foothill Drive; Ali and David Mitchell, owners; IMEG, agent; conditional approval and adoption of the findings of fact and the variance approved. * *Quasi-Judicial*

K. **Resolution** authorizing the use of alternative project delivery for New City Hall Facility.

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

1. January 24, 2022
2. January 31, 2022

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** assessing the nuisance property abatements. 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 a Resolution assessing the nuisance property abatements, as recommended by staff.

3. **PUBLIC HEARING AND RESOLUTION** assessing the weed abatements. 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 a Resolution assessing the weed abatements, as recommended by staff.

4. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1005:** a zone change for an 8.02 acre parcel located at 934 Lewis Avenue. Billings Elks Lodge, BPOE 394, owner; Goodridge Real Estate and Thrive Corporation, agents. Zoning Commission recommends approval and adoption of the 10 criteria. (Action: approval or disapproval of the Zoning Commission recommendation.) * *Quasi-Judicial*

- *Presented by: Nicole Cromwell, Zoning Coordinator*

Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve Zone Change 1005 and adopt the findings of the 10 criteria, as recommended by the Zoning Commission.

5. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1006:** a zone change located on Block 2, Lots 1-2 of the West Billings Heights Subdivision, located at 1204 Howard Avenue. Ashley Delp, owner. Zoning Commission recommends approval and adoption of the 10 criteria. (Action: approval or disapproval of the Zoning Commission recommendation.) ** Quasi-Judicial*

- *Presented by: Karen Husman, Planner*

Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve Zone Change 1006 and adopt the findings of the 10 criteria, as recommended by the Zoning Commission.

6. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1007:** a zone change on 51 parcels in the Emma Jean Heights Subdivision located off Bitterroot Drive. Chamberlain Construction, Felton Associates, Rodney and Mary Giesler, Jerry and Sandra Stoltenberg, Livelynye, LLC, Brent and Krista Montague, Kenneth and Denise Roesch, Green Jeans, LLC, owners; Charlie Felton and Kerry Martinson, agents. Zoning Commission recommends approval and adoption of the 10 criteria. (Action: approval or disapproval of the Zoning Commission recommendation.) ** Quasi-Judicial*

- *Presented by: Karen Husman, Planner*

Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve Zone Change 1007 and adopt the findings of the 10 criteria, as recommended by the Zoning Commission.

7. ZIMMERMAN HOME PLACE PROPERTY:

a. JOINT PUBLIC HEARING FOR ANNEXATION 22-02 AND ZONE CHANGE 1009:

i. **RESOLUTION FOR ANNEXATION 22-02:** a parcel located in Zimmerman Home Place Subdivision. Highlands ZHP Subdivision, LLC, et al.; petitioners. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.) ** Quasi-Judicial*

- *Presented by: Monica Plecker, Planning Division Manager*

Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to conditionally approve Annexation 22-02, as recommended by staff.

ii. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1009:** a zone change for a 36.66 acre parcel located south of Colton Boulevard and west of Zimmerman Trail. Highlands ZHP Subdivision, LLC, et al., owners; Performance Engineering, agent. Zoning Commission recommends approval and adoption of the 10 criteria. (Action: approval or disapproval of the Zoning Commission recommendation.) ** Quasi-Judicial*

- *Presented by: Nicole Cromwell, Zoning Coordinator*

Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve Zone Change 1009 and adopt the findings of the 10 criteria, as recommended by the Zoning Commission.

b. **DEVELOPMENT AGREEMENT** with Highlands ZHP Subdivision, LLC, et al., for property located south of Colton Boulevard and west of Zimmerman Trail. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

- *Presented by Debi Meling, Public Works Director*

Recommended Motion: I move to approve the development agreement with Highlands ZHP Subdivision, LLC, et al., as recommended by staff.

c. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward IV to include recently annexed property in Annexation 22-02: a parcel located in Zimmerman Home Place Subdivision. Highlands ZHP Subdivision, LLC, et al.; petitioners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

- *Presented by: Monica Plecker, Planning Division Manager*

Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the First Reading Ordinance expanding the boundaries of Ward IV, as recommended by staff.

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.

~ ~ ~

City Council Regular

Date: 02/28/2022
Title: W.O. 22-03: Contract No. 2 City Chip Seal, 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. 2 City Chip Seal to Hardrives Construction, Inc. in the amount of $1,355,014.24.

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

The City Chip Seal project is part of the ongoing Street Preventative Maintenance Program supported by the City Council since 1985. Annually, staff identifies streets proposed for preventative maintenance that includes pavement patching, chip/scrub seal resurfacing, overlay resurfacing, and crack sealing. Chip/scrub sealing is an economical surface treatment designed to protect and prolong the life of the pavement and is typically used on local, collector, and low traffic volume arterial streets. This contract will chip/scrub seal approximately 21 miles of streets throughout the City. The attached map shows the locations of the proposed work. The contract was advertised on January 14, 21, 28 and February 4, 2022, in *The Yellowstone County News* and on the City's website. Staff opened bids on February 8th, 2022, for W.O. 22-03 Contract No. 2 City Chip Seal. There was one bid received. Hardrives Construction, Inc. submitted the lowest responsible bid. Their bid is below the engineer's opinion of probable cost and the unit prices are competitive for the type of work being performed.

ALTERNATIVES

City Council may:

- Award W.O. 22-03 Contract No. 2 City Chip Seal, to Hardrives Construction, Inc. in the amount of $1,355,014.24.; or,
- Do not award a contract and reject all bids. If the contract is not awarded, the streets planned for maintenance will continue to degrade.

FISCAL EFFECTS

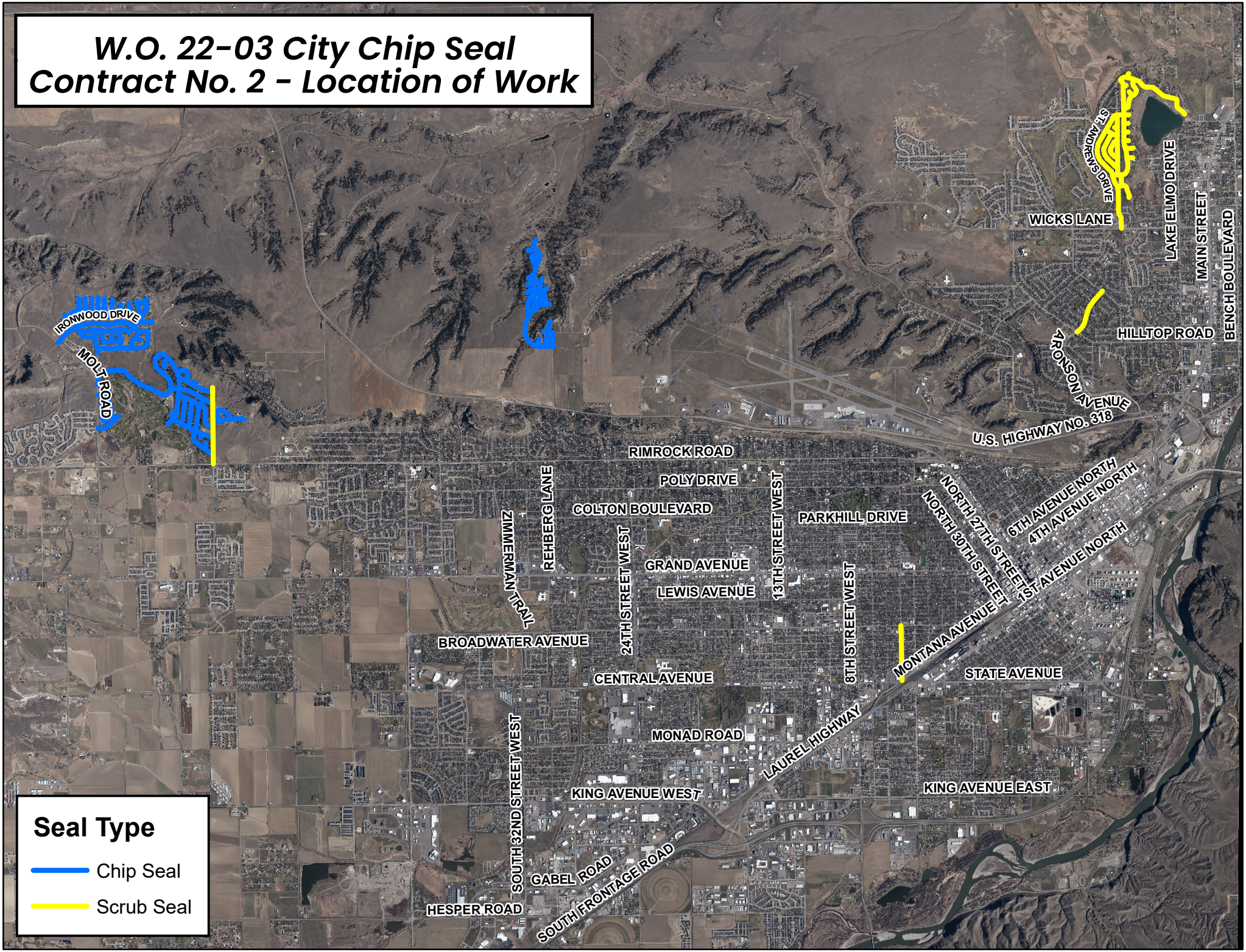
The following bids were received:

Contractor	Contract Amount
Hardrives Construction, Inc.	$1,355,014.24

The project was budgeted in FY22 using Gas Tax funds. The budgeted amount is sufficient to award this project.

Attachments

Location of Work


W.O. 22-03 City Chip Seal
Contract No. 2 - Location of Work
IRONWOOD DRIVE
MOLT ROAD
ST. ANDREWS DRIVE
WICKS LANE
LAKE ELMO DRIVE
MAIN STREET
BENCH BOULEVARD
HILLTOP ROAD
ARONSON AVENUE
U.S. HIGHWAY NO. 318
RIMROCK ROAD
POLY DRIVE
COLTON BOULEVARD
PARKHILL DRIVE
ZIMMERMAN TRAIL
REHBERG LANE
24TH STREET WEST
GRAND AVENUE
LEWIS AVENUE
13TH STREET WEST
8TH STREET WEST
NORTH 30TH STREET
NORTH 27TH STREET
6TH AVENUE NORTH
4TH AVENUE NORTH
1ST AVENUE NORTH
BROADWATER AVENUE
CENTRAL AVENUE
MONTANA AVENUE
STATE AVENUE
MONAD ROAD
LAUREL HIGHWAY
KING AVENUE WEST
KING AVENUE EAST
SOUTH 32ND STREET WEST
GABEL ROAD
SOUTH FRONTAGE ROAD
HESPER ROAD
Seal Type
Chip Seal
Scrub Seal

Consent 1. A. 2.

City Council Regular Business Meeting
Meeting Date: 02/28/2022
Title: WO 22-04 City ADA Project
Presented by: Debi Meling
Department: Public Works **Division:** Engineering

RECOMMENDATION

Staff recommends that Council award WO 22-04, City ADA Project to J & J Concrete, Inc. in the amount of $310,568.00.

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

W.O. 22-04, City ADA Project, is a project consisting of Americans with Disabilities Act (ADA) accessible ramp construction on street corners where the City will soon be completing pavement overlays and chip seals. Additional ramps will be constructed on other corners at various locations throughout Billings.

The annual ramp construction project is in accordance with the City's agreement with the Department of Justice (DOJ) to install and/or upgrade ramps along streets constructed or reconstructed after 1992 and in specific areas identified by need. The miscellaneous ramp locations were selected based upon neighborhood requests. The ADA project will be on Broadwater Avenue, Poly Drive, and Virginia Lane. The City has approximately 8,500 ramps, and it is estimated that 20% of the ramps have been constructed or reconstructed to the current design standard.

The project was advertised on January 21, January 28, and February 4, 2022, on the City's Website and in *Yellowstone County News*. Bids were opened on February 8, 2022, and three bids were received. J & J Concrete, Inc. submitted the lowest responsible bid.

ALTERNATIVES

The Council may:

- Award Work Order 22-04, City ADA Project to J & J Concrete, Inc. in the amount of $310,568.00; or
- Do not award Work Order 22-04. If not awarded, the City would need to re-bid or cancel the project and construct the ramps in a subsequent year. Furthermore, the ramps could not be complete which would delay the overlay project and the City would not be in compliance with the Department of Justice agreement.

FISCAL EFFECTS

The following bids were received:

Contractor	Bid Amount
J & J Concrete	$310,568.00
Knife River - Billings	$383,807.00
Weave Construction	$495,885.00

The project was budgeted in the amount of $250,000.00 in FY22 using Gas Tax funds. The remaining $60,568.00 will be funded with budget from the annual non-maintainable street reconstruction program. Both projects utilize gas tax funds and the ADA project is important to complete this year as it needs to be done before the overlay project and the City is required to do ADA work each year by the DOJ. The non-maintainable street project will be adjusted in scope to reflect the reduced budget.

City Council Regular
Date: 02/28/2022
Title: W.O. 22-11 Staples 6 MG Reservoir Repair, Bid Award
Presented by: Debi Meling
Department: Public Works
Presentation: No

RECOMMENDATION
Staff recommends the City Council award a contract for W.O. 22-11 Staples 6 MG Reservoir Repair, to Hydro-Tech, Inc. in the amount of $118,900.00.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)
The 6 million gallon (MG) Staples Reservoir is the largest tank in the City of Billings water distribution system. This round concrete tank was constructed in 1970. The tank is used in conjunction with a 3 MG rectangular concrete tank and the adjacent Staples Pump Station to serve Zones 2, 3, and 4 of the City's water distribution system. Staples is located north of Rimrock Road, near 17th Street West.

W.O. 22-11 Staples 6 MG Reservoir Repair, is intended to repair an existing leak condition in the floor-to-wall joint of the reservoir. It includes installation of a liner system around the entire perimeter of the reservoir's interior floor-to-wall joint, and repair of holes that were cored in the floor of the reservoir as part of the recent evaluation for mitigation of the leaking issues. This repair is similar to other repair work completed in 2002 and 2010. The tank was drained and taken out of service in December 2021 to allow HDR Engineering to conduct an evaluation of the inside of the tank. The repairs are intended to be performed while the reservoir is out of service, with the intent of bringing the reservoir back on-line before the summer 2022 peak water demand season.

The project was advertised on January 21, January 28, and February 4, 2022, in the *Yellowstone County News* and on the City's website. Bids were opened on February 8, 2022, and two (2) bids were received. Hydro-Tech, Inc. submitted the lowest, responsible bid.

ALTERNATIVES
City Council may:

- Award W.O. 22-11, Staples 6 MG Reservoir Repair, to Hydro-Tech, Inc. in the amount of $118,900.00; or
- Do not award a contract and reject all bids. If the project is not awarded, the City would experience continuing leak issues when the reservoir is put back into service, which is required to meet the summer's water demands.

FISCAL EFFECTS
The following bids were received:

Contractor	Bid Amount
Hydro-Tech, Inc.	$118,900.00
Abhe & Svoboda Inc.	$393,310.00

The project was budgeted in FY22 using Water funds. The budgeted amount is sufficient to award this project.

City Council Regular

Date:	02/28/2022
Title:	City-County Special Investigations Unit (CCSIU) Agreement for 2022
Presented by:	Rich St. John, Police Chief
Department:	Police
Presentation:	No

RECOMMENDATION

Staff recommends that the City Council approve the City-County Special Investigations Unit (CCSIU) Agreement with Yellowstone County for calendar year 2022.

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

Each calendar year, the agreement between the City of Billings and Yellowstone County that establishes and guides operations of the City-County Special Investigations Unit (CCSIU) must be approved. The 2021 agreement expired on December 31, 2021. This agreement has been reviewed by the Yellowstone County Sheriff's Office and has been submitted for approval by the County Commissioners.

ALTERNATIVES

City Council may:

- Approve the CCSIU Agreement for calendar year 2022; or,
- Not Approve the CCSIU Agreement for calendar year 2022.

FISCAL EFFECTS

There will be no additional financial impact to the City since the costs for the officers assigned to the CCSIU are included in the Police Department budget and all other expenses for CCSIU are budgeted in Fund 1718 - Drug Forfeitures and Fines.

Attachments

CCSIU Agreement

AGREEMENT

CITY-COUNTY SPECIAL INVESTIGATIONS UNIT (CCSIU)

This Agreement establishes and governs the operation of the ***CITY-COUNTY SPECIAL INVESTIGATIONS UNIT (CCSIU)***:

The undersigned public agencies are charged with enforcing the law and protecting their citizens from illegal activity. Recognizing that resources are limited and that such limitations are detrimental to combating crime within Yellowstone County and the City of Billings, and recognizing that the problem can be most effectively resolved by pooling of resources and the joint exercise of respective authorities, a joint CCSIU is established.

PARTIES: This Agreement is between:

(1) Billings Police Department
(2) Yellowstone County Sheriff's Office

DURATION: This Agreement is in effect from January 1, 2022 through December 31, 2022.

PROJECT DESCRIPTION:

It is proposed that a joint City-County Special Investigations Unit be established. This Unit will be comprised of personnel assigned from the Yellowstone County Sheriff's Office and the Billings Police Department. It is agreed that full-time investigative personnel will be assigned to the Unit. The CCSIU will be a component of the Rocky Mountain High Intensity Drug Traffic Area (RMHIDTA). Either agency may withdraw from the Unit at any time with 30 days notice.

STRUCTURE AND ORGANIZATION:

The Unit Supervisor and Unit members will be determined by mutual agreement between both agencies. The Unit Supervisor shall be responsible to keep both agencies informed on all matters relating to the operations, including expenditures, accomplishments, problems and all other issues involving the CCSIU.

All persons assigned to the Unit shall work under the immediate supervision and direction of the Unit Supervisor. City Detectives will be indirectly supervised and evaluated by the Captain of Investigations or his designee. All persons assigned to the Unit shall adhere to the rules and regulations as set forth in the Unit's Policy and Procedures Manual, as well as their individual departmental rules, policies and procedures.

For the purpose of indemnification of participating jurisdictions against losses, damages, or liabilities arising out of the services and activities of the Unit, the personnel so assigned by any

jurisdiction shall be deemed to be continuing under the employment of that jurisdiction and its police department.

Each agency contributing personnel to the Unit will continue that employee as an employee of the contributing agency and will be solely responsible for that employee, including wages and benefits.

Any duly sworn peace officer, while assigned to duty with the Unit as herein provided and working at the direction of the Unit Supervisor, shall have the same powers, duties, privileges, protections and immunities as are conferred upon him/her as a peace officer in his/her own jurisdiction. Billings Police Officers will be deputized as Yellowstone County Sheriff's Deputies while assigned, even on a temporary basis, to the CCSIU.

CONTEMPLATED UNIT TASKS:

At the direction of the Unit Supervisor, the CCSIU will concentrate efforts on local cases. Investigations will center around narcotics trafficking and organized criminal activities. In circumstances where a determination of specific priorities of these investigations must be made, the Unit Supervisor will make the determination in consultation with the Sheriff and Police Chief, or their designees.

UNIT OBJECTIVES:

This section identifies specific targeted objectives to be attained by the CCSIU during the program year.

1) Disrupt illegal drugs, drug/gang and organized criminal activities within the City, County and State.

2) Gather and report intelligence data relating to illegal drugs, drug/gang and organized criminal activities within the City, County and State.

3) Make arrests that will impact all levels of drug and organized criminal activities.

4) Effectively prosecute drug traffickers and organized criminal activity participants.

5) Promote law enforcement cooperation through joint investigations and close coordination with other police agencies and task forces.

PETTY CASH AND FORFEITURE FUND:

Agencies involved in the City-County Special Investigations Unit will each place NINE *THOUSAND DOLLARS* ($9,000.00) into the Petty Cash Fund. The monies will be utilized by the Unit for buys and informants. As financial transactions take place, an equal amount of monies will be deducted from each agency's monies. The Supervisor of the Unit will be responsible for administering the monies as needed and keeping a running log of all expenditures, to include incident numbers and reason for purchase(s). The money log will be

audited by the Yellowstone County Auditor or his/her representative, on a quarterly basis. A copy of the audit will be submitted to the Captain of Investigations or his designee.

Replacement of the Petty Cash Fund will be accomplished by the following procedures:

CITY OF BILLINGS:

The Unit Supervisor will make a written request through the Captain in charge of Investigations or his designee, who, in turn, will approve the request and submit it to the City Finance & Administrative Services Department. The City Financial Services Manager will direct monies to the Unit Supervisor, who will deposit the reimbursement back to the Petty Cash Fund.

YELLOWSTONE COUNTY:

The Unit Supervisor will make a written request to the Yellowstone County purchasing department to replenish their portion of the fund.

Forfeiture vehicles that are to be sold at auction will be sold at either the Yellowstone County Sheriff's Sale or at auction by the Billings Police Department. Any forfeiture monies acquired by the Unit from any source will be split equally between the agencies. Each entity is responsible for requesting their share. All forfeiture procedures will be handled by the Unit Supervisor and the Yellowstone County Attorney's Office, at no cost to the City.

ASSET SHARING:

Any non-signatory state or local law enforcement agency that directly participates in an investigation or prosecution that results in a federal forfeiture may request an equitable share of the net proceeds of the forfeiture. The proceeds from the forfeiture shall be divided equally amongst agencies.

INDEMNITY CLAUSE:

The City shall have the duty to defend Yellowstone County and shall indemnify and hold harmless Yellowstone County and its agents and employees from and against all claims, liabilities, damages, losses, judgments and expenses, including attorney's fees, arising out of or resulting from this contract provided that any such claims, liability, damage, loss, judgment or expense is caused in whole or in part, by a negligent act, error or omission of the City, its employees or agents.

Yellowstone County shall have the duty to defend the City and shall indemnify and hold harmless the City and its agents and employees from and against all claims, liabilities, damages, losses, judgments and expenses, including attorney's fees, arising out of or resulting from this contract provided that any such claim, liability, damage, loss or expense is caused in whole or in part by any negligent act, error, or omission of Yellowstone County, its employees, officials or agents.

RESOURCES:

All available resources that are currently available in the City of Billings Investigations Division and in the Yellowstone County Investigations Division will be made available to the CCSIU. Any specialized equipment that is not being kept at the location of the CCSIU office will need to be borrowed by an assigned CCSIU detective from that agency.

THIS AGREEMENT IS EXECUTED THIS ____ DAY OF _____, 22.

SIGNED:

_____ DATE_____
MAYOR, CITY OF BILLINGS

_____ DATE_____
COUNTY COMMISSIONER

_____ DATE_____
COUNTY COMMISSIONER

_____ DATE_____
COUNTY COMMISSIONER

ATTEST:

_____ _____
DENISE BOHLMAN, CITY CLERK
CITY OF BILLINGS

JEFF MARTIN
CLERK AND RECORDER
YELLOWSTONE COUNTY

APPROVED AS TO FORM:

_____
CITY ATTORNEY
CITY OF BILLINGS

City Council Regular

Date:	02/28/2022
Title:	Compensation Agreement with Alkali Timbers, LLC
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends that City Council approve the attached Compensation Agreement.

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

In order to obtain water and sanitary sewer service, Alkali Timbers, LLC will be extending a water main and sanitary sewer main through the Timbers Subdivision located along Alkali Creek Road. These two pipes will be oversized to serve additional properties further along Alkali Creek Road and the Inner Belt Loop. Therefore, due to oversizing, these pipes will be considered general benefit facilities. Per City Code (BMCC 26-502, 26-504 and 26-506), general benefit facilities are water and sewer lines larger than 8-inches in diameter for residential developments and are eligible for compensation for the difference between the diameters of the general benefit facilities and 8-inch water and sewer mains. The water main is proposed to be 12-inch diameter, and the sewer main is proposed to be 21-inch diameter. These pipe sizes are necessary in order to serve future development beyond The Timbers Subdivision. Compensation for the oversizing of the water and sanitary sewer mains are estimated to be $275,000. The compensation amount could be higher or lower depending on actual costs.

ALTERNATIVES

The Council may:

- Approve an Agreement for compensation; or
- Not approve an Agreement for compensation. This would be inconsistent with current City policy of compensating for oversizing of utility extensions.

FISCAL EFFECTS

Based on review of the quantities to be installed, staff estimated that $200,000 of sanitary sewer main and $75,000 of water main will be eligible to be recovered through compensation by the Developer. The extent and timing of the City's participation in the project costs is determined in conformance with the CIP approved by City Council and based on actual quantities installed. The funds are budgeted annually from water and sewer funds specific to compensation agreements.

Attachments

Compensation Agreement

COMPENSATION AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 20___ between THE CITY OF BILLINGS, Billings, Montana, hereinafter referred to as the "CITY", and ALKALI TIMBERS, LLC, 165 Valley Heights Road, Billings, MT 59105, hereinafter referred to as "DEVELOPER".

W I T N E S S E T H

WHEREAS, the CITY'S Rules and Regulations Governing Water and Wastewater Service outlines the procedure and criteria the CITY uses in approving extensions of the public water and wastewater systems; and

WHEREAS, the CITY'S Rules and Regulations Governing Water and Wastewater Service outlines how the CITY participates in construction of various water and wastewater facilities and applies water and wastewater construction fees and system development fees to developments; and

WHEREAS, no person, developer, customer or applicant shall acquire any vested rights under the terms and provisions of this agreement; and

WHEREAS, DEVELOPER has agreed to extend or replace water and/or wastewater facilities for the purpose of providing service through plans and specifications to be reviewed and approved by the City. Said plans and specifications generally provide for the construction of water and/or wastewater facilities which are specifically described in Exhibit 1, attached hereto; and

WHEREAS, DEVELOPER is desirous of obtaining compensation for a portion of the water and/or wastewater facilities hereafter described; and

WHEREAS, the CITY is desirous of compensating the DEVELOPER for a portion of such water and/or wastewater facilities.

NOW, THEREFORE, CITY and DEVELOPER, in consideration of their mutual promises to each other hereinafter stated, agree as follows:

1. The water and/or wastewater facilities which are eligible for compensation to the extent set forth in this Agreement are specifically described in Exhibit 1, attached hereto, and by this reference incorporated herein as if fully set out.

2. With respect to DEVELOPER'S entitlement to compensation, the CITY and DEVELOPER agree that the conditions set forth hereinafter, must be met before DEVELOPER is entitled to or will receive any compensation. Said conditions are:

   (a) The extent, timing, and manner of the CITY'S participation in a water and/or wastewater facilities extension or replacement is determined in conformance

with the CITY'S Rules and Regulations Governing Water and Wastewater Service and the DEVELOPER'S compliance with city, state and federal laws, rules, and regulations. These policies require necessary funds to be included in the current, approved Capital Improvements Projects (CIP) budget in order to be eligible for compensation back to the DEVELOPER. The DEVELOPER may choose to proceed with an extension or replacement project without waiting for funds to be made available in the CIP budget; in this case, the DEVELOPER is responsible for paying the entire cost of the construction. Extensions or replacements not eligible for compensation according to these CITY policies and practices must be constructed by the DEVELOPER at his expense.

(b) DEVELOPER shall provide to the CITY sufficient verifiable cost data to determine the appropriate amount of compensation within thirty (30) days of final inspection of the water and/or wastewater facilities and approval and acceptance by the CITY that all construction was completed according to the approved plans and specifications.

(c) Extension of the water and sanitary sewer mains shall be reviewed and approved by the City of Billings.

(d) DEVELOPER shall enter into a compensation agreement with the CITY at the time the CITY approves the DEVELOPER'S application for extension of water and/or wastewater facilities or, in the case of a replacement project, prior to submittal of preliminary plans and specifications by the DEVELOPER.

(e) Upon completion of the extension or replacement of the water and/or wastewater facilities, the DEVELOPER must convey all right, title and interest in the facilities to the CITY.

(f) DEVELOPER shall, at all times, provide to the CITY a current address for purposes of mailing compensation to DEVELOPER.

(g) Extension or replacement of water and/or wastewater facilities must be done in compliance with all rules, regulations, resolutions and ordinances of the CITY, including but not limited to standards for design and construction of the facilities, competitive bidding and contract requirements for cities, prevailing wage rates, non-discrimination requirements, etc.

DEVELOPER agrees that it will not be entitled to any compensation whatsoever until the above conditions have been completely satisfied. DEVELOPER'S violation of any of the conditions set forth herein may, at the option of the CITY, result in denial of any and all compensation to the DEVELOPER.

3. In addition, it is expressly agreed that any compensation is conditioned upon the following:

(a) Compensation is limited to costs attributable to water and/or wastewater facilities described in Exhibit 1, less all administrative costs incurred by the CITY. In no event will compensation exceed the actual cost to the DEVELOPER of extending or replacing the water and/or wastewater facilities.

(b) Compensation shall not include any interest charges.

Acceptance of the water and/or wastewater facilities for purposes of compensation as set forth in this agreement shall be evidenced by written notice of a letter from the Public Works Department of the CITY and directed to the DEVELOPER at the address set forth in the first paragraph of this agreement.

4. The CITY, by this agreement, is not guaranteeing that full compensation by the CITY to the DEVELOPER will be made. The CITY is only agreeing that it will develop a plan under its CITY's Rules and Regulations Governing Water and Wastewater Service that will recommend that compensation for water and/or wastewater facilities which have been extended or replaced at the DEVELOPER'S expense will be made as set forth herein. Compensation does not apply to

additional extensions or replacements of the water and/or wastewater facilities. Compensation shall be based upon the final total project costs.

5. The address for mailing compensation to the DEVELOPER shall be that address specified in the first paragraph of this agreement. Any change in address of the DEVELOPER shall be sent to the Public Works Director of the City of Billings at P.O. Box 1178, Billings, MT 59103. The designation of a new address shall be accompanied by a copy of this agreement.

6. This agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their successors and assigns.

DATED this _____ day of _____, 20___.

DEVELOPER

By _____

CITY OF BILLINGS

By _____
Mayor

ATTEST:

_____
City Clerk

Exhibit 1

DEVELOPER will install a water main and sanitary sewer main within Timbers Boulevard South of Timbers Subdivision First Filing. There is approximately 2,700 lineal feet of water main and sanitary sewer main to be installed. The City is compensating for oversizing costs beyond an 8-inch diameter water or sewer main. Compensation for the oversize of the sanitary sewer is estimated to be $200,000.00 and for the water main is estimated to be $75,000.00. Compensation for oversizing the sanitary sewer and water mains is based on an estimated material needs and current materials cost provided by local providers. The actual cost could be more or less depending on the overall route of the mains and construction costs. Total compensation is estimated to be $275,000.00.

City Council Regular
Date: 02/28/2022
Title: W.O. 22-27, Landfill Gas Emissions Compliance, Professional Services Contract
Presented by: Debi Meling
Department: Public Works
Presentation: No

RECOMMENDATION

Staff recommends the City Council award a contract for W.O. 27-27, Landfill Gas Emissions Compliance, to Jacobs Engineering Group, Inc in the amount of $279,895.00.

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

The City of Billings Regional Landfill (BRL) operates under a Title V air quality permit issued by the Montana Department of Environmental Quality (MT DEQ). As organic wastes decompose over time, a natural byproduct is created known as Landfill Gas (LFG). LFG is composed largely of methane and carbon dioxide, as well as a small amount of non-methane organic compounds. When solid waste is first deposited in a landfill, very little methane is generated due to the presence of oxygen. After the oxygen is consumed in the decomposition of the waste, the methane producing bacteria begin to decompose the waste, and methane production begins to ramp up. Peak methane production will occur 5-10 years after waste is placed in the landfill. Landfill gas can continue to be produced for more than 50 years.

The City of Billings has been proactive in capturing gas from the areas of the landfill that are no longer being filled (also known as "Closed Cells"). These areas have been capped off with soil for multiple years and are producing methane at or near peak production levels. In these areas, the Billings Regional Landfill (BRL) currently uses a gas collection and control system that consists of vertical piping wells and a gas header system where the gas is extracted from the closed landfill cells. This system was installed and is operated by Montana-Dakota Utilities Co. (MDU). This gas is then sent to the MDU facility adjacent to the BRL, where it is processed into its various gas components, treated into a natural gas quality product, and then sent directly into the MDU natural gas pipeline. Under a joint agreement between MDU and the BRL, MDU is responsible for all costs associated with the landfill gas infrastructure related to these gas wells that have LFG with enough methane for them to process in their facility. MDU will also operate a compliance flare.

During a recent gas monitoring project, it was discovered that the areas of the landfill that are actively being filled (also known as the "open cells") are operating outside the emissions limits established by the EPA and MT DEQ. Because waste in this area is at the beginning of the decomposition process, there is very little methane being produced and consequently MDU's facility is unable to process this non-production quality gas to send to the natural gas pipeline. The landfill is currently taking steps to install gas wells in the "open cells" to extract this gas and reduce the surface LFG emissions to acceptable levels, but needs the infrastructure to process the non-production quality gas that is not covered under the agreement with MDU.

This project addresses that infrastructure need with a gas compliance flare that consumes the low-quality gas being produced in the open cells and significantly reduce the gas emissions, resulting in the landfill being compliant with the MT DEQ. When the waste decomposition begins to produce enough methane to make a production quality gas, the gas wells will be diverted to MDU's facility where they can then process the gas for use in the natural gas pipeline. In addition, the gas compliance flare will be sized such that it can accommodate the total gas flow going to the MDU facility in the event of a prolonged shutdown of the MDU facility due to a maintenance outage or emergency shut down, allowing the landfill to operate safely and within emissions compliance limits.

Jacobs Engineering Group, Inc. was selected for the project using the pre-qualified list of firms from the Statement of Qualifications process. From the pre-qualified list of firms, Jacobs Engineering Group and Great West Engineering were requested to provide detailed proposals for the design and construction observation of the flare project. Great West Engineering declined to provide a proposal. The selection was based on Project Team and Availability; Project Approach; and Firm Qualifications and Experience with the Landfill Gas Collection and Control System at Billings Regional Landfill. This contract includes project management, evaluation of landfill gas flow rates, a geotechnical evaluation of the flare site, environmental permitting, design, bidding services, and construction contract administration for the landfill gas compliance flare and associated infrastructure.

ALTERNATIVES

City Council may:

- Award the Professional Services Contract W.O. 27-27, Landfill Gas Emissions Compliance, to Jacobs Engineering Group, Inc. in the amount of $279,895.00; or
- Not award a contract. If the project is not awarded, the landfill will continue to produce gas emissions that are in excess of the environmental regulation limits, and the City may be subject to fines.

FISCAL EFFECTS

The Contract is in the amount of $279,895.00 and Is being funded with Solid Waste Landfill Funds In the FY22 budget.

Attachments

Professional Services Contract

Contract for Professional Engineering Services

W.O. 22-27 Landfill Gas Emissions Compliance

In consideration of the mutual promises herein, City of Billings and Jacobs Engineering Group Inc. agree as follows. This Contract consists of:

Part I, consisting of 15 Sections of Special Provisions;

Part II, consisting of 11 Sections of General Provisions;

Appendix A consisting of **7** pages (Basic Services of Contractor);

Appendix B consisting of **2** pages (Methods and Times of Payment);

Appendix C consisting of **1** page (Additional Services of Contractor);

Appendix D consisting of **5** pages (Schedule of Professional Fees);

Appendix E consisting of **1** page (Project Schedule);

Appendix F consisting of **1** page (Certificate(s) of Insurance); and

PART I
SPECIAL PROVISIONS

Section 1. Definitions.

In this Contract:

A. "Administrator" means the City Engineer of the Engineering Division of the Public Works Department or his designee.
B. “Billings” means the City of Billings.
C. "Contractor" means Jacobs Engineering Group Inc.

Section 2. Scope of Services.

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

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

Section 3. Time for Performance.

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

Section 4. Compensation; Method of Payment.

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

Section 5. Termination of the Contractor's Services.

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

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

Section 6. Duties Upon Termination

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

Section 7. Insurance.

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

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

B. The Contractor shall provide the following insurance:

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

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

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

Section 8. Assignments.

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

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

A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this Contract shall be the property of Billings, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents, or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright. Contractor shall retain rights to pre-existing proprietary property including but not limited to interactive models. The Contractor shall have the right to include photographic or artistic representations of the design and construction of the Project among the Contractor's promotional and professional materials. The Contractor's materials shall not include Billings' confidential or proprietary information regardless of whether Billings has previously advised the Contractor in writing of the specific information considered by Billings to be confidential and proprietary.

B. Equipment purchased by the Contractor with Contract funds: See Appendix A, Section 3. Scope of Work.

C. Should Billings elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Billings will indemnify and hold harmless the Contractor from any and all claims, demands and causes of action of any kind or character arising as a result of reusing the documents developed under this contract. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation,

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

Section 10. Notices.

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

Billings: Jeremy Hauge
City of Billings
Public Works/Engineering
2224 Montana Avenue
Billings, Montana 59101
email: haugej@billingsmt.gov
FAX: (406)237-6291

Contractor: Evan Griffiths
Jacobs Engineering Group Inc
1100 112th Avenue NE, Suite 500
Bellevue, WA, 98004
email: Evan.Griffiths@jacobs.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 Contractor shall not make expenditures other than as provided in line items in the Contract budget.

Section 12. Force Majeure.

A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
B. As used in this Contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this Contract, including without limitation:

1. Any interruption, suspension or interference resulting solely from the act of Billings or neglect of Billings not otherwise governed by the terms of this Contract.
2. Strikes or Work stoppages.
3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
4. Order of court, administrative agencies or governmental officers other than Billings.

Section 13. Financial Management System.

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

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

Section 14. Funding Requirements.

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

Section 15. Subcontracts.

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

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

PART II
GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

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

Section 2. Nondiscrimination.

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

Section 3. Permits, Laws, and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this Contract. All actions taken by the Contractor under this Contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this Contract.

Section 4. Nonwaiver.

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

Section 5. Amendment.

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

Contractor: Josh Lawson, Manager of Projects
(title of position)

Billings: City Council or Authorized Designee

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

Section 6. Jurisdiction; Choice of Law.

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

Section 7. Severability.

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

Section 8. Integration.

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

Section 9. Liability.

The Contractor shall indemnify, 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 Contractor or any agent, employee or subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this Contract.

A. The Contractor 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 Contractor, the Contractor 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 Contractor's or any subcontractor's wrongful or negligent acts occurring as a result from the Contractor's performance pursuant to this Contract.

Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Billings may deem necessary, make available to Billings, for examination, all of its records with respect to all matters covered by this Contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this Contract, to Billings, in such form and at such times as Billings may reasonably require. The Contractor shall permit Billings to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this Contract. Billings may, at its option, permit the Contractor to submit its records to Billings in lieu of the retention requirements of this Section. Section 11. Availability of Funds.

Payments under this Contract may require funds from future appropriations. If sufficient funds are not appropriated for payments required under this Contract, this Contract shall terminate without penalty to Billings; and Billings shall not be obligated to make payments under this Contract beyond those which have previously been appropriated.

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

City of Billings

William A. Cole, Mayor

Date:

ATTEST:

City Clerk

Date:

Jacobs Engineering Group Inc.

Name: Josh Lawson

Title: Manager of Operations

Date:

IRS Tax ID # 95-4081636

APPROVED AS TO FORM:

By

City Attorney

Appendix A

Basic Services of Engineer

W.O. 22-27 Landfill Gas Emissions Compliance

Section 1. Engineer's Rights and Duties.

A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Engineer's portion of the project as defined in the scope of work and to prepare and deliver to Billings all plans, specifications, bid documents, and other material as designated herein.

B. Ascertain such information as may have a bearing on the work from local units of government, utility companies, and private organizations and shall be authorized to procure information from other authorities besides Billings, but shall keep Billings advised as to the extent of these contacts and the results thereof.

C. Prepare and present such information as may be pertinent and necessary in order for Billings to pass critical judgment on the features of the work. The Engineer shall make changes, amendments or revisions in the detail of the work as may be required by Billings. When alternates are being considered, Billings shall have the right of selection.

D. Engineer's work shall be in accordance with the standards of sound engineering and present City, State, and National standards and policies currently in use.

E. Conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.

F. The Engineer shall certify with the submission of final plans that the plans are in conformance with applicable sections of Title 69, Chapter 4, Part 5, of the Montana Code Annotated as pertaining to existing utilities.

G. To perform professional services in connection with the project and will serve as Billings' representative in those phases of the project to which this agreement applies.

H. Where Federal funds are involved, the necessary provisions to meet all requirements will be complied with and documents secured and placed in the bidding documents.

I. Submit an estimated progress schedule as to time and costs at the beginning of the work, and monthly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen by the Engineer. Reports will be submitted in a timely manner to permit prompt resolution of problems.

J. Contract administration duties will include review of contractor certified payrolls for wage rate compliance. Discrepancies in certified payrolls will be resolved with the Contractor. A signed Engineer's Payroll Check Sheet (included in the Standard Modifications to MPWSS) will be submitted as proof of this review with one copy of each payroll.

K. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project the Task Director designated for the Engineer is Sarah Anunsen working under the Principal-in-Charge, Josh Lawson.

Section 2. Billings Rights and Duties.

A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete Billings' portion of the project as designated in the scope of work.

B. For this project, the Task Director designated is Jeremy Hauge, working under the City Engineer, Mac Fogelsong.

Section 3. Scope of Work.

Jacobs approach for the design and construction services to support the City's acquisition of a new LFG compliance flare are detailed within the ten project tasks below. The services will be governed by a contract to be mutually agreed to by the parties.

Task 1 – Project Management

Project management will include coordination of project deliverables, change management, quality management, and preparation of monthly invoices. Jacobs will lead bi-weekly half-hour calls with the City to status project delivery. The Jacobs Project Manager (PM) will be the primary point of contact with the City.

A project kick-off meeting will be held with the City and key project team members to align the project objectives, scope of services, budget, schedule and deliverable milestones, and overall communications.

Assumptions:

- This project is expected to be completed by November 2022 with a total duration of 10 months.
- Jacobs will have up to five team members participate in the one-hour virtual kickoff meeting.
- Virtual half-hour, bi-weekly update meetings will be attended by the Project Manager and subject matter experts, as needed. Subject matter expert's attendance at bi-weekly calls are expected to be needed only once a month.
- Jacobs construction schedule is based on anticipated activities. The actual construction schedule may deviate from the schedule shown in our proposal. Jacobs may require adjustments to our Project Management scope and compensation aligned to the City's construction contractor delivery schedule.

Deliverables:

- Monthly invoices
- Kickoff meeting agenda and summary
- Bi-weekly update meeting agendas and summaries

Task 2 – Evaluation Landfill Gas Flow Rates

Jacobs will estimate the amount of LFG that will be conveyed to the new LFG flare. The flare will be sized according to the peak LFG flow that will be potentially generated over the next 20 years, which is the anticipated lifespan of the new compliance flare.

The LFG flows that will be considered are the existing flows to the Renewable Energy (RNG) facility from Phases 1 and 2 of the landfill, the LFG from collectors for Phases 3, 4, and 5; modelled LFG flows from areas of the landfill that do not have yet have LFG collection system, and the modelled LFG flow from areas of the landfill that do not yet have waste in place.

Assumptions:

- The City will provide Jacobs with digital copies of their existing LFG generation modeling and the GCCS Design Plan (2020) at execution of this proposal. These documents will be the design basis for Jacobs LFG modeling efforts to develop peak flows to size the new LFG flare.
- The City will provide Jacobs updates to annual waste acceptance history, waste stream composition and any projections of future waste.
- Jacobs will use LandGEM to model current and future LFG flow rates that are expected to be produced annually over 20 years. Jacobs LFG modelling efforts will use the parameters k (Methane Generation Rate Constant) and Lo (Potential Methane Generation Capacity) aligned to the City's existing LFG Generation model and 2020 GCCS Design Plan.
- Jacobs will deliver one draft LFG Flow Rates Technical Memorandum (TM) describing the modelled LFG flows to be used for the design of the LFG Flare to the City for review and comment. Jacobs will deliver a final LFG Flow Rates TM addressing or adjudicating the City's comments, if needed.
- The TM will be less than 5 pages long.

Deliverables:

- One draft and one final LFG Flow Rates Technical memorandum (TM), in pdf format, summarizing the anticipated LFG quantities to be used as the basis of design.

Task 3 – Location of LFG Flare

Jacobs will finalize the location of the new flare. Jacobs will use results from Task 4 - Geotechnical Evaluation to confirm the LFG Flare location technical suitability and constructability.

Assumptions:

- The general location of the new LFG Flare will be east of the Montana Dakota Utility (MDU) RNG facility. The City and the MDU are aligned to this location for the new LFG flare.
- The Location of LFG Flare TM will be no greater than 5 pages long.
- A draft LFG Flare Location TM will not be provided for comment to the City.
- Should the LFG flare need additional siting efforts resulting in revisions to Jacobs Flare Location TM, Jacobs will require adjustments to our scope, schedule, and compensation.

Deliverables:

- One final Location of LFG Flare TM, in pdf format, confirming the location of the LFG compliance flare.

Task 4 – Geotechnical Evaluations and Materials Testing

Jacobs will contract with a local geotechnical drilling firm to complete two (2) borings in the area of the proposed LFG flare. The information gathered from the drilling and material sampling will be used to support the location of the LFG flare under Task 3-Location of LFG Flare design of the flare foundation that is described under Task 7-Design.

Assumptions:

- Jacobs estimate is based on a quote received from the geotechnical drilling firm, SK, which was provided to MDU November 2021. Jacobs will align with the City for changes to compensation for actual cost of the borings.
- No more than two (2) borings will be needed.
- Drill cuttings will be tested to better understand the subsurface conditions for the design basis for the flare foundation.
- The drill cuttings are assumed to be not hazardous or contaminated. Should disposal of drill cutting require additional costs, Jacobs will require adjustments to our compensation.
- The Geotechnical Evaluation TM will be no greater than 5 pages long.
- A draft Geotechnical Evaluation TM will not be provided for comment to the City.
- The subsurface conditions will be described in a final Geotechnical Evaluation TM. No revisions are expected to be needed.
- Should additional geotechnical evaluations be needed to site the new LFG flare or revisions needed to Jacobs Geotechnical Evaluation TM, Jacobs will require adjustments to our scope, schedule, and compensation.

Deliverables:

- A final Geotechnical Evaluation TM summarizing the subsurface conditions of the proposed LFG compliance flare location.

Task 5 – Project Survey

Jacobs will provide survey support services to supplement and pick-up areas specifically around the compliance flare project. The survey will be performed by ground GPS or equivalent to provide an accuracy of ±0.05' for design and construction of the LFG flare. The survey will include staking for the geotechnical investigation and picking up the final locations to include in the design.

Assumptions:

- City will provide Jacobs existing site survey information.

Deliverable(s):

- No deliverables will be provided to the City. Jacobs will acquire the .xml files from the Jacobs contracted surveyor(s).

Task 6 – Air Discharge Permit Assistance

Jacobs will provide support information to the City for use in modification of their existing minor source air permit and Title V Operating permit. For MDU's minor source air permit (Montana Air Quality Permit #4479-00), Jacobs will provide emission data for the new LFG Flare. For the City's existing Title V Operating permit, Jacobs will incorporate the requirements of MDU's minor source air permit. Both MDU's minor source air permit and the Title V Operating permit need to be modified due to emissions modifications associated with the new LFG flare.

Assumptions:

- The City will lead the efforts to modify their minor source air permit and Title V Operating permit.
- The modified Title V Operating permit will be issued to the City; however, the City will use separate requirements for the operational responsibilities between the MDU and the City.
- Jacobs will prepare emission calculations based on LFG flare emissions data and performance specifications.
- All air dispersion modeling to support the landfill gas flare minor source air permit will be the responsibility of the City.
- Should additional calculations be needed to support the air discharge permitting for the new LFG flare or significant revisions needed to Jacobs Emissions Requirements TM, Jacobs will require adjustments to our scope, schedule, and compensation.
- A draft Emissions Requirements TM will not be provided for comment to the City.

Deliverables:

- A final Emissions Requirements TM, in pdf format, that summarizes MDU's emission requirements and a summary of the emission calculation for the LFG flare. The emission calculations for the LFG Flare options will be provided in a Microsoft Excel spreadsheet and include manufacturer emissions data, and performance specifications.

Task 7 – Design

Jacobs will develop a performance specification for the new LFG flare, provide recommendations for the City's flare procurement, design and prepare engineering documents to allow for the construction of the new LFG flare, and provide engineering cost estimates for the purchase and construction of the new LFG flare. The new LFG flare will need to be integrated into the instrumentation and control (I&C) of the LFG collection system and the MDU RNG facility. The integration will require coordination with MDU as described in Task 8 Coordination.

Jacobs will develop a Performance Specification for the flare at the beginning of the design phase. Jacobs will provide the City a recommendation of flare vendors for the City to request and receive procurement bids. Jacobs will review bids and provide a Flare Vendor Recommendation Memo to advise the City for flare procurement.

Jacobs will design and prepare engineering documents for the LFG flare system. The design will include new header piping, control valving, and I&C. The operational criteria for the I&C integration will be to allow the LFG to be conveyed to the new LFG Flare in the case the LFG collection system or the RNG facility goes offline. Jacobs will prepare 50% and 100% plans and technical specifications. In addition, Jacobs will prepare a Class 3 cost estimate based on the 50% design drawings and specifications.

Assumptions:

- Jacobs will provide a list of up to five potential flare vendors. City will be responsible for issuing RFP/RFQ to flare vendors and the procurement of the flare system.
- Up to 16 construction drawings will be prepared.
- Should revisions be needed to Jacobs Flare Recommendation Memo, Jacobs will require adjustments to our scope, schedule, and compensation.
- The operational I&C criterium will be to allow the LFG to be conveyed to the new LFG Flare in the case the LFG collection system or if the RNG facility goes offline. Any

additional I&C criteria will require adjustments to our scope, schedule, and compensation.
- Jacobs will receive one round of comments from the City's and MDU's on the 50% design and specifications. These comments will be adjudicated or addressed in the Final Design. Should additional design reviews or revisions be needed, Jacobs will require adjustment to our scope, schedule and budget.
- Jacobs will provide one Cost Estimate at the 50% complete design. Should cost estimate revisions be needed, Jacobs will require adjustment to our scope, schedule, and budget.
- Three-phase power will be available near the MDU RNG facility (within 200 feet) to provide power to the flare.

Deliverables:
- Performance specification for the compliance flare system, in PDF format.
- List of potential flare vendors in, PDF format.
- A final Flare Vendor Recommendation Memo summarizing our flare procurement recommendations, in PDF format.
- 50% plans and technical specifications of the LFG compliance flare, in PDF format.
- Class 3 Cost Estimate based on the 50% plans and technical specifications, in PDF format.
- 100% plans and technical specifications of the LFG compliance flare, in PDF format.

Task 8 - Coordination with Solid Waste Staff & MDU

Jacobs will work collaboratively with the City and MDU to size the new LFG flare and to align on design criterium for the operational I&C controls between the LFG flare LFG collection and MDU's RNG.

Assumptions:
- Up to three Jacobs team members will attend up to three virtual Coordination Meetings between the City and MDU to align on flare requirements.
- The Coordination Meetings are assumed to be one-hour in length.

Deliverables:
- Jacobs will prepare meeting agendas and meeting minutes, in pdf format, for each of the Coordination Meetings.

Task 9 - Bidding Services

Jacobs will provide bidding support services. Jacobs will distribute plans and specifications to qualified bidders and assist the City in obtaining competitive bids. Jacobs will address questions from prospective bidders. Jacobs will lead the pre-bid meeting and prepare addendums. Jacobs will review and tabulate the bids and prepare a recommendation to the City for selection of a general contractor. Upon award, Jacobs will facilitate the construction agreements, Performance and Payment Bond forms, and the Notice to Proceed (NTP) on behalf of the City.

Assumptions:
- One pre-bid meeting will be held for a single bidding cycle.
- The pre-bid meeting will be held virtually and in-person.
- The pre-bid meetings area assumed to be one-hour in length.
- Up to two Jacobs team members will support the pre-bid meeting.

Deliverable(s):

- Pre-bid meeting agenda, notes, attendance roster, in pdf format.
- Bid tabulation, recommendation for award, and necessary agreement, bond forms, and NTP, in pdf format.

Task 10 - Construction Administration and Observation

Jacobs will provide construction administration and observation services. These services will include a preconstruction conference, field oversight services, and virtual weekly progress meetings, . Services will also include submittal and pay request review, responses to requests for information (RFIs), preparation of work change directives, and preparation of change orders, as necessary. For project close-out, Jacobs will conduct Substantial Completion (Punch-List) walk through and a final completion walk-through. Jacobs will prepare mark-ups of drawings (as-builts) and prepare record drawings for the project.

Assumptions:

- One Jacobs representative will attend an in-person construction Kick-off Meeting.
- The Kick-off Meeting is assumed to be one-hour in length.
- A single construction period from NTP to final completion is assumed to be no more than 75 calendar days. This period includes the general contractor receipt and approval of submittals, mobilizing to the site, taking delivery of the flare, installing the flare, and start-up and performance testing for final completion of the project.
- Jacobs will provide part-time construction observation for the project. Over the course of 75 calendar days, 20 days are assumed for onsite observation services. This includes 10-hour workdays for one team member, including travel, onsite oversight, and paperwork each day.
- No field testing or survey is included.
- Jacobs will review up to 20 RFIs.
- Jacobs onsite activities will not exceed more than 50-hours in one work week.
- Jacobs proposal does not account for contractor issues or complications, contractor delays, procurement delays, supply chain delays, weather delays, stakeholder induced delays, conflict resolution, and other variable factors that cannot be predicted at the time of this estimate These schedule impacts will require adjustments to our scope, schedule, and compensation.

Deliverable(s):

- Construction documentation, including submittal replies and logs, up to 20 RFI replies and up to 20 daily construction reports, up to five work change directives, field observation logs and photos.

Section 4: COVID-19 Response

In response to the Coronavirus (COVID-19) outbreak, Jacobs has taken appropriate steps to ensure the health and well-being of our people as well as the continuity of our business operations around the globe. Jacobs has adopted mitigation strategies and protocols based on recognized world standards and guidelines, applying appropriate travel restrictions and abiding by state and municipal proclamations/declarations regarding shelter in place and/or business closures. Based on the foregoing, this proposal, including the schedule of activities, is contingent on being able to appropriately and safely staff and perform (including travel), in light of the Coronavirus outbreak.

Appendix B

Methods and Times of Payment

W.O. 22-27 Landfill Gas Emissions Compliance

Section 1. Payments for Basic Services.

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

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

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

1.	Project Management	$29,058
2.	Evaluation of Landfill Gas Rates	$3,415
3.	Location of LFG Flare	$5,387
4.	Geotechnical Evaluations and Materials Testing	$13,337
5.	Project Survey	$9,170
6.	Air Discharge Permit Assistance	$4,874
7.	Design	$111,394
8.	Coordination with Solid Waste Staff & MDU	$22,684
9.	Bidding Services	$9,540
10.	Construction Administration and Observation	$71,036

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

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

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

Section 3. Corrections.

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

Section 4. Fee Increases

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

Appendix C

Additional Services of Engineer

W.O. 22-27 Landfill Gas Emissions Compliance

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

A. Requests made or conditions identified which are beyond the scope and intent of the services identified under Appendix A.

Appendix D

Schedule of Professional Fees

W.O. 22-27 Landfill Gas Emissions Compliance

Current agreements for engineering services stipulate that the standard hourly rates are subject to review and adjustments. Hourly rates for services effective on the date of this Agreement are included below.

The itemized schedule provided below includes direct labor costs, normal payroll and overhead costs, transportation, furnishing equipment and materials normally required for performance of the work and reasonable profit. Direct project costs not itemized herein shall be paid for at actual cost.

Section 1. Professional Services.

	Standard Rate	Overtime Rate
A. Principal	$ 230	$
B. Engineer/Scientist		
1. Sr. Project Manager III	$	$
2. Sr. Project Manager II	$ 202	$
3. Sr. Project Manager I	$ 187	$
4. Project Manager III	$	$
5. Project Manager II	$ 173	$
6. Project Manager I	$ 162	$
7. Project Engineer/Scientist II	$ 150	$
8. Project Engineer/Scientist I	$ 140	$
9. Staff Engineer	$ 129	$
10. Engineer/Scientist Intern	$	$
C. Geologist		
1. Sr. Project Manager I, Geologist	$	$
2. Project Geologist II	$	$
D. Engineering Technician		
1. Sr. Engineering Technician II	$	$
2. Sr. Engineering Technician I	$	$
3. Engineering Technician	$ 121	$
4. Technician III	$ 109	$
5. Technician II	$ 101	$
6. Technician I	$ 93	$
7. Engineering Assistant	$	$

	Standard Rate	Overtime Rate
E. Clerical and Computer		
1. Printer	$_____	$_____
2. Administrative Coordinator II	$_____	$_____
3. Administrative Coordinator I	$_____	$_____
4. Secretary II	$_____	$_____
5. Secretary I	$_____	$_____
6. Clerical	$ 81	$_____
7. Computer Services	$_____	$_____

Section 2. Surveying Services.

A. Survey Manager	$_____	$_____
B. Sr. Land Surveyor	$_____	$_____
C. Land Surveyor I	$_____	$_____
D. Land Surveyor II	$_____	$_____
E. Party Chief	$_____	$_____
F. Sr. Instrument Man	$_____	$_____
G. Instrument Man	$_____	$_____
H. Rodman, Chainman	$_____	$_____
I. Survey Crew		
1. 3-Man Crew	$_____	$_____
2. 2-Man Crew	$_____	$_____

Section 3. Equipment Rates.

A. Vehicle	
1. Larger of	$ /mile
2. or	$ /hour
B. ATV/Snowmobile	$ /day
C. Computer Equipment	
1. Engineering/Technical/CADD/GIS/Word Processing	$_____
2. CADD Plotter	
a. Bond	$_____
b. Vellum	$_____
c. Color	$_____
d. Mylar	$_____
3. Scanner	$_____
D. Electronic Distance Measuring	$_____
E. Total Station	$_____
F. Nuclear Densometer	$_____
G. GPS Equipment	$_____
H. RTK System	$_____

Section 4. Hydrologic Equipment

A. Well Bailer 2" Stainless Steel $_____
B. Well Bailer 4" PVC $_____
C. Well Bailing Unit, Gas Powered $_____
D. Combustible Gas Indicator, Explosimeter $_____
E. Conductivity Meter $_____
F. pH Meter $_____
G. pH/Temp/Conductivity Meter $_____
H. Photo-Ioniz. Detector (Hnu) $_____
I. Dissolved Oxygen Meter $_____
J. Turbidity Meter $_____
K. Stream Flow Meter $_____
L. Hermit Data Logger/Probe $_____
M. Oil/Water Interface Well Probe $_____
N. Well Probe, SINCO 300 feet $_____
O. Well Probe, 500 ft with Temperature Sensor $_____
P. Checkvalve Pump (Brainard-Kilman) $_____
Q. Submersible Pump (Redi Flo 2) $_____

Section 5. Supplies, Office, Drafting, & Reproduction.

A. Copier Reproduction (Reduced Rates for Volume Copying)
   1. Black & White Copy - $_____per page
   2. Color – 81/2 x 11 - $_____per page
   3. Color – 11 x 17 – R_____per page

B. Prints (Blue, Black, Brownline) $_____
C. Sepia $_____
D. Clothback $_____
E. Chartpak $_____
F. Repro Mylar $_____
G. Transparency $_____
H. Drafting Film $_____
I. Kroy $_____
J. Prints (Presentation Paper) $_____
K. Offset Printing $_____

Section 6. Field Supplies.

A. Brass Caps – Studded $_____
B. Brass Caps – Pipe 3' x 2" $_____
C. Specialty Monuments $_____
D. Lot Corners with Aluminum Caps $_____
E. Lot Corners with Aluminum Caps $_____
F. Lot Corners with Plastic Caps $_____
G. Plastic Caps, Yellow $_____
H. Rebar $_____
I. Boundary Markers, Carsonite $_____

J. Flagging $_____
K. Paint $_____
L. Aerial Target Material $_____
M. Hubs
   1. 2x2x6 Square (Hub 06-2) $_____
   2. 2x2x10 Wedge (Hub 10-BT) $_____
N. Lath
   1. 24” $_____
   2. 36” $_____
   3. 48” $_____
O. Stakes $_____
P. Nail, 60d $_____
Q. Personal Protection Gear $_____
   1. Level C $_____
   2. Level C1 $_____
   3. Level C2 $_____
   4. Level D $_____
   5. Level D1 $_____
R. Soil Sampling Disposables $_____
S. Water Sampling Disposables $_____

Section 7. Materials Testing

A. Soils
   1. Proctor Method A $_____
   2. Method B, C, or D $_____
   3. One Point Check $_____
   4. Clay Sample Prep $_____
   5. Course Agg. Prep $_____
   6. Atterberg Limits, LL & PL $_____
   7. Hydrometer w/Gravel $_____
   8. Organic Content $_____
   9. Specific Gravity $_____
B. Aggregates
   1. Sieve Analysis (+#4 dry, -#4 washed) $_____
   2. Sieve Analysis (Full Wash) $_____
   3. Sieve Analysis (Sand Only) $_____
   4. Sieve Analysis (3” Minus Full Wash) $_____
   5. Specific Gravity and Absorption (Course) $_____
   6. Specific Gravity and Absorption (Fine) $_____
   7. Percent Crushed (Fractured Faces) $_____
   8. LA Abrasion $_____
C. Concrete
   1. Cylinder Cure, Cap, Test $_____
   2. Cylinder Cure & Handle Spares $_____
   3. Cylinder Mold $_____
   4. Mortar Mold $_____
   5. Prism Break $_____
   6. Grout Prism Break $_____

7. Unit Weight $_____

D. Bituminous
   1. Bituminous Extraction & Gradation $_____
   2. Bituminous Extraction $_____
   3. Marshall Density, Stability, & Flow $_____
   4. Marshall Compaction and Density $_____
   5. Maximum Specific Gravity & Voids Analysis $_____
   6. Thickness & Density of Cores, Each $_____
   7. Coring Machine Including Technician $_____

Section 8. Miscellaneous Expenses

A. Lodging $_____
B. Meals $_____
C. Telephone $_____
D. Fax $_____

Section 9. Materials and Other Direct Costs.

Materials and other direct costs will be invoiced at current rates, plus a ten percent (10%) handling fee. Included as direct costs are the following:

A. Approved Employee Meals, Lodging, Transportation

B. Premium Delivery Service (UPS, Federal Express, etc.)

C. Toll Communication Services (Telephone, Fax, etc.)

D. Supplies

E. Premiums for Special Insurance, Performance Bonds, etc.

F. Other Out-of-Pocket Expenses

G. Consultants

Appendix E

Project Schedule

W.O. 22-27 Landfill Gas Emissions Compliance

Based on a notice to proceed by Billings date no later than March 1, 2022 the completion date for the Engineer's work through final design shall be:

A. Project Milestone Dates

1. Technical Memorandum for LFG Flow Rates, April 15, 2022
2. LFG Flare Performance Specification and Flare Vendor Recommendation Memo, April 25, 2022
3. Technical Memorandum for Flare Location Complete, May 15, 2022
4. 50% Design, June 15, 2022
5. 100% Design, August 30,2022

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

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

Appendix F

Certificate(s) of Insurance

W.O. 22-27 Landfill Gas Emissions Compliance

Attach Certificate(s) of Insurance

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 02/08/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LIC #0437153 1-212-948-1306 Marsh Risk & Insurance Services CIRTS_Support@jacobs.com 633 W. Fifth Street Los Angeles, CA 90071	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): 1-212-948-1306 E-MAIL ADDRESS:
INSURED Jacobs Engineering Group Inc. C/O Global Risk Management 1000 Wilshire Blvd., Suite 1140 Los Angeles, CA 90017	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : ACE AMER INS CO — 22667 INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 64488975 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			HDO G72493503	07/01/21	07/01/22	EACH OCCURRENCE	$ 1,500,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 500,000
	X CONTRACTUAL LIABILITY						MED EXP (Any one person)	$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY	$ 1,500,000
	X POLICY PRO-JECT LOC						GENERAL AGGREGATE	$ 1,500,000
	OTHER:						PRODUCTS - COMP/OP AGG	$ 1,500,000
								$
A	AUTOMOBILE LIABILITY			ISA H25545631	07/01/21	07/01/22	COMBINED SINGLE LIMIT (Ea accident)	$ 1,500,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						PER STATUTE OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	PROFESSIONAL LIABILITY			EON G21655065 012	07/01/21	07/01/22	PER CLAIM/PER AGG	1,500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

PROJECT MGR: Sarah Anunsen. CONTRACT MGR: Mary Linda Colaluca & Dorothy Javorsky. RE: 2022 Contract for Professional Engineering Services, W.O. 22-27 Landfill Gas Emissions Compliance. CONTRACT END DATE: 2/7/2023. SECTOR: Public. City of Billings is added as an additional insured for general liability & auto liability as respects the negligence of the insured in the performance of insured's services to cert holder under contract for captioned work. Waiver of subrogation is hereby granted in favor of cert holder for GL and AL. *THIS IS A SAMPLE CERTIFICATE ONLY*. THE ACTUAL CERTIFICATE FOR THE PROPOSED PROJECT WILL COMPLY WITH THE TERMS AND CONDITIONS NEGOTIATED IN THE FINAL CONTRACT, CONSISTENT WITH POLICY TERMS AND CONDITIONS.

CERTIFICATE HOLDER	CANCELLATION
City of Billings P. O. Box 1178 Billings, MT 59103-1178 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

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SUPPLEMENT TO CERTIFICATE OF INSURANCE

DATE
02/08/2022

NAME OF INSURED: Jacobs Engineering Group Inc.

SUPP (10/00)

Date:	02/28/2022
Title:	MOU between City and Bright n' Beautiful
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends that City Council approve the MOU between the City and Bright n' Beautiful.

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

Founded in 1988, Bright n' Beautiful is a nonprofit organization serving Billings and Yellowstone County and an affiliate of the nation's leading community improvement organization, Keep America Beautiful. Bright n' Beautiful works to maintain a clean community through lively, satisfying, hands-on projects throughout the year like Great American Cleanup, Adopt-a-Spot, Arbor Day celebrations, Keep Your High School Beautiful, United Way of Yellowstone County Day of Caring and Yellowstone County Christmas Tree Recycling. Bright n' Beautiful also supports and promotes impromptu clean-ups as good neighbors stage them throughout the region. For at least 20 years, both the City and the County have donated funds to assist them with their work and are the main funding sources for the organization. This Memorandum of Understanding (MOU) between the City and Bright n' Beautiful outlines the donation that will be provided by the city annually as well as some projects and programs that Bright n' Beautiful will organize.

ALTERNATIVES

City Council may:

- Approve the MOU; or,
- Not Approve the MOU. If the MOU is not approved, Bright n' Beautiful will lose almost half of their funding and will need to find other funding or reduce the number of programs they organize.

FISCAL EFFECTS

The MOU states that the City will donate $12,000 annually to Bright n' Beautiful for three years.

Attachments

MOU

MEMORANDUM OF UNDERSTANDING

BETWEEN CITY OF BILLINGS AND BRIGHT N' BEAUTIFUL

This is a Memorandum of Understanding (MOU), dated as of _____, 2022 (Effective Date), between the City of Billings and Bright n' Beautiful, a Montana nonprofit organization whose principal mailing address is PO Box 555, Billings, Montana 59103.

Background

Founded in 1988, Bright n' Beautiful is a nonprofit organization serving Billings and Yellowstone County and an affiliate of the nation's leading community improvement organization, Keep America Beautiful. Bright n' Beautiful works to maintain a clean community through lively, satisfying, hands-on projects throughout the year like Great American Cleanup, Adopt-a-Spot, Arbor Day celebrations, Keep Your High School Beautiful, United Way of Yellowstone County Day of Caring and Yellowstone County Christmas Tree Recycling. Bright n' Beautiful also supports and promotes impromptu clean ups as good neighbors stage them throughout the region. Over the course of the year, thousands of Bright n' Beautiful volunteers show up to have fun cleaning up our locality with the shared goal of keeping Billings and Yellowstone County "bright n' beautiful".

Purpose

The purpose of this MOU is to formally record the mutual interest and objective of the City of Billings and Bright n' Beautiful in promoting a clean city for the health, welfare, and enjoyment of its residents and visitors.

Funding

Pursuant to the mutual interest and objective stated above, the City of Billings commits to donate $12,000 (twelve thousand dollars) annually to Bright n' Beautiful for three years for the sole purpose of supporting and promoting the volunteer clean-up projects and activities to be facilitated by Bright n' Beautiful.

Relationship of the Parties

Nothing in this MOU will imply a joint venture, partnership, or principal-agent relationship between the City of Billings and Bright n' Beautiful. Neither Party will have any right, power, or authority to act or create any obligation, express or implied, on behalf of the other Party, pursuant to this MOU.

Liability

Bright n' Beautiful shall hold the City of Billings, its officers, and employees, harmless from and against all liabilities, claims, costs, expenses, suits and causes of action of every kind and character arising in favor of any person, corporation, or other entity, on account of personal injuries or death or damages to property to the extent caused by the acts or omissions of Bright n' Beautiful, its employees, contractors, subcontractors, agents, and volunteers pursuant to the City's sole act of donating monies to help fund and promote its cleanup projects and activities.

Entire Agreement

This MOU constitutes the entire agreement between the Parties as of the Effective Date and supersedes any prior or oral agreements between them on this subject matter. This MOU shall be governed by and construed in accordance with the laws of the State of Montana.

The City of Billings and Bright n' Beautiful have full power and authority to enter into this MOU, and the person signing this MOU on behalf of each Party has been properly authorized and empowered to enter into this MOU.

By:

_____

William A. Cole, Mayor of the City of Billings

By:

_____

Joanie Tooley, Executive Director, Bright n' Beautiful

City Council Regular

Date:	02/28/2022
Title:	Memorandums of Understanding for Career Center and Billings Central High, High School and Middle School Resource Officers (SROs)
Presented by:	Rich St. John, Police Chief
Department:	Police
Presentation:	No

RECOMMENDATION

Staff Recommends that the City Council approve the SRO Program Memorandum of Understanding with Billings Public Schools and Billings Catholic Schools.

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

The City of Billings, Billings Public Schools, and more recently, Billings Catholic Schools, have enjoyed a 26-year history with the School Resource Officer (SRO) program. The attached Memorandum of Understanding's (MOU's) make provisions for program objectives, guidelines, financial consideration and for terminating the agreements. The MOUs are for the period of July 1, 2021 to June 30, 2022. The SRO Program is a collaborative effort by certified law enforcement officers, educators, students, parents, and the community, to offer a liaison program in the schools to reduce crime, drug abuse, violence, and provide a safe school environment. The program also provides networking, public relations, and relationship building among the City, Police Department, the School District, and community. The City Council is being asked to approve two separate MOUs. One combined Billings Catholic Schools (BCS) and Billings School District 2 (BSD2) for a shared (1) SRO, and the second with BSD2 for seven (7) SRO's. The total amount would be $365,311.

ALTERNATIVES

City Council may:

- Approve the MOUs for the SRO Program; or,
- Not Approve the MOUs for the SRO Program. If not approved, City would have to absorb $365,311 currently paid by PSD2 and BCS and/or modify or eliminate the program.

FISCAL EFFECTS

The approximate total cost for the SRO positions is $628,790. Billings Public Schools and Billings Catholic Schools will make a payment of $365,311 (58%) to help offset salary and benefit costs for the eight officers.

Attachments

Middle Schools and High Schools Agreement
Fee Structure for Middle Schools & High Schools
Career Center and Catholic Schools
Fee Structure for Career Center & Billings Catholic Schools

MEMORANDUM OF UNDERSTANDING

SCHOOL RESOURCE OFFICER PROGRAM

ELEMENTARY SCHOOLS, MIDDLE SCHOOLS & HIGH SCHOOLS

CITY OF BILLINGS POLICE DEPARTMENT
BILLINGS PUBLIC SCHOOLS

This Memorandum of Understanding (MOU) is made this _____ day of _____, 2022, by and between the Billings Public Schools and the City of Billings Police Department. We do hereby agree that it is mutually beneficial to all parties for Billings Police Officers to be assigned as School Resource Officers ("SROs") to elementary schools, middle schools and high schools within the City of Billings. **The Billings Police Department recognizes and supports the need for safe schools and a safe learning environment for our youth.**

The parties recognize that the School Resource Officer Program has enjoyed a Twenty-six (26) year history within the City of Billings beginning with a limited pilot project at Billings West High School implemented by the West End Community Oriented Policing team, and has enjoyed an excellent relationship with the schools. The purpose of this document is to facilitate a clear understanding of each party's roles, duties, and responsibilities. This MOU is intended to provide clarification of expectations, to minimize confusion, and to provide for consistency between officers, school administration, and city officials. The parties recognize that this MOU must be a living document to allow for program evolution and provide for variances, needs, and future changes.

MISSION STATEMENT - BILLINGS POLICE DEPARTMENT

The Billings Police Department is committed to improving the quality of life through a customer service, problem solving partnership with the community.

MISSION STATEMENT – BILLINGS PUBLIC SCHOOLS

Billings Public Schools Community strives to inspire, educate and empower students to be responsible and innovative global citizens who achieve their full potential.

MISSION STATEMENT - SCHOOL RESOURCE OFFICER PROGRAM

Through education and enforcement and by cooperative efforts with the school staff, the students, the parents, the courts, the surrounding neighborhood, and the community's social service organizations, the SRO program strives to assist the schools with providing a safe school and neighborhood environment, and strives to hold juveniles responsible for their actions and prevent individual problems from developing into patterns of delinquency.

PROGRAM OBJECTIVES

1. Friendly contact between the Police Department and the City's youth. Provide students, faculty and staff, and families the opportunity to meet and interact with a police officer in a non-confrontational setting. Many people, especially our young people, do not often get the chance to learn about who the officers are "behind the badge". This program provides the opportunity for the officer to serve as a role model as well as a resource and a mentor to students.

2. Assistance and information-sharing concerning problems and issues affecting the schools and students.

3. Education of children regarding personal rights and responsibilities, the role of laws, courts, and police in society, and other law-enforcement related topics. However, SROs shall not give legal advice to students, families, or school employees.

4. Protection from and education of children regarding alcohol and drugs, gangs, molestation, involvement with older law violators, and other harmful influences.

5. Investigation of cases involving juveniles and use of effective alternatives to court whenever possible.

6. Prevention of crime or delinquent behavior by juveniles within the School Resource Officers' areas of assignment. Increase in safety and security of the school's students, faculty, staff, and visitors.

7. Effective problem solving and liaison with neighborhoods surrounding the schools, which are affected negatively when there is poor student conduct.

SUMMARY OF SRO RESPONSIBILITIES

SROs are employees of the City of Billings Police Department and are subject to the administration, supervision, and control of the City. SROs are police officers assigned as Uniform Patrol Officers of the Operations Division of the Billings Police Department and are subject to the chain of command of the police department. SROs are not employees or agents of the School District, and no employee or agent of the School District shall be deemed an employee or agent of the City. SROs are police officers and not school teachers, school administrators, school counselors, school officials, or other school employee.

The SROs' primary responsibility is to maintain law and order in the schools and to insure that the students and faculty have a safe, secure, and drug free educational environment. As such, the SROs investigate criminal cases involving youth, maintain order through the enforcement of local, state and federal laws, recover stolen property, bring perpetrators to justice, and support school administration in enforcing the conduct policies of the Billings Public Schools. As law enforcement officers, SROs must comply

with the federal and state constitutions, laws, and City policies and procedures. The School District cannot be held liable or responsible for the SRO's failure to comply with these obligations.

The SRO will be responsible for carrying out his/her duties at the assigned schools.

- SRO are "non-exempt" employees covered by the federal Fair Labor Standards Act and the Montana Wage and Hour laws. Wages, benefits, and other terms and conditions of employment comply with those laws, the City employment contract, and the current collective bargaining agreements between the Montana Public Employees Association-Billings Police Unit and the City.

- SRO are governed by the rules, policies, shifts, schedules, procedures and practices of the Billings Police Department and the City of Billings, under the supervision of an assigned Sergeant.

- SRO are encouraged to be a part of student groups and school staff when requested, and to work as a team with school administration for the betterment of students and the school and neighborhood environment as a whole.

- SROs are encouraged to work extra curricular activities as requested by the school administrator. It is recognized by all parties that these assignments provide further opportunities for crime prevention and crime detection. The SRO will not be used as a replacement security officer for off-duty/special duty assignments. If security is needed at special events, the School District is encouraged to employ its own security personnel or contract with a private security provider. All work outside of school hours shall be approved by the assigned Police Department Supervisor in advance and will be consistent with the federal and state wage and hour laws and the collective bargaining agreement. The cost of any overtime will be the responsibility of the City of Billings. The School District shall provide documentation to the City of Billings regarding any additional hours, if requested.

- SROs are expected to keep the school principal or his designee informed about law enforcement action which occurs on school property and/or which may involve a student unless the information cannot be released pursuant to the Montana Criminal Justice Information Act. The City and School District agree to cooperate with each other during their respective investigations.

- SROs are expected to attend all training, meetings, and appointments assigned by the Police Department. It is recognized that some of these will conflict with officer availability at the school during normal school hours. These conflicts will be minimized as much as possible, but the potential exists that such requirements will take precedence over school presence. The SROs shall strive to keep the school principal or designee informed about such absences as appropriate on a need to know basis.

- If the SRO is absent from work, the SRO shall notify the City of Billings in accordance with its usual protocols and the Principal of the school to which the SRO is assigned. If during the SRO absence an incident arises that requires police involvement, the School District shall notify the Police Department who shall provide an officer to respond to the incident.

- It is the intent of the parties that the SRO duty hours shall conform to the school day. Duty assignment in the summer months, when school is not in session, will be under the direction of the Police Operations Commander. SROs may also be required to work regular police duty assignments at other times when school is not in session, when so directed by the Police Operations Commander.

- The SROs shall coordinate closely with the school Principals on all matters and seek guidance, permission, and advice as to any actions or activities that are not law enforcement. The Principal has the primary responsibility for education and maintaining discipline at the school, and the SRO is there to assist the Principal as the Principal determines is necessary. In so doing, the SRO shall be the designee of the Principal in maintaining the safety of the physical plant of the school, which includes but is not limited to the building(s), ground(s), parking lot(s), locker(s) and other public school property. The Principal and SRO will develop a system of record-keeping by which the SRO logs and shares information that is relevant to school administration's management of the school.

- SROs will not be involved in ordinary school discipline, UNLESS it will prevent a disruption and/or situation that places someone at risk of imminent and serious harm. Disciplining students is a School District responsibility, and only when the Principal (or designee) and the SRO agree that SRO assistance is needed to maintain a safe and proper school environment will the Principal request such assistance and the SRO provide it. The SRO program is not intended to be a substitute for or relieve the school administrators of their responsibility for maintenance of discipline and good order in the schools.

- The School District shall provide training regarding school policies and procedures.

TRANSPORTING STUDENTS

SROs shall not transport students in Police Department vehicles except:

i. When the student is a victim of a crime, under arrest, or some other emergency circumstances exist; or

ii. When a student is suspended and/or sent home from school pursuant to school disciplinary actions, if the student's parent/guardian/caretaker has refused or is unable to pick up the child within a reasonable time period and the student is disruptive/disorderly

and his or her continued presence on campus is a threat to the safety and welfare of other students or school personnel. The student's parent/guardian/caretaker will be notified of this transportation prior to it occurring; or

iii. At the request of a parent/guardian/caregiver with approval of the principal, under exigent circumstances.

Prior to transporting any student, school administration and/or the SRO must determine that the student's parent/guardian/caregiver is at the destination to which the student is being transported. SROs shall not transport students in their personal vehicles.

SROs shall notify school administration prior to removing a student from campus.

ACCESS TO EDUCATION RECORDS

A. School administration shall allow SROs to inspect and copy any public records maintained by the school to the extent allowed by law and constitution. School administration and the SRO may share information and provide assistance to each other concerning problems and issues affecting the schools to the extent allowed by law and constitution.

B. If confidential information in a student's record is needed in an emergency to protect the health and safety of the student or other individuals, school administration may disclose to the SRO that information which is needed to respond to the emergency situation based on the seriousness of the threat to someone's health or safety, the need for the information to meet the emergency, and the extent to which time is of the essence. The SRO shall not disclose that information to anyone else except as allowed by law.

C. If the SRO requests confidential student records or information, but no emergency exists, the information may only be released to the SRO as allowed by law, constitution, and policy. Directory information, as defined by FERPA and policy, is not confidential and is available to the SROs.

INDEMNIFICATION

The School District shall provide, at its own expense, adequate liability insurance coverage. The School District shall defend, indemnify, and hold harmless the City and the SROs from any and all claims for loss or damage to property or injury or death to persons, including costs, expenses, and reasonable attorney's fees, arising from the negligent or wrongful acts or omissions of the School District, its trustees, employees, agents, or representatives.

The City of Billings shall provide, at its own expense, adequate liability insurance coverage. The City shall defend, indemnify, and hold harmless the School District, its trustees, agents, employees, representatives, and volunteers from any and all claims for loss or damage to property or injury or death to persons, arising from the negligent or

wrongful acts or omissions of the City, its Council Members, Mayor, employees (including the SROs), agents, or representatives.

SELECTION AND FINANCIAL CONSIDERATION

SROs will be selected by means of a joint selection committee, comprised of three (3) representatives from the School District who will be appointed by the Superintendent of Schools and three (3) representatives from the Billings Police Department who will be appointed by the Billings Chief of Police. The Selection Committee will make recommendations to the Chief of Police. While the Chief of Police will duly consider the Committee's recommendations, selection of each School Resource Officer is within the sole discretion of the Chief of Police. See attached Addendum which sets forth the number of officers and the sum paid by the School District to the City of Billings for the services provided by the officers. Payment shall be made no later than three days before the start of school.

The schools will provide a private office, office furnishings, telephone, a computer, and any other necessary office supplies to the SRO for his/her use in the school. The Police Department will provide to its SROs any required police equipment, including but not limited to radios and motorized and non-motorized vehicles.

PROGRAM ASSESSMENT

SROs, School Administration for the respective middle and/or high schools, and the assigned Police Supervisor will meet at the beginning of each school year to set the goals and objectives of the SRO for the respective school. An assessment mechanism will be developed jointly that will be used to determine the effectiveness of the SRO program. The School Resource Officer Program will be assessed annually, and the evaluation will be conducted jointly by the Billings Police Department and Billings Public Schools. Quarterly and year end meetings will be held to determine progress and to make adjustments as needed.

The following topics, at a minimum, will be used to evaluate the program:

- ♦ Success of established goals and objectives.
- ♦ An internal survey of high school administration, faculty and student council members, primarily concerning perceptions of safety and security.
- ♦ Traditional police-citizen contacts (warnings, citations, arrests, FIRs, etc.).
- ♦ Non-traditional police-citizen contacts (meetings attended, problem areas addressed, student or family interviews, etc.).
- ♦ Surrounding neighborhood feedback and reaction to police efforts to address issues concerning the schools and students.
- ♦ Accomplishment of tasks agreed upon as part of any work plan written in conjunction with the Principal.

In addition, each officer's effectiveness in the program will be evaluated at the end of each school term. School District administration, through the Superintendent or designee, will provide input into the evaluation, including information regarding and supporting any dissatisfaction. This input may include a recommendation to the Chief of Police that the officer not be assigned to that school the following year. The Chief of Police will seriously consider the evaluation and the input of the Superintendent when assigning an officer to a building, and will make a good faith effort to address any concerns raised. Ultimately, however, the final decision on which officer will be assigned as a school resource officer and where is within the sole discretion of the Police Chief.

EFFECTIVE DATE

This Memorandum of Understanding is effective July 1, 2021, and shall remain in effect through June 30, 2022, unless renewed by agreement of both parties or terminated as provided herein.

TERMINATION OF AGREEMENT

Either party may terminate this agreement upon sixty (60) days written notice to the other party. If this agreement is terminated by the School District, then the full balance of the amount paid will be retained by the City of Billings. If the agreement is terminated by the City of Billings, then the pro-rated balance of the amount paid will be refunded to the School District. The pro-rated balance will be based on the total number of school days for the 2021-2022 school year and the number of school days remaining after the date of termination of the agreement. All or part of the services may be terminated, with appropriate pro-ration. For example, if the City only terminates one SRO position in the middle schools, one-third of the amount paid for those services will be pro-rated and returned. Both parties will cooperate to complete any investigations and to participate in any court or disciplinary proceedings which extend beyond the termination of this agreement.

NOTICES

All requests, notices, payments, demands, authorizations, directions, consents, waivers or other documents required or permitted under this Agreement shall be in writing and shall be delivered in person to, or deposited postage prepaid and return receipt requested in the registered or certified mails of the United States, addressed to the City of Billings at:

Chief of Police, Billings Police Department, City of Billings,
P. O. Box 1554, Billings, MT 59103

or to Billings Public Schools at:

Superintendent, Billings Public Schools,

Lincoln Center, 415 North 30th Street
Billings, MT 59101

Notice is deemed given upon receipt.

MODIFICATION; ENTIRE AGREEMENT OF PARTIES EXPRESSED

This Memorandum of Understanding expresses the entire agreement of the parties. No modification of this Agreement shall be valid or binding unless the modification is in writing, dated, and signed by both parties.

Executed this ____ day of _____, 2022.

BILLINGS PUBLIC SCHOOLS

Attest:

_____ By:_____
Clerk of the District Greg Upham, Superintendent

CITY OF BILLINGS

Attest:

_____ By:_____
City Clerk William A. Cole, Mayor

Approved as to form and content:

_____
City Attorney

_____
Attorney for Billings Public Schools

ADDENDUM

FEE STRUCTURE FOR ELEMENTARY SCHOOLS, MIDDLE SCHOOLS AND HIGH SCHOOL RESOURCE OFFICER PROGRAM

Six Middle Schools - Three Officers	$136,129
Elementary School – One Officer	$78,598
High Schools – (Skyview, Senior, West) – Three officers	$71,986
TOTAL:	$286,713

MEMORANDUM OF UNDERSTANDING

SCHOOL RESOURCE OFFICER PROGRAM

CAREER CENTER AND BILLINGS CENTRAL HIGH

CITY OF BILLINGS POLICE DEPARTMENT
BILLINGS PUBLIC SCHOOLS
BILLINGS CATHOLIC SCHOOLS

This Memorandum of Understanding (MOU) is made this _____ day of _____, 2022, by and between the Billings Public Schools ("School District") and the City of Billings Police Department ("City" or "Billings Police Department"). We do hereby agree that it is mutually beneficial to all parties for Billings Police Officers to be assigned as School Resource Officers ("SROs") to middle schools and high schools within the City of Billings. **The Billings Police Department recognizes and supports the need for safe schools and a safe learning environment for our youth.**

The parties recognize that the School Resource Officer Program has enjoyed a Twenty-six (26) year history within the City of Billings beginning with a limited pilot project at Billings West High School implemented by the West End Community Oriented Policing team, and has enjoyed an excellent relationship with the schools. The purpose of this document is to facilitate a clear understanding of each party's roles, duties, and responsibilities. This MOU is intended to provide clarification of expectations, to minimize confusion, and to provide for consistency between officers, school administration, and city officials. The parties recognize that this MOU must be a living document to allow for program evolution and provide for variances, needs, and future changes.

MISSION STATEMENT - BILLINGS POLICE DEPARTMENT

The Billings Police Department is committed to improving the quality of life through a customer service, problem solving partnership with the community.

MISSION STATEMENT – BILLINGS PUBLIC SCHOOLS

Billings Public Schools Community strives to inspire, educate and empower students to be responsible and innovative global citizens who achieve their full potential.

MISSION STATEMENT – BILLINGS CATHOLIC SCHOOLS

Billings Catholic Schools will provide and exceptional Catholic education emphasizing formation in faith, family spirit and academic excellence.

MISSION STATEMENT - SCHOOL RESOURCE OFFICER PROGRAM

Through education and enforcement and by cooperative efforts with the school staff, the students, the parents, the courts, the surrounding neighborhood, and the community's social service organizations, the SRO program strives to assist the schools with providing a safe school and neighborhood environment, and strives to hold juveniles responsible for their actions and prevent individual problems from developing into patterns of delinquency.

PROGRAM OBJECTIVES

1. Friendly contact between the Police Department and the City's youth. Provide students, faculty and staff, and families the opportunity to meet and interact with a police officer in a non-confrontational setting. Many people, especially our young people, do not often get the chance to learn about who the officers are "behind the badge". This program provides the opportunity for the officer to serve as a role model as well as a resource and a mentor to students.

2. Assistance and information-sharing concerning problems and issues affecting the schools and students.

3. Education of children regarding personal rights and responsibilities, the role of laws, courts, and police in society, and other law-enforcement related topics. However, SROs shall not give legal advice to students, families, or school employees.

4. Protection from and education of children regarding alcohol and drugs, gangs, molestation, involvement with older law violators, and other harmful influences.

5. Investigation of cases involving juveniles and use of effective alternatives to court whenever possible.

6. Prevention of crime or delinquent behavior by juveniles within the School Resource Officers' areas of assignment. Increase in safety and security of the school's students, faculty, staff, and visitors.

7. Effective problem solving and liaison with neighborhoods surrounding the schools, which are affected negatively when there is poor student conduct.

SUMMARY OF SRO RESPONSIBILITIES

SROs are employees of the City of Billings Police Department and are subject to the administration, supervision, and control of the City. SROs are police officers assigned as Uniform Patrol Officers of the Operations Division of the Billings Police Department and are subject to the chain of command of the police department. SROs are not employees or agents of the School District, and no employee or agent of the School District shall be deemed an employee or agent of the City. SROs are police officers and not school teachers, school administrators, school counselors, school officials, or other school employee.

The SROs' primary responsibility is to maintain law and order in the schools and to insure that the students and faculty have a safe, secure, and drug free educational environment. As such, the SROs investigate criminal cases involving youth, maintain order through the enforcement of local, state and federal laws, recover stolen property, bring perpetrators to justice, and support school administration in enforcing the conduct policies of the Billings Public Schools. As law enforcement officers, SROs must comply

with the federal and state constitutions, laws, and City policies and procedures. The School District cannot be held liable or responsible for the SRO's failure to comply with these obligations.

The SRO will be responsible for carrying out his/her duties at the assigned schools.

- SRO are "non-exempt" employees covered by the federal Fair Labor Standards Act and the Montana Wage and Hour laws. Wages, benefits, and other terms and conditions of employment comply with those laws, the City employment contract, and the current collective bargaining agreements between the Montana Public Employees Association-Billings Police Unit and the City.

- SRO are governed by the rules, policies, shifts, schedules, procedures and practices of the Billings Police Department and the City of Billings, under the supervision of an assigned Sergeant.

- SRO are encouraged to be a part of student groups and school staff when requested, and to work as a team with school administration for the betterment of students and the school and neighborhood environment as a whole.

- SROs are encouraged to work extra curricular activities as requested by the school administrator. It is recognized by all parties that these assignments provide further opportunities for crime prevention and crime detection. The SRO will not be used as a replacement security officer for off-duty/special duty assignments. If security is needed at special events, the School District is encouraged to employ its own security personnel or contract with a private security provider. All work outside of school hours shall be approved by the assigned Police Department Supervisor in advance and will be consistent with the federal and state wage and hour laws and the collective bargaining agreement. The cost of any overtime will be the responsibility of the City of Billings. The School District shall provide documentation to the City of Billings regarding any additional hours, if requested.

- SROs are expected to keep the school principal or his designee informed about law enforcement action which occurs on school property and/or which may involve a student unless the information cannot be released pursuant to the Montana Criminal Justice Information Act. The City and School District agree to cooperate with each other during their respective investigations.

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- If the SRO is absent from work, the SRO shall notify the City of Billings in accordance with its usual protocols and the Principal of the school to which the SRO is assigned. If during the SRO absence an incident arises that requires police involvement, the School District shall notify the Police Department who shall provide an officer to respond to the incident.

- It is the intent of the parties that the SRO duty hours shall conform to the school day. Duty assignment in the summer months, when school is not in session, will be under the direction of the Police Operations Commander. SROs may also be required to work regular police duty assignments at other times when school is not in session, when so directed by the Police Operations Commander.

- The SROs shall coordinate closely with the school Principals on all matters and seek guidance, permission, and advice as to any actions or activities that are not law enforcement. The Principal has the primary responsibility for education and maintaining discipline at the school, and the SRO is there to assist the Principal as the Principal determines is necessary. In so doing, the SRO shall be the designee of the Principal in maintaining the safety of the physical plant of the school, which includes but is not limited to the building(s), ground(s), parking lot(s), locker(s) and other public school property. The Principal and SRO will develop a system of record-keeping by which the SRO logs and shares information that is relevant to school administration's management of the school.

- SROs will not be involved in ordinary school discipline, UNLESS it will prevent a disruption and/or situation that places someone at risk of imminent and serious harm. Disciplining students is a School District responsibility, and only when the Principal (or designee) and the SRO agree that SRO assistance is needed to maintain a safe and proper school environment will the Principal request such assistance and the SRO provide it. The SRO program is not intended to be a substitute for or relieve the school administrators of their responsibility for maintenance of discipline and good order in the schools.

- The School District shall provide training regarding school policies and procedures.

TRANSPORTING STUDENTS

SROs shall not transport students in Police Department vehicles except:

i. When the student is a victim of a crime, under arrest, or some other emergency circumstances exist; or

ii. When a student is suspended and/or sent home from school pursuant to school disciplinary actions, if the student's parent/guardian/caretaker has refused or is unable to

pick up the child within a reasonable time period and the student is disruptive/disorderly and his or her continued presence on campus is a threat to the safety and welfare of other students or school personnel. The student's parent/guardian/caretaker will be notified of this transportation prior to it occurring; or

iii. At the request of a parent/guardian/caregiver with approval of the principal, under exigent circumstances.

Prior to transporting any student, school administration and/or the SRO must determine that the student's parent/guardian/caregiver is at the destination to which the student is being transported. SROs shall not transport students in their personal vehicles.

SROs shall notify school administration prior to removing a student from campus.

ACCESS TO EDUCATION RECORDS

A. School administration shall allow SROs to inspect and copy any public records maintained by the school to the extent allowed by law and constitution. School administration and the SRO may share information and provide assistance to each other concerning problems and issues affecting the schools to the extent allowed by law and constitution.

B. If confidential information in a student's record is needed in an emergency to protect the health and safety of the student or other individuals, school administration may disclose to the SRO that information which is needed to respond to the emergency situation based on the seriousness of the threat to someone's health or safety, the need for the information to meet the emergency, and the extent to which time is of the essence. The SRO shall not disclose that information to anyone else except as allowed by law.

C. If the SRO requests confidential student records or information, but no emergency exists, the information may only be released to the SRO as allowed by law, constitution, and policy. Directory information, as defined by FERPA and policy, is not confidential and is available to the SROs.

INDEMNIFICATION

The School District shall provide, at its own expense, adequate liability insurance coverage. The School District shall defend, indemnify, and hold harmless the City and the SROs from any and all claims for loss or damage to property or injury or death to persons, including costs, expenses, and reasonable attorney's fees, arising from the negligent or wrongful acts or omissions of the School District, its trustees, employees, agents, or representatives.

The City of Billings shall provide, at its own expense, adequate liability insurance coverage. The City shall defend, indemnify, and hold harmless the School District, its trustees, agents, employees, representatives, and volunteers from any and all claims for

loss or damage to property or injury or death to persons, arising from the negligent or wrongful acts or omissions of the City, its Council Members, Mayor, employees (including the SROs), agents, or representatives.

SELECTION AND FINANCIAL CONSIDERATION

One (1) officer will be selected by means of a joint selection committee, comprised of three (3) representatives from the School District who will be appointed by the Superintendent of Schools and the President of the Billings Catholic Schools, and three (3) representatives from the Billings Police Department who will be appointed by the Billings Chief of Police. The Selection Committee will make recommendations to the Chief of Police. While the Chief of Police will duly consider the Committee's recommendations, selection of each School Resource Officer is within the sole discretion of the Chief of Police. In return for services provided by the officer, the School District will pay to the City of Billings the sum of seventy-eight thousand five hundred ninety-eight dollars ($78,598) to cover the salary and benefits for an entry level officer for 12 months. Payment shall be made no later than three days before the start of school.

Both schools will provide a private office, office furnishings, telephone, a computer, and any other necessary office supplies to the SRO for his/her use in the school. The School District (Career Center) will also provide reimbursement for any required police equipment, including radios and a motorized vehicle to the SRO needed for completion of duties. The Police Department will provide to its SROs any required police equipment, including but not limited to radios and motorized and non-motorized vehicles.

PARTNERSHIP WITH BILLINGS CATHOLIC SCHOOLS

The parties agree that twenty (20) percent of the Career Center SRO time will be used to provide services to Billings Catholic Schools. The parties further agree that BCS will reimburse the School District for twenty (20) percent of all costs incurred under this agreement. Reimbursement will be made by BCS to the School District within thirty (30) days of the date of the School District's payment. The School District is responsible for assessing BCS for its share of the SRO and related costs under this agreement.

PROGRAM ASSESSMENT

SROs, School Administration for the respective middle and/or high schools, and the assigned Police Supervisor will meet at the beginning of each school year to set the goals and objectives of the SRO for the respective school. An assessment mechanism will be developed jointly that will be used to determine the effectiveness of the SRO program. The School Resource Officer Program will be assessed annually, and the evaluation will be conducted jointly by the Billings Police Department and Billings Public Schools. Quarterly and year end meetings will be held to determine progress and to make adjustments as needed.

The following topics, at a minimum, will be used to evaluate the program:

- ♦ Success of established goals and objectives.
- ♦ An internal survey of high school administration, faculty and student council members, primarily concerning perceptions of safety and security.
- ♦ Traditional police-citizen contacts (warnings, citations, arrests, FIRs, etc.).
- ♦ Non-traditional police-citizen contacts (meetings attended, problem areas addressed, student or family interviews, etc.).
- ♦ Surrounding neighborhood feedback and reaction to police efforts to address issues concerning the schools and students.
- ♦ Accomplishment of tasks agreed upon as part of any work plan written in conjunction with the Principal.

In addition, each officer's effectiveness in the program will be evaluated at the end of each school term. School District administration, through the Superintendent or designee, will provide input into the evaluation, including information regarding and supporting any dissatisfaction. This input may include a recommendation to the Chief of Police that the officer not be assigned to that school the following year. The Chief of Police will seriously consider the evaluation and the input of the Superintendent when assigning an officer to a building, and will make a good faith effort to address any concerns raised. Ultimately, however, the final decision on which officer will be assigned as a school resource officer and where is within the sole discretion of the Police Chief.

EFFECTIVE DATE

This Memorandum of Understanding is effective July 1, 2021, and shall remain in effect through June 30, 2022, unless renewed by agreement of both parties or terminated as provided herein.

TERMINATION OF AGREEMENT

Either party may terminate this agreement upon sixty (60) days written notice to the other party. If this agreement is terminated by the School District, then the full balance of the amount paid will be retained by the City of Billings. If the agreement is terminated by the City of Billings, then the pro-rated balance of the amount paid will be refunded to the School District who will reimburse Billings Catholic Schools with its portion. The pro-rated balance will be based on the total number of school days for the 2021-2022 school year and the number of school days remaining after the date of termination of the agreement. Both parties will cooperate to complete any investigations and to participate in any court or disciplinary proceedings which extend beyond the termination of this agreement.

NOTICES

All requests, notices, payments, demands, authorizations, directions, consents, waivers or other documents required or permitted under this Agreement shall be in writing and shall

be delivered in person to, or deposited postage prepaid and return receipt requested in the registered or certified mails of the United States, addressed to the City of Billings at:

Chief of Police, Billings Police Department, City of Billings,
P. O. Box 1554, Billings, MT 59103

or to Billings Public Schools at:

Superintendent, Billings Public Schools,
Lincoln Center, 415 North 30th Street
Billings, MT 59101

Or to Billings Catholic Schools at:
President
Billings Catholic Schools
P.O. Box 31158
Billings, MT 59107

Notice is deemed given upon receipt.

MODIFICATION; ENTIRE AGREEMENT OF PARTIES EXPRESSED

This Memorandum of Understanding expresses the entire agreement of the parties. No modification of this Agreement shall be valid or binding unless the modification is in writing, dated, and signed by both parties.

Executed this ____ day of _____, 2022.

BILLINGS PUBLIC SCHOOLS

Attest:

_____
Clerk of the District

By:_____
Greg Upham, Superintendent

CITY OF BILLINGS

Attest:

_____
City Clerk

By:_____
William A. Cole, Mayor

BILLINGS CATHOLIC SCHOOLS
Approved:

_____
Shaun Harrington, President

Approved as to form and content:

_____
City Attorney

_____
Attorney for Billings Public Schools

ADDENDUM

FEE STRUCTURE FOR CAREER CENTER AND BILLINGS CENTRAL HIGH SCHOOL RESOURCE OFFICER PROGRAM

One officer for the Career Center/Catholic Schools	$78,598

City Council Regular

Date:	02/28/2022
Title:	Recreational Trails Program Grant - Trail Segment at Torgerson Property off South Frontage Road
Presented by:	Elyse Monat
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

Staff recommends City Council approve submitting a Recreational Trails Program (RTP) grant to provide funding for this trail segment along the Torgerson property.

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

The City of Billings is seeking Recreational Trails Program (RTP) grant funding for an approximately 380 ft. trail connection on the Torgerson's Real Estate Holdings, LLC (Torgerson's) property. The property was recently annexed into the City. This trail connection will connect the future trail on the north side of the Torgerson's property to the future trail on the south side of the property. Per the development agreement signed with the City upon annexation, the Torgerson's are required to build the separated path along the South Frontage Road on the north side of the property and are required to grant an easement for the trail along the southern edge of the property next to the Yellowstone River. The separated path along the South Frontage Road is a standard requirement for construction of an arterial street in the City. The trail along the southern portion of the property is a segment of the Marathon Loop Trail that intended to eventually loop around Billings. Staff understands that the Torgerson's and/or a future purchaser of a portion of the Torgerson property plan to apply for TIF funds through the South Billings Boulevard Urban Renwal District for the southern trail segment. If funded, this RTP application would fill in the gap between the northern path along the frontage road and southern trail segment. The trail connection will also be accessible from Riverfront Park as the Parks Department is building a bridge over the City/County Drain in fall 2022.

The RTP grant is designated for the development of recreational trails and facilities to serve those trails. Grants are available for up to $100,000. The City will apply for up to $30,000 based on the estimated trail cost. The RTP grant provides reimbursement after monies have been expended. The grant requires a local match totaling 20% of the overall project cost. Oil spill settlement funds committed to the Parks Department and administered by the State of Montana will be used as the local match. These oil spill funds have been dedicated to the construction of a trailhead at this location. A gravel road already exists from S. Frontage Road to the location of the future trailhead.

ALTERNATIVES

City Council may:

- Approve the submittal of a Recreational Trails Program Grant for this trail segment; or,
- Not Approve submittal of a Recreational Trails Program Grant for this trail segment.

There is no disadvantage to the City in submitting this grant application. If the grant is not awarded, staff will continue to look for other options to fund the trails in this area.

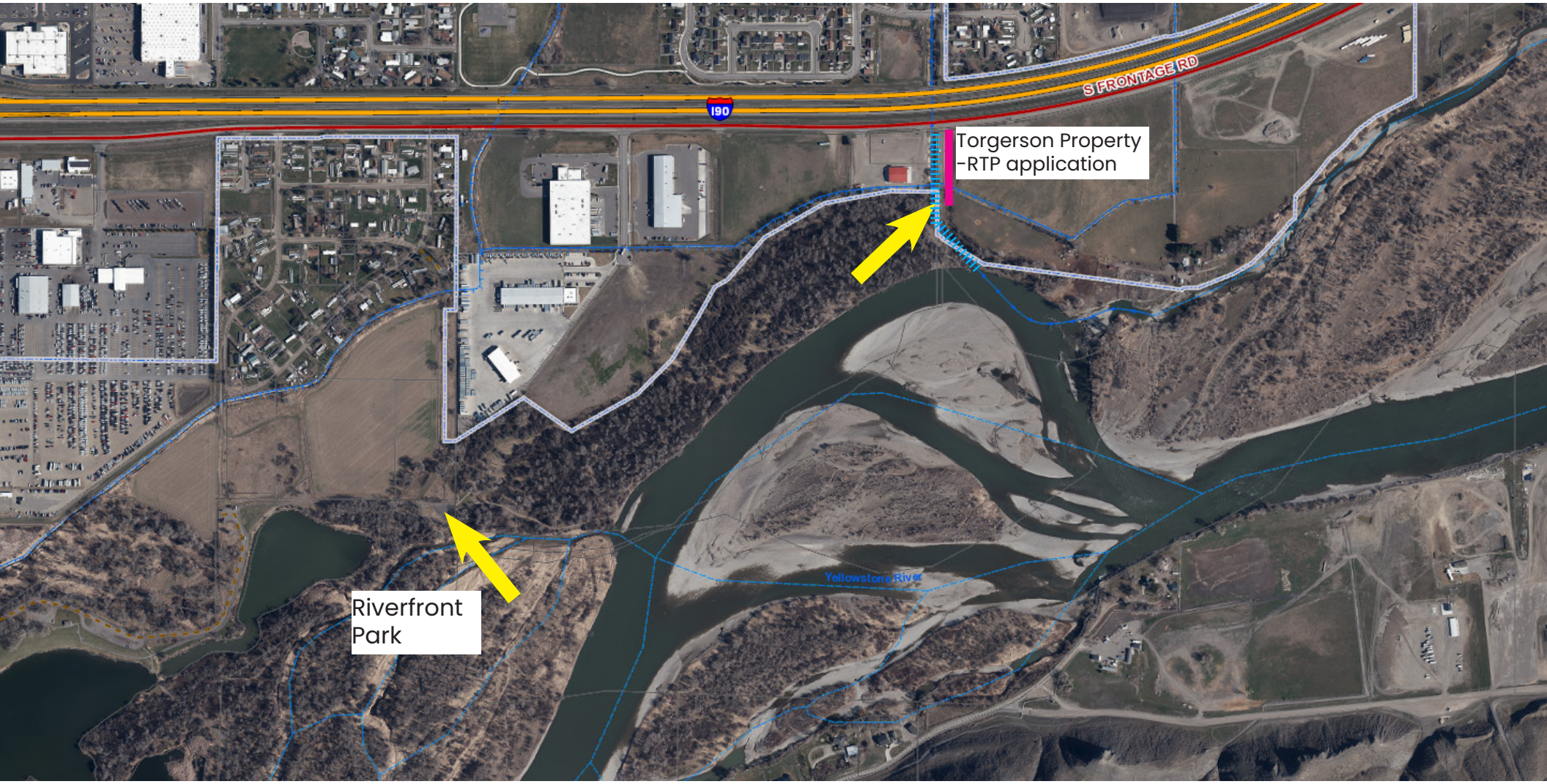
FISCAL EFFECTS

This Recreational Trails Program Grant application is being written to provide funding for the construction of a connector trail segment at the Torgerson property. The City will apply for up to $30,000. Oil spill settlement funds dedicated to the Parks Department will be used as the local match, so no City funds will go to the match. Staff will spend a small amount of time administering the grant, but expect to be able to hire an engineering firm to design and manage the trail project for this area.

Attachments

Trail Map

COB Recrecational Trails Program (RTP) Grant Application 2022



Torgerson Trail

Approximate start and end points for Riverfront Park Trail Extension (being built by Parks in fall 2022)

City/County Drain (Parks is building a bridge over the drain in fall 2022)

*Exact trail locations to be determined through design

City Council Regular

Date:	02/28/2022
Title:	American Rescue Plan Act (ARPA) Competitive Grant Agreements
Presented by:	Jennifer Duray
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends that Council approves three ARPA grants for $2 million each and a combined total of $6 million and authorizes the Mayor to sign the grant Agreements.

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

The American Rescue Plan Act (ARPA) of 2021 provides state and local aid to make necessary investments in water and sewer infrastructure. The Montana State Legislature passed HB 632 which directed the federal funds available under ARPA for use in Montana. One of the grants established in HB 632 is the Competitive Grant Program. To qualify for this Program, projects must be eligible under the Drinking Water State Revolving Fund or Clean Water State Revolving Fund which includes projects for treatment, transmission and distribution, source, storage, collection, reuse, and stormwater. Further, projects must primarily address existing deficiencies rather than provide capacity for growth. During the first round of Competitive grants, the City was awarded $2 million for each of the following projects:

- 2021 Water Main Replacements
- West End Plant and Raw Water Delivery
- Influent Lift Station

The grant Agreement for the 2021 Water Main Replacement project is attached. DNRC is still working on the other two grant agreements. The remaining agreements will be ready for the Mayor's signature by February 28, 2022 and will have the same terms as the attached agreement.

ALTERNATIVES

City Council may:

- Approve the three ARPA grant Agreements in the amount of $2 million each; or,
- Not approve. If not approved, the City will be unable to receive the $6 million in grant awards.

FISCAL EFFECTS

The three projects that were awarded grant funds were included in the 5-year Capital Improvement Plan and already in progress. Thus, no additional funds are required for the match. The grant awards provide $4 million of revenues to the water fund and $2 million to the wastewater fund.

Attachments

2021 Water Main Replacements Grant Agreement

AMERICAN RESCUE PLAN ACT (ARPA)
GRANT AGREEMENT
CONSERVATION AND RESOURCE DEVELOPMENT DIVISION
MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Recipient: Billings, City of

Project Name: 2021 Water Main Replacements

Grant Number: AC-22-0006

Submission ID:

Declarations

- Section 1. Purpose
- Section 2. Term
- Section 3. DNRC's Role
- Section 4. Project Scope
- Section 5. Project Budget
- Section 6. Availability of Funds
- Section 7. Disbursement
- Section 8. Reports
- Section 9. Records and Audits
- Section 10. Project Monitoring and Access for Inspection and Monitoring
- Section 11. Employment Status and Workers' Compensation
- Section 12. Equal Employment
- Section 13. Indemnity and Liability
- Section 14. Compliance with Applicable Laws
- Section 15. Copyright - Government Right to Use
- Section 16. Acknowledgement of Support
- Section 17. Conflicts of Interest.
- Section 18. Remedial Actions
- Section 19. Hatch Act
- Section 20. False Statements
- Section 21. Debts Owed to the Federal Government
- Section 22. Disclaimer
- Section 23. Protections for Whistleblowers
- Section 24. Increasing Seat Belt Use in the United States
- Section 25. Reducing Text Messaging While Driving

COPY

- Section 26. Failure to Comply
- Section 27. Assignment and Amendment
- Section 28. Montana Law and Venue
- Section 29. Waiver
- Section 30. Entire Agreement
- Attachment A – Scope of Work
- Attachment B – Budget
- Attachment C – Reporting Requirements
- Attachment D – Assurance of Compliance with Civil Rights Requirements

COPY

FOR DNRC USE ONLY

Maximum Amount under this Grant: **$2,000,000.00**

Source of Funds

Fund Name	Fund No.
ARPA State Recovery Section 602	03920

ALN#	FAIN #
21.027	SLFRP1747

Subclass	Org. No.	Amount
54040	34225006C	$2,000,000.00

Appropriation Authority: **67th legislature 2021 HB632**

Approved

No. **AC-22-0006**
Division
F.S.O.
Legal.

GRANT AGREEMENT BETWEEN THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND BILLINGS, CITY OF

THIS SUBAWARD (also referenced as "Grant Agreement" or "Agreement"), is administered by the Montana Department of Natural Resources and Conservation (DNRC) by the Resource Development Bureau (Program) and is accepted by **Billings, City of**, hereinafter referred to as the Subrecipient and represented by **William Cole, Mayor City of Billings 210 N. 27th Street Billings, MT 59101, (406) 657-8296, coleb@billingsmt.gov.** Both parties agree to the following terms and conditions:

SECTION 1. PURPOSE. Title VI of the Social Security Act (42 § U.S.C. 801 et seq.) (the Act) was amended by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), to add section 602, which authorizes the United States Department of Treasury ("Treasury") to make payments to certain subrecipients from the Coronavirus State Fiscal Recovery Fund ("ARPA funds"). House Bill 632 governs the State's appropriation. The State of Montana received the funds on May 24, 2021. The purpose of this Grant Agreement ("Agreement") is to establish mutually agreeable terms and conditions, specifications, and requirements to grant ARPA funds to the Subrecipient for 2021 Water Main Replacements Project.

SECTION 2. TERM. The effective date of this Agreement is the date of last signing and ends **March 31, 2023**. As set forth in the Treasury's Federal Coronavirus State and Local Fiscal Recovery Funds (SLFRF) Interim Final Rule 86 Fed. Reg. 26786 ("Rule") and associated guidance issued on May 10, 2021, Subrecipient may use award funds to cover eligible costs incurred during the period that began on March 3, 2021, and ends on December 31, 2026. This agreement remains in effect until all reporting requirements as described in SECTION 8. REPORTS have been received by DNRC.

SECTION 3. DNRC's ROLE. DNRC is administering funds awarded by the Legislature to ensure that the funds are used according to the intent of the Legislature and the purposes, objectives, and procedures of the Program. DNRC will monitor project expenditures to assure payment eligibility. DNRC assumes no responsibility for the Subrecipient's obligation to faithfully perform the tasks and activities necessary to implement and complete a project. The DNRC liaison for this Agreement is **Shawna Swanz at 406-444-5467, shawna.swanz@mt.gov,**

DNRC/CARDD, PO BOX 201601, Helena, MT 59620-1601 All requests for information and assistance, claims for grant funds, and reports shall be submitted to the DNRC liaison.

SECTION 4. PROJECT SCOPE. The scope of work for this project is described in Attachment A and incorporated herein by this reference**.** Supporting documents and attachments from the **American Rescue Plan Act** Program Application dated July 2021 are also incorporated herein by this reference. In the event content in the application differs from or conflicts with terms presented elsewhere in this Agreement, this Agreement text takes precedence.

4.1 Plans and specifications for this project shall be prepared by a registered professional engineer licensed to practice in his or her areas of competence in the State of Montana. Plans and specifications shall be submitted to the Montana Department of Environmental Quality (DEQ) for review and approval prior to construction. Construction shall be in strict accordance with DEQ approved plans and specifications.

4.2 N/A

SECTION 5. PROJECT BUDGET. A project budget showing anticipated expenditures is provided in Attachment B and incorporated herein by this reference. All transfers of funds between budget categories require written notification and approval from the DNRC liaison.

SECTION 6. AVAILABILITY OF FUNDS. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602 of the Act, as amended by ARPA, and Treasury's regulations implementing that section and guidance. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award. Subrecipient may use funds provided under this award to cover direct administrative costs. Direct costs are those that are identified specifically as costs of implementing the SLFRF program objectives, such as contract support, materials, and supplies for a project. Subrecipient may not use funds to cover indirect administrative costs. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the SLFRF award such as the cost of facilities or administrative functions like a director's office.

Subrecipient may not use funds for pensions or to offset revenue resulting from a tax cut enacted since March 3, 2021. This award shall be subject to recoupment as may be required by applicable laws or if any of the expenses incurred through this agreement are found to be ineligible. If a project is unable to secure necessary match funding as required by HB 632, DNRC may recoup ARPA funding. This section shall survive termination of this Agreement.

6.1 A final Montana Environmental Policy Act (MEPA) (§75-1-101 et seq., MCA; 36.2.503 ARM) decision notice must be approved by the DNRC before going to bid or proceeding with activities that have environmental impacts. Reimbursement will be declined for activities not approved under the MEPA decision notice.

6.2 The DNRC must by law terminate this Agreement if funds are not appropriated or otherwise made available to support the DNRC's continuation of performance of this Agreement in a subsequent fiscal period (§18-4-313(4), MCA). If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this Agreement (whether at an initial payment level or any increases to that initial level) in subsequent fiscal periods, the DNRC shall terminate this Agreement as required by law. The DNRC shall provide the Subrecipient with the date the State's termination shall take effect. The DNRC shall not be liable to the Subrecipient for any payment that would have been payable had the Agreement not been terminated under this provision. The DNRC shall be liable to the Subrecipient only for the payment, or prorated portion of that payment, owed to the Subrecipient up to the date the DNRC's termination takes effect. This is the Subrecipient's sole remedy. The DNRC shall not be liable to the Subrecipient for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

SECTION 7. DISBURSEMENTS. The Subrecipient must submit claims for funds to DNRC. Funds can only be expended for work described in SECTION 4. SCOPE OF WORK. In order to receive payment, the Subrecipient

shall submit a project progress report described in SECTION 8. REPORTS, along with an itemized accounting of grant expenses incurred. Receipts, vendor invoices, inspection certificates, in-kind labor, and other documentation of costs incurred shall be submitted with the claims. DNRC will verify the claims and check them against the reports required in SECTION 8. REPORTS and the budget provided in SECTION 5. PROJECT BUDGET. DNRC will disburse grant funds to the Subrecipient upon approval and to the extent available. Reimbursement of Subrecipient expenditures will only be made for expenses included in the budget provided in SECTION 5. PROJECT BUDGET and that are clearly and accurately supported by the Subrecipient's reports to DNRC. Total payment for all purposes under this Agreement shall not exceed **$2,000,000.00.**

7.1 Reimbursement requests for work performed during the term of this Agreement must be submitted to the DNRC liaison within 90 calendar days after the expiration of this Agreement to receive payment.

7.2 DNRC may withhold 10 percent of the total authorized grant amount until all the tasks outlined in SECTION 4. PROJECT SCOPE and the final report required by SECTION 8. REPORTS are completed and approved by DNRC.

SECTION 8. REPORTS. The Subrecipient is responsible for submitting project updates, a final report and a signed Certificate of Compliance to DNRC at project completion in accordance with all requirements stated in Attachment C. Pictures of the project site before, during, and after construction will be provided to the DNRC liaison with reports or upon request. Because images may be used for publicity as well as project documentation, the Subrecipient must acquire any release(s) necessary for the government's right to use as provided in SECTION 15. COPYRIGHT – GOVERNMENT RIGHT TO USE.

8.1 Quarterly progress reports for the periods ending each March, June, September, and December shall be submitted to the DNRC liaison during the term of this Agreement. The Subrecipient must submit a project progress report with each reimbursement request at a minimum on a quarterly basis. Reports must include the information included in Attachment C. Quarterly reports must be submitted to the DNRC liaison within 15 calendar days following the close of the quarterly period. No claims for disbursements will be honored if the quarterly report has not been approved or if there is a delinquent report.

8.2 The Subrecipient is required to submit a final report upon project completion. Reports must include the information included in Attachment C. Failure to provide the reports as required is cause for termination of this Agreement or withholding of future grant payments. Final disbursement of grant funds is contingent upon DNRC receipt and approval of a report that meets requirements described in Attachment C and signed statements of completion (if applicable) and statement of compliance. Final reports must be submitted to DNRC within 90 days after the Agreement termination date.

8.3 N/A

8.4 N/A

8.5 Recipient agrees to comply with any additional reporting obligations established by Treasury, as it relates to this award.

SECTION 9. RECORDS AND AUDITS. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c) of the Act and Treasury's regulations implementing that section and guidance regarding the eligible uses of funds. The DNRC, the Montana legislative auditor, the Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives,shall have the right of access to records (electronic and otherwise) of the Subrecipient in order to conduct audits or other investigations. Records shall be maintained by the Subrecipient for a period of five years after all funds have been expended or returned toTreasury, whichever is later. Recipients and subrecipients that expend more than $750,000.00 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 C.F.R. Part 200, Subpart F regarding audit requirements and the Montana Single Audit Act (Title 2, chapter 7, MCA).

The Subrecipient shall maintain for the purposes of this Agreement an accounting system of procedures and practices that conforms to Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. § 200.49, GAAP "has the meaning specified in accounting standards issued by the Government Accounting Standards Board and the Financial Accounting Standards Board."

SECTION 10. PROJECT MONITORING AND ACCESS FOR INSPECTION AND MONITORING. DNRC, or its agents, may monitor and inspect all phases and aspects of the Subrecipient's performance to determine compliance with this Agreement, including the adequacy of records and accounts. This grant is publicly funded and requires the Subrecipient to accommodate all requests for public access to the site and the project records with due consideration for safety, private property rights, and convenience for all parties.

SECTION 11. EMPLOYMENT STATUS AND WORKER'S COMPENSATION.
The project is for the benefit of the Subrecipient. DNRC is not an owner or general contractor for the project and DNRC does not control the work activities, worksite of the Subrecipient, or any contractors that might be engaged in the completion of the project.

The Subrecipient is independent from and is not an employee, officer, or agent of the State of Montana or DNRC. The Subrecipient, its employees, and contractors are not covered by the Workers' Compensation laws applicable to DNRC as an employer. The Subrecipient is responsible for providing employees Workers' Compensation Insurance and that its contractors are following the coverage provisions of the Workers' Compensation Act.

SECTION 12. EQUAL EMPLOYMENT. In accordance with § 49-3-207, MCA, and Executive Order No. 04-2016, Grantee agrees that the hiring of persons to perform this Agreement will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Agreement.

SECTION 13. DEFENSE, INDEMNITY, AND LIABILITY. Subrecipient shall protect, defend, indemnify, and save harmless the State of Montana, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, liabilities, demands, causes of action, judgments, penalties, fines, and losses, including all costs of defense and reasonable attorney fees, arising in favor of or asserted by Subrecipient's employees and agents, its subrecipients, its subrecipient's employees and agents, or third parties on account of property damage, personal injury, bodily injury, death, violation of or non-compliance with any laws, regulations, or rules, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of, in connection with, or on account of this Agreement, any act or omission of Subrecipient, or any act or omission of Subrecipient's officers, agents, employees, or subrecipients. The Subrecipient obligations under this Section 13 survive termination or expiration of this Agreement.

SECTION 14. COMPLIANCE WITH APPLICABLE LAWS. All work must be in accordance with all federal, state and local law, statutes, rules, and ordinances.

14.1 It shall be the Subrecipient's responsibility to obtain all permits, licenses, or authorizations required from government authorities prior to initiation of the project or required to be obtained by the time of completion of the project to be eligible for reimbursement funds under this Agreement. Permits or authorizations may include but are not limited to: Beneficial Water Use Permits (§ 85-2-302(1), MCA), Change in Appropriation Right Authorization (§ 85-2-402(1)(a), MCA) or other requirement under the Montana Water Use Act that may apply; Sage Grouse Habitat (Executive Order 21-2015), 310 permitting requirements, or other permits or authorizations that may be required by state, local, or federal agencies prior to beginning work on the project or prior to completion of the project.

14.2 Procurement of labor, services, supplies, materials, and equipment shall be conducted according to applicable federal, state, and local statutes. The award of an agreement, or by Subrecipient entering into this Agreement, shall not be taken to imply that any required permits or authorizations issued by DNRC or other state, federal, or local agency will be approved. The DNRC may review any procurement solicitations

that Subrecipient issues. The DNRC's review and comments will not constitute an approval of the solicitation. Regardless of the DNRC's review, the Subrecipient remains bound by all applicable laws, regulations, and Contract terms. If during its review, the DNRC's identifies any deficiencies, then the Department shall communicate those deficiencies to the Subrecipient within seven business days.

Subrecipient shall comply with applicable state prevailing wage laws (§§ 18-2-401 to -432, MCA).

14.3 It shall be the Subrecipient's responsibility to comply with MEPA (Title 75, chapter 1, MCA; 36.2.503 ARM); and provide all required information requested by the DNRC related to any required MEPA decision.

14.4 Compliance with Applicable Federal Law and Regulations

Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award. Subrecipient must comply with Treasury compliance and reporting guidance: https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf.

Federal regulations applicable to this award include, without limitation, the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. part 170, pursuant to which the award termset forth in Appendix A to 2 C.F.R. part 170 is hereby incorporated by reference.

iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. part 180 and Treasury's implementing regulation at 31 C.F.R. part 19.

v. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200,Appendix XII to part 200 is hereby incorporated by reference.

vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

a. Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.),

which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementingregulations at 31 C.F.R. part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by stateand local governments or instrumentalities or agencies thereto.

vi. the Architectural Barriers Act of 1968, as amended (42 U.S.C. § 4151 et seq.);

vii. the Uniform Federal Accessibility Standards (UFAS), as published by the United States Access Board;

viii. the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA and certain related federal environmental laws, statutes, regulations, and Executive Orders found in 7 C.F.R. 1970;

ix. the Native American Graves Protection and Repatriation Act (25 USC 3001 et seq., 43 CFR § 10.4);

x. the Communications Act of 1934, as amended, (47 U.S.C. § 151 et seq.);

xi. the Telecommunications Act of 1996, as amended (Pub. L. 104-104, 110 Stat. 56 (1996)); and

xii. the Communications Assistance for Law Enforcement Act (47 U.S.C. § 1001 et seq.).

b. The Subrecipient, sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients and subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 C.F.R. part 22, which are herein incorporated by reference and made a part of this agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 C.F.R. part 22, and herein incorporated by reference and made a part of this agreement.

SECTION 15. COPYRIGHT - GOVERNMENT RIGHT TO USE. Any graphic, photographic, or other material developed under this Agreement may be copyrighted with the proviso that the State of Montana will have a royalty-free, nonexclusive, and irrevocable right to produce, publish or otherwise use, and authorize others to use the work for state government purposes.

SECTION 16. ACKNOWLEDGMENT OF SUPPORT. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number SLFRP1747 awarded to State of Montana by the U.S. Department of the Treasury."

SECTION 17. CONFLICTS OF INTEREST. Recipient and subrecipient understand and agree they must maintain a conflict of interest policy consistent with 2 C.F.R. §200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with

2 C.F.R. § 200.112.

SECTION 18. REMEDIAL ACTIONS. In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act.

SECTION 19. HATCH ACT. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

SECTION 20. FALSE STATEMENTS. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

SECTION 21. DEBTS OWED TO THE FEDERAL GOVERNMENT.

21.1 Any funds paid to Subrecipient: (1) in excess of the amount to which Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by Subrecipient, shall constitute a debt to the federal government.

21.2 Any debts determined to be owed the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

SECTION 22. DISCLAIMER.

22.1 The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.

22.2 The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.

SECTION 23. PROTECTIONS FOR WHISTLEBLOWERS.

23.1 In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

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23.2 The list of persons and entities referenced in the paragraph above includes the following:

i. A member of Congress or a representative of a committee of Congress;

ii. An Inspector General;

iii. The Government Accountability Office;

iv. A Treasury employee responsible for contract or grant oversight or management;

v. An authorized official of the Department of Justice or other law enforcement agency;

vi. A court or grand jury; or

vii. A management official or other employee of Subrecipient, contractor, or subcontractor, who has the responsibility toinvestigate, discover, or address misconduct.

23.3 Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominantnative language of the workforce. DNRC may request from Subrecipient copies of the information it provides its employees.

SECTION 24. INCREASING SEAT BELT USE IN THE UNITED STATES. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

SECTION 25. REDUCING TEXT MESSAGING WHILE DRIVING. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient and subrecipient should encourage its employees, sub-subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient and subrecipients should establish workplace safety policies to decrease accidents caused by distracted drivers.

SECTION 26. FAILURE TO COMPLY, BREACH, DEFAULT, REMEDIES.

26.1 If the Subrecipient fails to comply with the terms and conditions of this Agreement or reasonable directives or orders from DNRC, DNRC may terminate this Agreement and refuse disbursement of any additional funds from this grant. Further, in the event of such termination, the Subrecipient shall immediately pay over to the DNRC all unexpected funds together with all interest earned on the monies provided or herein remaining unexpended at such time. Such termination will become a consideration in any future application for funds from the DNRC Conservation and Resource Development Division.

26.2 The occurrence of any of the following events is a Subrecipient breach under this Agreement:

i. failure of the Subrecipient or its contractors, subcontractors, or subrecipient entities to follow an Agreement term or condition; or

ii. the Subrecipient makes an intentionally untrue statement or materially misleading certification in this Agreement or the Application; or any Subrecipient breach/default specified in another section of this Agreement.

26.3 Upon the occurrence of a breach, the DNRC shall issue a written notice of breach, identifying the nature of the breach, and providing 30 calendar days (or a lesser or additional time as may be agreed to by the parties) in which the Subrecipient shall have an opportunity to cure the breach. The parties will attempt in good faith to resolve all disputes, disagreements or claims relating to this Agreement.

However, if the DNRC determines that a public safety issue or an immediate public crisis exists, the DNRC will not be required to provide advance written notice or a cure period and may immediately terminate this Agreement in whole or in part if the DNRC, in its sole discretion reasonably exercised, determines that it is reasonably necessary to preserve public safety or prevent an immediate public crisis. Time allowed for cure does not diminish or eliminate Subrecipient's liability for damages.

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26.4 If Subrecipient fails to cure the breach within the period specified in the written notice, Subrecipient is in default of its obligations, and the DNRC may exercise any or all the following remedies:

i. pursue any remedy provided by law or this Agreement, including requesting repayment of funds; and

ii. terminate the Agreement or applicable portions that are the subject of the breach in the Agreement; and

iii. suspend Subrecipient's performance; and

iv. withhold applicable payment until the default is remedied.

26.5 If termination occurs under this Section, any costs incurred will be the Subrecipient's responsibility.

SECTION 27. ASSIGNMENT AND AMENDMENT. This Agreement is not assignable. Amendment may be accomplished only by express written agreement of the parties. Amendments will be attached as an integral component of this Agreement.

SECTION 28. MONTANA LAW AND VENUE. Any action or judicial proceeding for enforcement of the terms of this Agreement shall be instituted only in the courts of Montana and shall be governed by the laws of Montana. Venue shall be in the First Judicial District, Lewis and Clark County, Montana. Each party will bear their own costs and attorney's fees.

SECTION 29. WAIVER. A waiver of any particular provision of this Agreement by the DNRC shall not be construed as a waiver of any other provision, nor shall any such waiver otherwise preclude the DNRC from insisting on strict compliance with this Agreement in other circumstances.

SECTION 30. ENTIRE AGREEMENT. These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings.

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The Subrecipient, **Billings, City of**, hereby accepts this grant (**AC-22-0006**) according to the above terms and conditions. I hereby certify that I represent a legal entity with authority to enter into this Agreement.

I further certify that the project or activity complies with all applicable state, local, and federal laws and regulations.

I further certify that I am authorized to enter into and sign a binding Agreement with the Department of Natural Resources and Conservation.

A facsimile, photocopy or electronic copy of the signature below shall have the same force and effect as an original signature and an electronic signature shall be regarded as an original signature.

By: _____ Date: _____
Subrecipient Signature

_____
Print Name and Title

For: **Billings, City of** Tax ID # _____

_____
Subrecipient Unique Entity Identifier or DUNS #

By: _____ Date: _____

For: The Montana Department of Natural Resources and Conservation

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Attachment A - Scope of Work

Billings 2021 Water Main Replacements

Background

The City of Billings replaces and upgrades its water utility as part of an annual program. The existing water mains are undersized, prone to water main breaks, and are approximately 100 years old. The undersized 4-inch and 6-inch water mains create pumping inefficiencies due to head loss. In the area being replaced, there are 91 recorded water main repairs. In addition, approximately 104 lead water services will be replaced with this project. The water mains replaced by this project will be owned and maintained by the City of Billings.

Scope of Work

The project will replace aging and undersized 4-inch and 6-inch water mains prone to breaking. The project will provide the residents with dependable water service and improve drinking water quality by removing lead services from the system and improve pumping efficiencies in the water system. This scope of work consists of project startup, design, construction and close-out. Funds will be used for the replacement of water mains. Construction will include the following activities:

- Approximately 5,100 linear feet (LF) of 8-inch to 12-inch water main replacement in Avenues B through E from 3rd Street West to North 32nd Street and in 1st Street West from Grand Avenue to Avenue C
- Reconnect existing water services from the existing 4-inch water main to the new 16-inch water main in Avenue F between 3rd Street West and North 32nd Street
- Approximately 725 LF of 8-inch water main replacement in 2nd Street West from Grand Avenue to Burlington Avenue
- Approximately 1,220 LF of 8-inch water main replacement in Burlington Avenue from 2nd Street West to Division Street
- Approximately 1,840 LF of 8-inch to 12-inch water main replacement in 12th Avenue North from North 26th Street to North 22nd Street
- Replace approximately 130 lead service lines from water main to curb stop

Facilities will be designed and constructed in accordance with sound engineering practices and must meet the requirements of Federal, State, and local agencies.

This award implements the ARPA COMPETITIVE budget funding as shown in Attachment B.

Schedule:

PROJECT DESIGN DATES			
Preliminary Design	**Final Design**	**DEQ Plan Review**	**DEQ Plan Approval**
February 2021	May 2021	March 2021	May 2021

PROJECT BID DATES			
Bid Document Advertised	**Selection**	**Award Notice**	**Notice to Proceed**
April 23, 30 and May 7 2021	May 11, 2021	May 24, 2021	June 30, 2021

PROJECT CONSTRUCTION DATES			
Construction Start	**Construction Completion**	**Closeout**	**Final Documentation**
July 12, 2021	May 31, 2022	August 31, 2022	January 31, 2023

Grant Manager

Attachment B – Budget

Billings 2021 Water Main Replacements

ATTACHMENT B			
SUBRECIPIENT:	Billings		
PROJECT TITLE:	Billings 2021 Water Main Replacements		
ADMINISTRATION	***ARPA COMPETITIVE GRANT***	***LOCAL CONTRIBUTION (WATER REVENUES)***	***TOTAL***
Personnel Cost		$81,107.00	***$81,107.00***
Office Cost			***$0.00***
Professional Services			***$0.00***
Legal Costs			***$0.00***
Audit Fees			***$0.00***
Travel & Training			***$0.00***
Interim Interest			***$0.00***
Bond Costs			***$0.00***
			$0.00
			$0.00
TOTAL ADMINISTRATION	***$0.00***	***$81,107.00***	***$81,107.00***
CONSTRUCTION RELATED ACTIVTIES			
Land Acquisition			***$0.00***
Preliminary Engineering Design		$144,314.00	***$144,314.00***
Final Engineering Design		$242,332.00	***$242,332.00***
Construction Inspection Eng.		$199,208.00	***$199,208.00***
Construction	$2,000,000.00	$1,191,697.00	***$3,191,697.00***
Contingency		$100,000.00	***$100,000.00***
Permits		$3,300.50	***$3,300.50***
Solid Waste Construction Costs		$685.96	***$685.96***
TOTAL ACTIVITY	***$2,000,000.00***	***$1,881,537.46***	***$3,881,537.46***
TOTAL PROJECT BUDGET	***$2,000,000.00***	***$1,962,644.46***	***$3,962,644.46***

SUMMARY OF MATCHING FUNDS	
FUNDING SOURCE	**AMOUNT**
Local Contribution (Water Revenue)	$1,962,644.46
TOTAL	**$1,962,644.46**

COPY

Grant Manager

Attachment C
Reporting and Reimbursement Requirements

Progress Reports
The Subrecipient will provide progress reports to DNRC during the term of this Agreement. Reports will provide status information for each project implementation task and identify the reporting period. Status information will include, at a minimum:

- Project activities during the reporting period;
- Costs incurred;
- Funds remaining;
- Anticipated activities during the next reporting period, and
- Expected changes in scope, schedule or budget.

The Subrecipient shall report on total project costs including those funded by the Subrecipient and other matching funds. Significant problems encountered shall be noted and necessary scope and time-line modifications requested.

The Subrecipient must submit a project progress report with each reimbursement request at a minimum on a quarterly basis. DNRC will not honor claims for reimbursement if DNRC has not approved the progress report or if there is a delinquent report. Reimbursement requests must:

- Include a State of Montana vendor invoice signed by an authorized agent.
- Be billed by the tasks identified in the project scope of work and budget.
- Be supported by backup documentation of contractor invoices, receipts, cancelled checks, or other documentation of costs.

Subrecipient invoices need to relate clearly to the scope of work and budget in this Agreement.
Projects with multiple funding sources need to submit a uniform status of funds spreadsheet (provided by DNRC) or other means of tracking and documenting match and the project budget.

Final Report
The Subrecipient must submit one hard copy and one electronic copy (pdf) of the final report that meets the requirements of this Attachment C to DNRC upon project completion. Final disbursement of funds is contingent upon DNRC receipt and approval of a final report that meets these requirements. Final reports must be submitted to DNRC within 90 days of the Agreement termination date.

Final reports must include a signed Certificate of Compliance (included in this attachment) to DNRC upon project completion.

Projects that included construction must also submit a signed Engineer's Statement of Completion. DNRC may also request as-built drawings for construction projects, IF APPLICABLE TO PROJECT.

Photos or news articles (scanned or digital Links) are strongly encouraged with Reports.

The Subrecipient is not required to use the suggested format in this Attachment but must include the information listed below. At a minimum, the final report must describe the purpose and location of the project, project tasks, changes to the scope, schedule or budget, how the project met stated goals and objectives, how the project benefited resources, and the current project status. Final reports will be made available to the public on the DNRC website.

COPY

Final Report Requirements

1. **Title Page:**
   A. Subrecipient's name, address, and telephone numbers.
   B. DNRC Grant Agreement Number
   B. Name, address, and telephone of other contacts if primary contacts are not available.
   C. Funding: total project cost and amount of agreement
   D. State where copies of the report may be obtained (Subrecipient contact person name, address, phone number. An email address or website is acceptable).
   E. A list of supporting documents (for example, construction completion reports or other project deliverables, if applicable)

2. **Introduction:** Describe the project history, location and purpose. Provide a project location map.

3. **Discussion and Results:**
   A. Describe how project goals and tasks identified in the Agreement were completed:
      - Describe the planning process (for example: discuss project design, independent review, coordination with agencies, permits required and other activities).
      - Describe how each task listed in the scope of work was accomplished. Provide details on each task (for example: if trees were planted as an erosion control measure, state how many, the tree species, the age or size of the trees, and location of the plantings).
      - List the goals and/or objectives of the project as stated in the scope of work and briefly describe how they were met by the activities described in the tasks above. Discuss any differences between project goals and objectives and actual project results.
      - Provide an explanation for tasks that were not completed or any out-of-scope work.
      - Include a project map, data, and/or photos that document the project.

   B. Summarize any problems encountered and solutions adopted. What would you do differently?

4. **Resource and Public Benefits:**
   Describe the project's overall benefits. What are the anticipated and realized benefits to resources and to the local and regional area of the completed project? Were these benefits realized? If not, explain why.

5. **Grant Agreement Administration & Project Costs:**
   A. Work schedule: Compare the time allotted for project completion with actual schedule. Identify delays and discuss the reasons for delays.
   B. Budget: Include a table that summarizes how the monies were spent by budget category or task as described in Attachment B and funding source (i.e. DNRC, Sponsor, other State or federal agencies). Explain cost overruns or savings. Discuss unbudgeted expenses that arose over the course of the project.
   C. Match Funds: Identify all funds from other sources or in-kind services that were used to fund the project. If not all matching funds were spent provide a justification.

6. **Project Completion and Certification**
   A. Subrecipient's Certificate of Compliance (must be signed for all projects).
   B. As Built Drawings, if requested by the DNRC (construction projects only).
   C. Engineer's Statement of Final Completion (if applicable).
   D. Photos or news articles (scanned or digital links) are strongly encouraged with Reports.

7. **Final Report submitted electronically (PDF)**

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FINAL REPORT

CERTIFICATE OF COMPLIANCE

Subrecipient: _____

Project Name: _____

Grant Number: _____

Grant Amount: _____

I, the undersigned, being duly qualified, respectfully, of the _____(Subrecipient Name), in _____ County, State of Montana, do hereby certify that the above-named project is in full compliance with all of the covenants and conditions set forth in the Agreement identified above between the _____ (Subrecipient Name) and the State of Montana, Department of Natural Resources and Conservation. I understand that any money remaining after the final payment will be returned to the appropriate accounts at DNRC.

_____ _____

Authorized Subrecipient Signature Date

COPY

This form is available on the DNRC website:
http://dnrc.mt.gov/divisions/cardd/docs/resource-development/final-report-certificates.pdf.

STATEMENT OF COMPLETION

Subrecipient: _____

Project Name: _____

Grant Number: _____

Grant Amount: _____

I, _____ , (Project Engineer) a Registered Professional Engineer in the State of Montana, license number _____, do hereby state that the above-named project was completed according to the approved plans and specifications. I further state that the record ("as-built") drawings for this project are a true and accurate representation of the completed construction.

Name	P.E. Number
Signature	Date
Name of Firm	
Address of Firm	
City, State Zip of Firm	

COPY

Please consult the DNRC Liaison to verify if this form is required for your project.

This form is available on the DNRC website:
http://dnrc.mt.gov/divisions/cardd/docs/resource-development/final-report-certificates.pdf.

Attachment D

ASSURANCE OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

OMB Approved No. 1505-0271 Expiration Date: 11/30/2021

ASSURANCE OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits. This assurance applies to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of this assurance apply to all of the Subrecipient's programs, services and activities, so long as any portion of the Subrecipient's program(s) is federally assisted in the manner proscribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal funds, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166; directives; circulars; policies; memoranda and/or guidance documents.

2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.

3. Subrecipient agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting programs, services and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on LEP, please visit http://www.lep.gov.

4. Subrecipient acknowledges and agrees that compliance with this assurance constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees and assignees for the period in which such assistance is provided.

5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its

regulations between the Subrecipient and the Subrecipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

> *The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.*

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property;

7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. That is, the Subrecipient shall comply with information requests, on-site compliance reviews, and reporting requirements.

8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.

9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If the Subrecipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-subrecipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub-subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

COPY

Under penalty of perjury, the undersigned official(s) certifies that he/she has read and understood its obligations as herein described, that any information submitted in conjunction with this assurance document is accurate and complete, andthat the Subrecipient is in compliance with the aforementioned nondiscrimination requirements.

Subrecipient	Date

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE
The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

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City Council Regular

Date:	02/28/2022
Title:	Zone Change 1004 and Annexation 21-15 - Request to Withdraw
Presented by:	Nicole Cromwell
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

Planning staff recommends City Council accept the applicant's request to withdraw the Zone Change 1004 and Annexation 21-15. The Zoning Code allows the applicant to request withdrawal in writing as has been done in this situation (See attached request). If granted withdrawal, the applicant may return with a modified application after a 120-day waiting period.

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

The applicant and agent for Zone Change 1004 and Annexation 21-15 requested a delay from action on these items on January 24, 2022, with the intent to reach out and working with the neighboring property owners. During the interim, the applicant has decided to request withdraw of the application. The City Council granted a delay on these applications until its meeting on March 14, 2022.

The zone change that is included in this withdrawal request used the Planned Neighborhood Development (PND) zone change process for a proposed annexation of a 27.81 acre parcel located south of Bell Avenue and north of Monad Road and the Bannister Drain generally located west of Shiloh Road. The proposed Mixed Residential PND would include 19.46 acres of Mixed Residential 3 (NX3), 2.055 acres of Mid-Century Neighborhood (N2), 1.632 acres of Mixed Residential 1 (NX1) and about .691 acres of open space (P1). The PND is a new zoning tool to help guide the coordination of annexation, subdivisions, and master planning for new city neighborhoods. The new tool applies a level of certainty to all stakeholders, including the surrounding property owners.

The Zoning Commission forwarded no recommendation on the zone change application based on a 2-2 tie vote on a motion to recommend approval. The surrounding property owners had also submitted a valid protest (January 21, 2022) just prior to the public hearing scheduled for January 24. The Council may consider and act on this withdrawal request at this meeting. If the withdrawal is granted, these items will not return to the Council at the March 14 meeting.

ALTERNATIVES

City Council may:

- Grant the request to withdraw Zone Change 1004 and Annexation 21-15
- Deny the request to withdraw Zone Change 1004 and Annexation 21-15

If the Council grants the request to withdraw, the applicant must wait 120 days to submit a new or modified application for a zone change. If the Council denies the request to withdraw, the applications will be heard on March 14, 2022.

FISCAL EFFECTS

Approving or disapproving the request to withdraw will have no effect on the Planning Division budget.

Attachments

Request to Withdraw ZC 1004 and Annexation 21-15

SANDERSON STEWART

Billings
Bozeman
Denver
Fort Collins

February 14, 2022

Billings City Council
Mayor Bill Cole
210 N 27th Street, 2nd Floor
Billings, MT 59101

Reference COS 2828 Zone Change and Annexation
City Zone Change 1004, Project No. PZX-21-00300
Via email: coleb@billingsmt.gov
bohlmand@billingsmt.gov

Dear Mayor Cole and City Council Members,

On behalf of our client, we are requesting a withdraw of this submittal. This is to include both the Zoning and Annexation action. After our delay was requested, we had the opportunity to communicate further with some of the neighbors and staff as well as gauge in more detail the concerns that council may have with the original submittal. Our intention is to apply that input regarding mitigation and/or elimination of access to Bell Avenue (traffic concern) and more clearly defining the P1 (public open space) requirement under the Planned Neighborhood Development (PND) regulations as it relates to accommodating the recreation needs of those that will reside within the development area. We will recommence the submittal process in late June to be considered in the July zoning and annexation schedule.

Thank you for your time and consideration in this matter. I plan to attend your meeting virtually on February 28, 2022, when this is originally scheduled to come back before you in case there are any specific questions or comments prior to you granting the withdrawal.

Respectfully,

Rick Leuthold, PE

CC: Nicole Cromwell, City of Billings Zoning Coordinator
Rick Dorn, Dorn Real Estate and Development
Robert and Bonnie Bell

City Council Regular

Date:	02/28/2022
Title:	The Timbers Subdivision, 1st 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 The Timbers Subdivision, 1st Filing, be conditionally approved, the Findings of Fact adopted, and the variance approved as presented in the staff report.

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

On December 1, 2021, IMEG for Ali and David Mitchell, applied for preliminary major plat approval for The Timbers Subdivision, 1st Filing. The proposed subdivision creates 93 lots for residential development. The subject property is generally located south of Alkali Creek Road and west of Foothill Drive. The property will be zoned under a Planned Neighborhood Development and builders will follow the City of Billings Zoning Code for the various zoning districts in the subdivision when developing the lots.

VARIANCES REQUESTED

The applicant is requesting a variance from Section 23-406, Streets and Roads, B. Streets and Roads Design and Improvement Standards requiring paved surfacing. Specifically, the applicant is asking to construct a gravel road to be in use for up to three years at which point the developer will then hard surface the road according to city standards. See Attachment A for further discussion on the variance request.

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. Any additional information required by City of Billings Engineering will be provided by the applicant and additional language in the SIA will be added as required by Engineering.
2. To protect public health and safety, prior to final plat approval, the applicant will submit all drawings and specifications for fire hydrant locations and installation to the City of Billings Fire Department and City Engineering Department for review and approval prior to installation. Any additional information required by City of Billings Fire Department or Engineering Department will be provided by the applicant and additional language in the SIA will be added as required by the Fire or Engineering Departments.
3. To protect public health and safety, prior to final plat approval, the applicant will coordinate with City Engineering concerning proposed discharge methods of detention ponds next to Private Park land. Any proposal must be reviewed and approved by City Engineering prior to installation.
4. To protect public health and safety, prior to final plat approval, the applicant will include language in the SIA under the heading III Transportation B. Sidewalks that the applicant will be responsible for the installation of accessible ramps at the intersections. Further, the applicant is required to provide sidewalk easements where sidewalks will be constructed on residential lots due to placement of drainage swales. The applicant will be responsible for the construction of sidewalks adjacent to parks or stormwater ponds.
5. To protect public health and safety and provide for access to proposed lots, prior to final plat approval, the applicant will provide easement documents for the driveway to lots 18 and 19.
6. To protect public health and safety, prior to final plat approval, the applicant will provide all needed information requested by City of Billings Engineering in their TIS. All recommendations shown in the TIS will be reviewed by Engineering and the required information will be added to the SIA.
7. To protect public health and safety, prior to final plat approval, the applicant will include language in the SIA under the heading II Property Conditions and Information for Lot Purchasers, lot owners will be advised that the private parkland will be maintained by The Timbers HOA.
8. 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.
9. 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.
10. 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 July 8, 2021
- Preliminary plat application submitted to Planning Division on December 1, 2021
- Departmental review meeting December 16, 2021
- Preliminary plat re-submittal December 23, 2021
- Planning Board plat review January 11, 2022
- Planning Board public hearing January 25, 2022
- Preliminary plat to City Council February 28, 2022
- 60 working-day preliminary plat review period ends March 2, 2022

PLAT INFORMATION

General location:	South of Alkali Creek Road and west of Foothill Drive
Legal Description:	Tract A of COS 3795
Owner/Subdivider:	Ali and David Mitchell
Engineer and Surveyor:	IMEG
Existing Zoning:	PD
Existing land use:	Open grassland
Proposed land use:	Residential
Gross and Net area:	56.52 acres / 40.09 acres
Proposed number of lots:	93
Lot size:	Max: 1.84 acres Min.: 4,959 square feet

Parkland requirements: Parkland requirement for this subdivision is 3.45 acres, the applicant will be providing 6.72 acres of private parkland with this filing.

STAKEHOLDERS

On January 25, 2022, at a Planning Board Meeting Public Hearing, staff gave a presentation of the proposed subdivision. Between the plat review meeting and the hearing, the applicant decided to have private parks instead of public parks. With that the multi-use trail was relocated to the right of way for Alkali Creek Road and out of the park land area. This was an option allowed to the developer by City Engineering and is in accordance with the arterial street construction requirements. Because of the parkland change and shared use path relocation, staff explained that some conditions of approval had been modified and/or eliminated as they referred to the Parks Department or had to do with public parks. Further, staff summarized the variance request.

After the presentation, Planning Board President Cook called for discussion and questions from the board for staff. Planning Manager Monica Plecker further explained the reasoning for changes to the conditions of approval is to make sure the language is also consistent with the Development Agreement approved by City Council as part of the annexation for this land. Also, planning staff, engineering staff and fire staff have reviewed the variance for consistency with the Development Agreement and Annexation resolution and have determined the variance would be no longer than 3 years. The variance request is a temporary variance that will align with the annexation conditions which state the second access will be completed by January 2025. There were no further questions from the board for staff.

Board President Cook opened the public hearing and asked if the agent or applicant wanted to address the board. Mr. Kolten Knatterud is the agent for applicants, Ali and David Mitchell. He clarified and said the driving reason for the trail relocation is to address the condition of approval set through City Council. To complete the trail as a soft surface trail within the subdivision with the first filing they would need the Army Corp of Engineers approval for its location. By

moving the trail to the Alkali Creek Road right of way there is not an unknown delay time getting approval for the trail location from the Army Corp of Engineers. With the proposed Timber Boulevard North, the developer wants flexibility to remove some wetlands for potential lot sites. Should this not be approved by the Army Corps of Engineers, the roadway will need to be moved.

Mr. David Mitchell, the developer asked for support of this development. In response to question by Board member Larsen, Mr. Mitchell said the lighting within the subdivision will be downward facing.

A member of the public, Mr. Jim Kohles, stated the City services will be extended, and currently he believes they stop at Strawberry Avenue. He asked how the extension of services will be financed.

Mr. David Mitchell stated that the City has agreed to fund extension of the services and the extension is in the current CIP and will begin this spring. Ms. Plecker stated that once the services are extended, it is the developers' responsibility to pay for services within the subdivision. Ms. Plecker said the City's interest is related to the inner belt loop, the City wants to have services as anchors on the ends of the inner belt loop to protect to ensure development occurs to a city standard, ultimately protecting and enhancing the multi-million dollar investment known as the Inner Belt Loop.

Board member Stephenson asked if there has been flooding within the Alkali Creek flood plain in recent years. Mr. Mitchell said they have not experienced flooding since they have been working on the project. Board member Stephenson voiced concern that the development may exacerbate flooding. Mr. Kolten Knattterud pointed out the wetland and the flood plain on the posted plat. In the SIA it states that nothing can be built within the floodplain. The design of the storm water management system is such that the flood plain will not be receiving more flow than it currently gets before development. The storm water detention ponds in the subdivision are to capture additional water created because of the introduction of impervious surfaces in the development. Board member Woods asked if engineering is requiring minimum finished floor elevations. Mr Knatterud stated that engineering is requiring them to add to the SIA the required finished floor elevation for each lot within the proposed subdivision.

There were no other comments or question, the public hearing was closed and a call for a motion was made.

Board member Stephensen made a motion and Board member Woods seconded the motion to forward a recommendation to City Council that the preliminary plat of The Timbers Subdivision, 1st Filing, be conditionally approved, the Findings of Fact adopted, and approval of the variance as presented in the staff report. Also, to strike the words *City Parks Department* from Condition of Approval #3.

The motion was passed with a unanimous vote.

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 March 2, 2022. 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 limited impacts from this proposed subdivision.

Attachments

Findings of Fact
Proposed Plat
SIA Draft

Attachment A

Roads Master Plan
Email from Morledge family
Mayors Letter

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of The Timbers Subdivision, 1st 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 native grassland with trees and shrubs. Water rights will not 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 continue a 12-inch water main in Timbers Boulevard South. This will serve as the future City trunk line through the development. All other water lines in the proposed subdivision will be 8-inch water mains located in the other proposed streets with water stubs 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 will review and approve all proposed hydrant locations prior to installation. **(Condition #2)**

Sanitary sewer service to the proposed subdivision will be provided by the City of Billings. The applicant will install a 21-inch line in Timbers Boulevard South. This will serve as the trunk line through the development. All other sanitary sewer lines within the subdivision will be 8- inch diameter lines located in the proposed streets. 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. This storm water will go to detention basins for a controlled drainage from the site. The historic drainage patterns, in undeveloped areas, will be allowed to remain at this time and drain into Alkali Creek as they have always done. An Operation and Maintenance (O&M) manual will be included with The Timbers Subdivision, 1st Filing. Any stormwater facility that is not in the city right of way will be maintained by the HOA of the subdivision. The subdivision HOA will be responsible for stormwater management system facilities outside City right of way, they will collect fees to cover the cost of O&M.

The proposed location for this subdivision has many natural drainage areas where water has historically drained to Alkali Creek. With the introduction of impervious hard surfaces, roads, sidewalks, driveways and homes, this will have a significant impact on the drainage of the site. The applicant will work closely with City Engineering to design the storm water system to mitigate, as much as possible, drainage within this subdivision that could create problems for those building homes in the subdivision. All drainage improvements shall comply with the provisions of the City of Billings Stormwater Management Manual and Section 23-706, BMCC, and any other stormwater management practices deemed necessary by City Engineering. Any additional information needed to clarify what will be happening in the subdivision with stormwater management shall be added in the SIA under the heading V Storm Drainage. A stormwater management plan shall be submitted to the Engineering Division prior to filing of the final plat. **(Condition #1)**

There are two Private Park w/storm pond labels on the proposed plat, one on Lot 7 and one of Lot 4. Lot 1 is shown as a storm pond also. Discharge from these ponds should not be allowed to surface drain through park land because of safety concerns. Proposed discharge methods will be coordinated with City Engineering. Any proposal must be reviewed and approved by City Engineering prior to installation. **(Condition #3)**

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 Alkali Creek Road. This road is identified as an Arterial Road and is required to have a right of way width of 120 feet. It currently has 60 feet of right of way. This development will be providing an additional 30 feet towards that required 120 feet of right of way. The applicant will be providing 50% of the cost to build Alkali Creek Road, the southern half, to meet the required width of an arterial road. The northern half will be developed when development takes place on that side. With the 2nd filing of this subdivision another 50% will be contributed for the widening of Alkali Creek Road.

Timber Boulevard South, Angel Oak Lane, Olive Circle Court, White bark Lane, and Black Fig Court will be constructed with the first filing to create access to the proposed lots within the subdivision.

Timbers Boulevard North is the subject of a variance from the requirements of a fully built road, pavement, curb and gutter, with the first filing of the subdivision. This road is proposed to be built as a gravel road. The requirement for this road will be that it is able to support the weight of a 40-ton truck in all weather conditions and it will be maintained at all times to be drivable. See Attachment A.

Engineering has requested the following be placed in the SIA under the heading III Transportation A: The construction of the road, including curb and gutter and utility construction, will be monetarily secured for 50% of an engineer's estimate as reviewed by the City. The construction of the remainder of Timbers Boulevard North will be completed with a future filing. This includes construction of curb and gutter, street paving, water, sanitary sewer, and storm drain.

With Phase II annexation, to take place January 10, 2025, or earlier upon written request of the DEVELOPER. The city will annex the next area defined in the annexation agreement. Upon that annexation the developer will be required to build the section of Timber Boulevard North to a City paved street standard from the paved section completed with the first filing out to Alkali Creek Road. If Timber Boulevard North is not constructed at that time the City reserves the right to create a Special Improvement District to construct the remaining portion of Timbers Boulevard North out to Alkali Creek Road. This information will be outlined in the SIA under the heading III Transportation. **(Condition #1)**

Alkali Creek Road is the main access to this proposed subdivision. Access to each individual lot will be from the internals streets that are proposed with this subdivision. All new streets will be in a 60-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. All roads shall be built to meet the requirements of City of Billings Engineering Division. All proposed road construction shall be reviewed and approved by City Engineering prior to construction. **(Condition #4)**

City of Billings Subdivision Regulations require that all subdivisions connect to undeveloped or under developed land with a road within a right of way. Sugar Pine Road is to be constructed to city road standards at the same time as the rest of the subdivision road construction. There is a connection shown along the north side of proposed Lot 57, Sugar Pine Road, that will be required to be built with the first filing of the subdivision. This information is included in the SIA under the heading III Transportation A.

Access to lots 18 and 19 is via a driveway easement shown on the face of the plat. This easement travels through lots 17 and 20. Easement documents will be provided for that driveway. **(Condition #5)**

A traffic study was submitted for this proposed subdivision. There are still areas that need to be taken into consideration for the traffic study to be complete. The applicant will submit an updated traffic study to that takes into account item required by City of Billings Engineering. With a comprehensive traffic study, the applicant may be required to make contributions to the intersections impacted by the additional traffic burden places on them. **(Condition #6)**

Sidewalks will be installed at the time of individual lot development. All sidewalks will be boulevard type walks with 5-foot wide boulevard and 5-foot-wide sidewalks. The Subdivider will install accessible ramps at the intersections, which shall be completed with the subdivision improvements. **(Condition #4)**

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 1601 Saint Andrews Dr., (Station #6).

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** – Eagle Cliffs Elementary School provides service to students within this subdivision for K through 5. Castle Rock Middle School will provide service to students in middle school 6-8. Skyview High School will provide services to students from 9-12. School District #2 responded stating the schools are currently just over capacity.

g. **Parks and Recreation** – The required parkland dedication for this subdivision is 3.45 acres, the applicant is planning on providing 4.64 acres of private parkland with this filing. Lot owners need to be advised they will be subject to inclusion in costs of the private park land through a Home Owner Association (HOA) for the operation and maintenance of the private park within The Timbers Subdivision. This information shall be included in the SIA under the heading II Property Conditions and Information for Lot Purchasers. **(Condition #7)**

h. **Mail Delivery -** The United States Postal Service will provide postal service to the subdivision. They have requested the installation of central box units (CBU). The developer will work with the USPS to provide a satisfactory location for CBUs for this filing. **(Condition #8)**

3. Effect on the natural environment

The subject property slopes up to the south. There are small valleys and hills to the south of Alkali Creek, which is the lowest point on the property. The land drains naturally to Alkali Creek and the creek does have an identified flood plain along its length. A geotechnical study was performed for the subdivision, a summary of the information from that study is included in the SIA under the heading II. Property Conditions and Information for the Lot Purchasers, paragraph C. Mitigation requirements with the stormwater requirements should minimize the 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, 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:

> **Essential Investments (relating public and private expenditures to public values):** Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors. (p.8)
>
> Natural landscapes are important because they define the uniqueness of Billings and help protect the environment. (p.8)
>
> **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. There is a Long-range bike lane proposed along Alkali Creek Road. This subdivision will be building a bike lane along Alkali Creek Road.

A trail along Alkali Creek Road, within the right of way, is proposed for this subdivision. The trail shall be built to City of Billings trail standards along the frontage of the first filing of the subdivision. To meet the requirements of conditions of approval for the annexation for this proposed subdivision the applicant will continue the trail, along Alkali Creek Road, as a soft surface trail to the north west. The section of trail will be a soft surface trail with the first filing. The trail will be built to hard surface trail standards with future filings of the subdivision. This trail location will meet the requirements of the annexation conditions, the requirements of subdivision regulations and the City Engineering Department.

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 subdivision is from Alkali Creek Road. 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 The Timbers Subdivision, 1st 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

It is recommended to the City Council, the preliminary plat of The Timbers Subdivision, 1st Filing, be conditionally approval, adopt the Findings of Fact and approval of the variance as presented in the staff report.

Approved by the Billings City Council, February 28, 2022

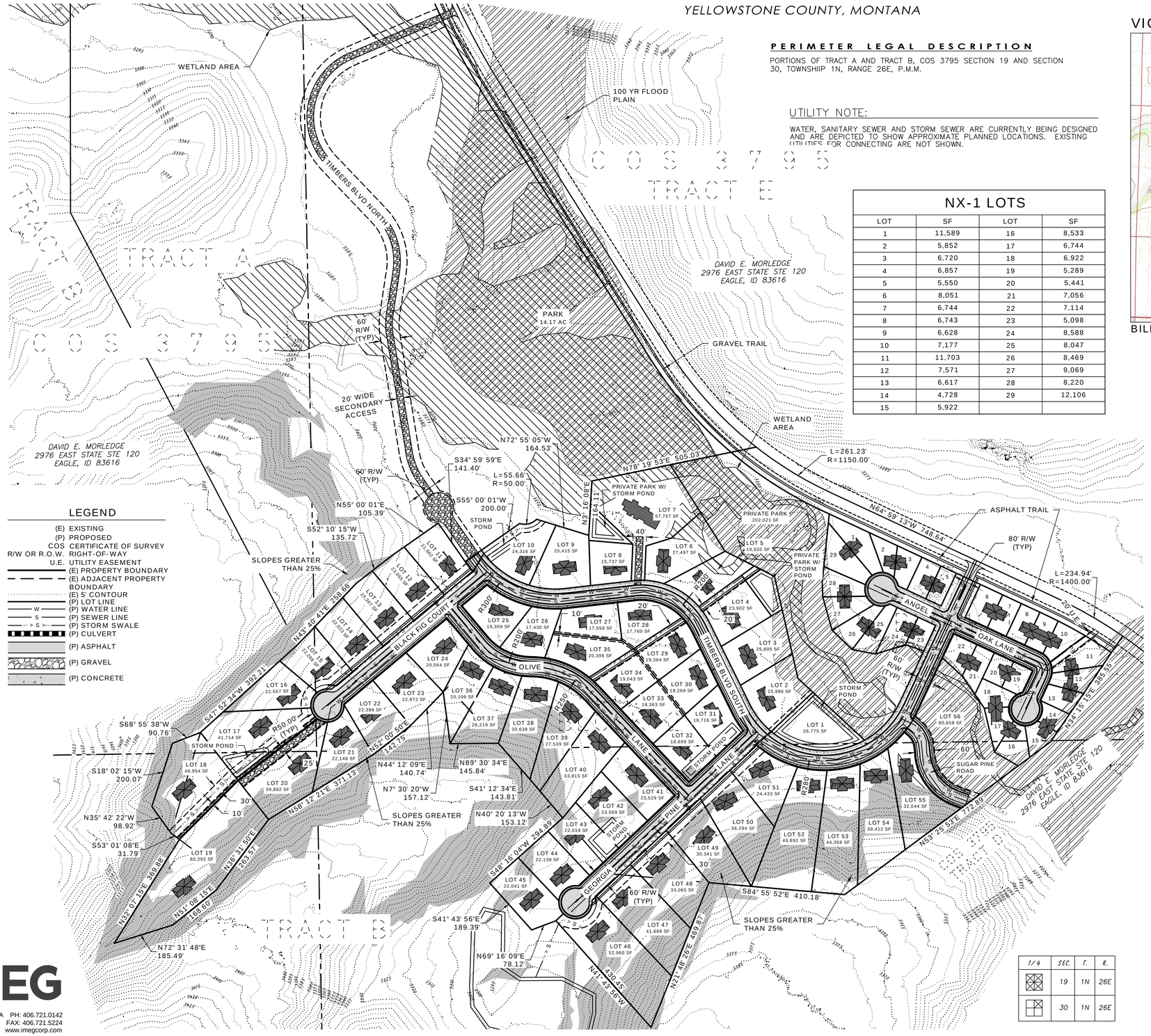
_____

William A. Cole, Mayor

PRELIMINARY PLAT OF

THE TIMBERS SUBDIVISION

TRACT A OF COS 3795 LOCATED IN THE NE1/4, SE1/4, SW1/4, & NW1/4 OF SECTION 19 AND THE NE1/4 OF SECTION 30, TOWNSHIP 1 NORTH, RANGE 26 EAST, P.M.M., YELLOWSTONE COUNTY, MONTANA



LEGEND

- (E) EXISTING
- (P) PROPOSED
- COS CERTIFICATE OF SURVEY
- R/W OR R.O.W. RIGHT-OF-WAY
- U.E. UTILITY EASEMENT
- (E) PROPERTY BOUNDARY
- (E) ADJACENT PROPERTY BOUNDARY
- (E) 5' CONTOUR
- (P) LOT LINE
- (P) WATER LINE
- (P) SEWER LINE
- (P) STORM SWALE
- (P) CULVERT
- (P) ASPHALT
- (P) GRAVEL
- (P) CONCRETE

PERIMETER LEGAL DESCRIPTION

PORTIONS OF TRACT A AND TRACT B, COS 3795 SECTION 19 AND SECTION 30, TOWNSHIIP 1N, RANGE 26E, P.M.M.

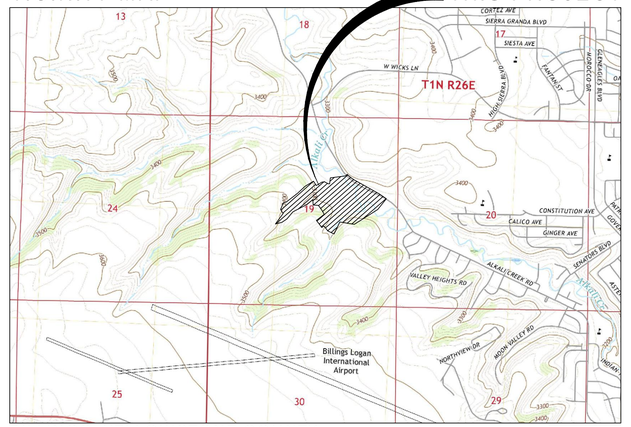
UTILITY NOTE:

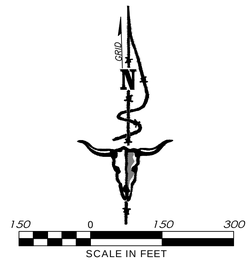
WATER, SANITARY SEWER AND STORM SEWER ARE CURRENTLY BEING DESIGNED AND ARE DEPICTED TO SHOW APPROXIMATE PLANNED LOCATIONS. EXISTING UTILITIES FOR CONNECTING ARE NOT SHOWN.

NX-1 LOTS

LOT	SF	LOT	SF
1	11,589	16	8,533
2	5,852	17	6,744
3	6,720	18	6,922
4	6,857	19	5,289
5	5,550	20	5,441
6	8,051	21	7,056
7	6,744	22	7,114
8	6,743	23	5,098
9	6,628	24	8,588
10	7,177	25	8,047
11	11,703	26	8,469
12	7,571	27	9,069
13	6,617	28	8,220
14	4,728	29	12,106
15	5,922		

VICINITY MAP — THIS PROJECT





1/4	SEC.	T.	R.
⊠	19	1N	26E
⊞	30	1N	26E

BASIS OF BEARING
STATE PLANE MONTANA – ZONE 2500 GROUND (TRUE) DISTANCES

RECORD OWNER:
DAVID AND ALI MITCHELL

SUBDIVIDER:
DAVID AND ALI MITCHELL

DATE:
DECEMBER, 2021

TOTAL SUBDIVISION AREA:
56.26 ACRES (GROSS)
40.09 ACRES (NET)

SITE DATA

NUMBER OF N-3 LOTS	58
NUMBER OF NX-1 LOTS	29
MAXIMUM LOT AREA	80,292 SF
MINIMUM LOT AREA	4,728 SF
AREA OF PARKLAND	4.64 AC
AREA OF ADD. R/W	0.89 AC
LINEAR FEET OF STREETS	5,636 LF
NET ACREAGE	40.09 AC
GROSS ACREAGE	56.26 AC
EXISTING ZONING	AGRICULTURAL
PROPOSED ZONING	NX-1 AND N-3
EXISTING LAND USE	AGRICULTURAL
PROPOSED LAND USE	RESIDENTIAL

PREPARED BY:
IMEG
1817 SOUTH AVE. W. STE. A
MISSOULA, MT
59801
PH: 406.721.0142
FAX: 406.721.5224
www.imegcorp.com
IMEG PROJECT NO. 20006040

SHEET 1 OF 1
THE TIMBERS SUBDIVISION
(A SUBDIVISION OF YELLOWSTONE COUNTY)

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

The Timbers Subdivision

First Filing

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(City of Billings)

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

The Timbers Subdivision First Filing

This agreement is made and entered into this ____ day of _____, 20__, by and between *Ali Mitchell* and *David Mitchell*, whose address for the purpose of this agreement is **1655 Valley Heights Rd., Billings, MT 59105**, 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 *The Timbers Subdivision, First Filing;* and

WHEREAS, at a regular meeting conducted on _____ day of _____, 20__, the City Council conditionally approved a preliminary plat of *The Timbers Subdivision, First 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 *The Timbers Subdivision, First 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

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):

A variance has been submitted regarding the construction of Timbers Boulevard North. This variance requests to install Timbers Boulevard North using a 20' foot

wide gravel surface within a 60' foot right-of-way. This road shall be marked a secondary access and built to withstand 40 tons in all weather conditions. The construction of the road, including curb and gutter and utility construction, will be monetarily secured for 50% of an engineer's estimate as reviewed by the City. The construction of the remainder of Timbers Boulevard North will be completed with a future filing. This includes construction of curb and gutter, street paving, water, sanitary sewer, and storm drain. If Timbers Boulevard North is not constructed within three years of final plat, the City reserves the right to create a Special Improvement District to construct the remaining portion of Timbers Boulevard North back to Alkali Creek Road.

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 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. The Timbers Subdivision, First Filing had an overview geotechnical study completed by Rimrock Engineering. Below is the summary of the findings of this study. Individual lot owners are encouraged to complete their own geotechnical study to find lot specific information.

- The subsurface profile generally consists of variably stiff to very soft lean clay soils. Groundwater was encountered at approximately 6.5 feet below existing grades while drilling or for the short duration the boring was allowed to remain open.
- Due to site conditions and concerns, we recommend support for the proposed structure using a deep foundation system such as rammed aggregate piers or helical piers extending into the more competent soils in order to bypass the compressible soil and alleviate concerns regarding foundation construction below or near the groundwater elevation.
- Another viable foundation alternative, yet lower level of assurance against potential movements, would be to support the structure using a shallow

spread footing foundation system or thickened edge monolithic slab bearing on a zone of geotextile-reinforced structural fill.

- A structural floor on grade beams over a crawlspace should be considered for interior slabs. If a structural floor is not desired, in order to reduce the potential for movement related distress to concrete slabs, we recommend a minimum of 12 inches of structural fill reinforced with a layer of Mirafi RS580i be used for slab support.

D. No water rights have been transferred to the lot 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.

H. Lot owners should be aware that portion(s) of this property lie 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. The City of Billings is not liable for any damage to lots encompassing or near floodplain that would result from flooding.

III. TRANSPORTATION

A. Streets

The following roads exist surrounding the subdivision:

- Alkali Creek Road is designated as a Principal Arterial and is located within a 60’ wide right-of-way. An addition of 30’ of ½ right-of-way is

being dedicated as part of this subdivision to conform with city requirements. It is required that Alkali Creek Road be constructed with a minimum standard width of 42 feet, back of curb to back of curb. That portion adjacent to the subdivision has been partially constructed. The existing street includes approximately 26 feet of asphalt. The subdivider will provide cash-in-lieu contribution for the construction of approximately an additional 6 feet of asphalt surface with a satisfactory sub-base, base course, standard curb and gutter. The cash-in-lieu contribution will also include engineering design and construction administration.

.

The Subdivider will enter into a private contract for the construction of all required improvements for those streets within the subdivision, as follows:

- Timbers Boulevard South, Sugar Pine Road, Angel Oak Lane, Georgia Pine Lane, Olive Lane, and Black Fig Court will be constructed within a 60' foot right-of-way using curb and gutter and full-width pavement (34 feet back of curb to back of curb). Curb and Gutter will be installed per the City of Billings Standards in place at time of construction.
- Timbers Boulevard North will be installed using a 20' foot wide gravel surface within a 60' foot right-of-way. This road shall be marked a secondary access and built to withstand 40 tons in all weather conditions. The construction of the road, including curb and gutter and utility construction, will be monetarily secured for 50% of an engineer's estimate as reviewed by the City. The construction of the remainder of Timbers Boulevard North will be completed with a future filing. This includes construction of curb and gutter, street paving, water, sanitary sewer, and storm drain. If Timbers Boulevard North is not constructed within three years of final plat, the City reserves the right to create a Special Improvement District to construct the remaining portion of Timbers Boulevard North back to Alkali Creek Road.

B. Sidewalks

- All roads within the subdivision will have a 5' wide boulevard sidewalk with a 5' minimum boulevard. The sidewalk will be composed of concrete and be completed within the road's right-of-way.

C. Street Lighting

- There is no proposed street lighting, but it is included as an item in the waiver of right to protest.

D. Traffic Control Devices

- One stop sign will be installed on Timbers Boulevard South at the intersection with Alkali Creek Road.
- One stop sign will be installed on Timbers Boulevard North at the intersection with Alkali Creek Road.

- Two stop signs will be installed at the intersection of Angel Oak Lane and Timbers Boulevard South. The stop signs will be on both sides of Timbers Boulevard South.
- One stop sign will be installed at the intersection of Sugar Pine Road and Timbers Boulevard South.
- One stop sign will be installed at the intersection of Georgia Pine Lane and Timbers Boulevard South.
- One stop sign will be installed at the intersection of Black Fig Court and Timbers Boulevard South.
- One stop sign will be installed at the intersection of Georgia Pine Lane and Olive Lane.
- One stop sign will be installed at the intersection of Olive Lane and Black Fig Court.

E. Access

- All of the lots will access off of the internal subdivision road network.
- The subdivision will connect to Alkali Creek Road.

F. Billings Area Bikeway and Trail Master Plan

- There is a proposed short range bike and pedestrian trail proposed adjacent to Alkali Creek Road. This trail will be 10' wide and paved to the standard for pedestrian facilities within the City of Billings for the portion of Alkali Creek Road adjacent to the First Filing. A gravel 10' wide pedestrian trail will be installed adjacent to Alkali Creek Road extending to the north boundary of the property outside of the First Filing and will be completed to paved pedestrian facility standards as part of a future filing.

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. Lot 21 of the Timbers, First Filing must have its entire structure within 600 feet of the nearest fire hydrant.

- 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 acceptance at the time of development.

Storm Drainage for The Timbers, First Filing will be provided by a combination of surface drainage swales, curb and gutter, and underground piping. Off-site Stormwater will be routed through surface swales/ditches and will discharge directly to Alkali Creek. On-site stormwater will be routed through swales, curb and gutter, and underground piping to on-site detention ponds that are sized to only allow pre-development flow rate to be discharged from the site as required by the Stormwater Management Manual. The stormwater improvements will be constructed per the submitted Stormwater Management Design report as reviewed and accepted by the City Engineering Division.

All of the on-site stormwater infrastructure will be located within public easement or public right-of-way. Stormwater pipes located in the public right of way will be maintained by the City and all facilities including swales, piping, and ponds not in the right of way will be maintained by The Timbers HOA.

Due to the large quantity of stormwater passing through the development and the severe slopes located in some areas, minimum finish floor elevations for all lots within the development will be established by the Stormwater Management Plan and will be incorporated in the final version of the recorded SIA.

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 extension applications and the conditions of approval. Water Main and Sanitary Sewer extension applications shall be submitted for processing prior to the start of any construction for review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the subdivision shall be subject to the applicable System Development fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

A. Water

Each lot is to be served by City of Billings water through a water main extension. As required by City Engineering, a 12" Water Main will be extended along Timbers Boulevard South which will serve as the future City Trunk Line through the development. All additional water lines within the First Filing will be 8" water mains and are located in Angel Oak Lane, Sugar Pine Road, Georgia Pine Lane, Olive Lane, and Black Fig Court. Compensation for required water main upsize can be requested by the developer.

B. Sanitary Sewer

Each lot is to be served by City of Billings sewer through a sewer main extension. As required by City Engineering, a 21" Sewer Main will be extended along Timbers Boulevard South which will serve as the future City Trunk Line through the development. All additional sewer lines within the First Filing will be 8" sewer mains and are located in Angel Oak Lane, Sugar Pine Road, Georgia Pine Lane, Olive Lane, and Black Fig Court. All sewer infrastructure is proposed to be gravity. Compensation for required sewer main upsize can be requested by the developer.

C. Power, Telephone, Gas, and Cable Television

These utilities will be provided within the 60-foot Public Road Easement, or the Utility Easements created as part of this subdivision.

VII. PARKS/OPEN SPACE

The Timbers Subdivision, First Filing proposes private parkland be used to satisfy parkland requirements. The Park will be maintained by The Timbers HOA. Operation and maintenance of the park areas shall be the responsibility of The Timbers HOA.

Required parkland for The Timbers, First Filing is 3.45 acres per the City of Billings Subdivision Regulation guidelines. As part of The Timbers, First Filing 4.64 acres of parkland are being provided.

VIII. IRRIGATION

Irrigation rights for the subdivision will not be utilized for irrigation within the subdivision. No surrounding irrigation ditches exist.

IX. FLOODPLAIN

Floodplain boundaries are shown on the subdivision plat. Any work proposed in the floodplain will require a floodplain permit. All homesites are to be

constructed outside of the floodplain boundary. The City of Billings is not liable for any damages within the floodplain.

X. SOILS/GEOTECHNICAL STUDY

A soils/geotechnical study was completed by Rimrock Engineering, Inc. Due to the Geotechnical Study it is suggested that individual geotechnical reports be completed prior to construction of homes within the subdivision.

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"

By:_____ _____
Ali Mitchell David Mitchell

STATE OF _____)
: ss
County of _____)

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of _____, personally appeared Ali Mitchell, who executed the foregoing instrument and acknowledged to me that she executed the same.

SS_____

STATE OF _____)
: ss
County of _____)

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of _____, personally appeared David Mitchell, who executed the foregoing instrument and acknowledged to me that she executed the same.

SS_____

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.

SS_____

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 Timbers Subdivision, First Filing

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

Subdivider/Owner

By:_____ _____
Ali Mitchell David Mitchell

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 Ali Mitchell known to me to be *Subdivider/Owner Name*, the person who executed the forgoing instrument and acknowledged to me that he/she executed the same.

SS_____

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 David Mitchell known to me to be *Subdivider/Owner Name*, the person who executed the forgoing instrument and acknowledged to me that he/she executed the same.

SS_____

Attachment A

Staff Analysis and Recommendation

City staff has reviewed the request for a variance from **Section 23-406, Streets and Roads. B Streets and Roads Design and Improvement Standards.** Specifically, the applicant is requesting to construct a graveled road that serves as secondary access to the subdivision. The intent is that the gravel surface will only be temporary. The SIA, based on a condition of approval of preliminary plat, has provisions that require the surfacing to be completed on or before January 10, 2025.

The applicant has requested this variance, see Request Letter included below this analysis.

This proposed subdivision is a major subdivision and it is required to have two ways of ingress/egress. It is on the south side of Alkali Creek Road and will be required to cross Alkali Creek and the surrounding floodplain and wetland areas. As a waterway with wetlands and floodplain they are required to coordinate with the Army Corp of Engineers to determine mitigation requirements. Timbers Boulevard North is still under review to determine where the road can be located considering wetland impacts.

With Phase II annexation, Petition number 21-14 for annexation, to take place January 10, 2025, or earlier upon written request of the DEVELOPER. The city will annex "Phase 2" defined in the annexation agreement. Upon that annexation the developer will be required to build the section of Timber Boulevard North to a City paved street standard from the paved northern end of Timber Boulevard South, completed with the first filing, out to Alkali Creek Road.

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.

The applicant will be building a gravel surface road that will support the weight of a 40-ton truck in all weather conditions. This will provide a short term second access solution for the subdivision. This variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.

2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced.

Because this subdivision is being built near a stream, Alkali Creek, and associated wetland with the stream they are required to work with the Army Corp of Engineers to determine the best location for this portion of road. Building it to a paved standard at this time and then possibly being required to move portions of it because of requirements from the Army Corp of Engineers would not be the best use of resources or the possibility of doing irreparable damage to wetlands with multiple road constructions. Strict adherence to the letter of the regulation could possibly have damaging environmental consequences that can be avoided.

3. The variance will not result in an increase in taxpayer burden.

The variance request will not increase taxpayer burden.

4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy.

Granting the variance will have no effect on zoning. It is an issue of road location and the lots around that road have not been determined at this point.

5. The subdivider must prove that the alternative design is equally effective, and the objectives of the improvements are satisfied.

The alternate design is to build a gravel surface road that will support a 40-ton truck in all weather conditions until the final approved location of the road can be worked out with the Army Corp of Engineers and any mitigation requirements they may impose.

Variance request from applicant's agent

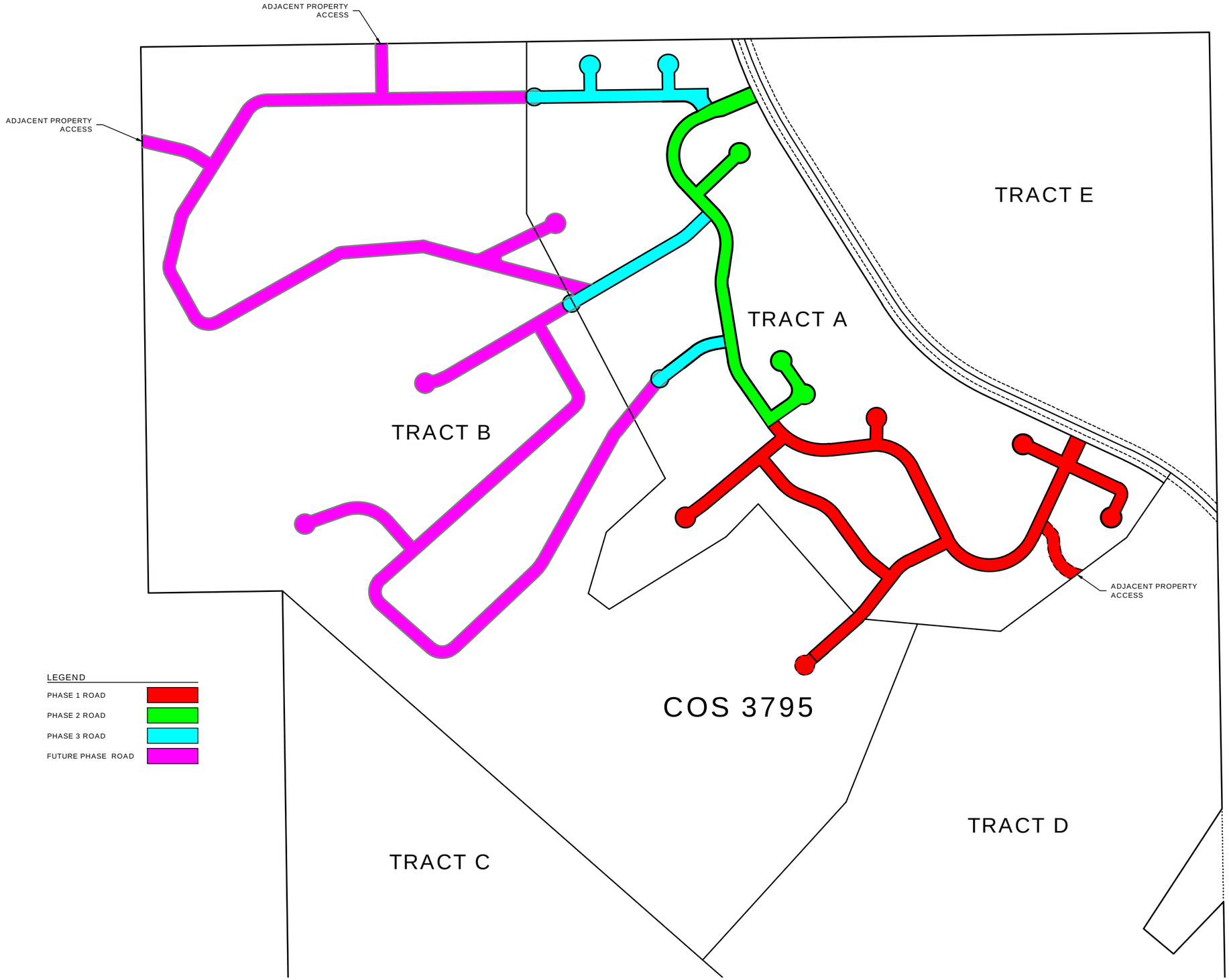
Variance Request

The Timbers, First Filing is requesting a variance regarding the construction of Timbers Boulevard, North. This road will be built 20' wide as a secondary gravel access. This road will be within a 60' right-of-way and be built to withstand 40 tons. This request has been coordinated with Fire and Public Works and is supported by both departments with the agreement that 50% of the cost to complete the roadway to City complete road standards will be secured prior to final platting and the City has authorization to complete the roadway in its entirety through an SID process if the road is not constructed to full City Standards within 2 years of the final plat being recorded.

Below we have included the variance facts of hardship in correlation with Section 23-1101.A. Please see our answers in **bold.**

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
   Granting a variance regarding Timbers Boulevard North being built using gravel will not be detrimental to public health, safety or general welfare. This road will be built 20' wide and built to withstand 40 tons. By building this road at a 20' width it will allow the Timbers, First Filing a secondary access promoting public health, safety and general welfare.
2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced;
   The Timbers, First Filing is a major subdivision and requires many infrastructure costs. This subdivision is proposed adjacent to Alkali Creek which had a wetland area associated with it. The developer is currently working with Army Corps of Engineers to determine what portions of the existing wetland can be removed or relocated and that final determination will determine the final location of Timbers Boulevard North. If the developer constructed Timbers Blvd North to full City Standards at this time prior to Army Corps determination the road may need to be relocated in the future. A 20 foot wide Gravel road is much easier to relocate than a completed 34 foot wide paved roadway with curb, gutter, and utilities. The plan of the developer is to move forward with Filing 2 of the development and the construction of Timber Blvd North once Army Corps makes their final wetland determination.
3. The variance will not result in an increase in taxpayer burden;
   The Timbers, First Filing has a subdivision improvements agreement with the City of Billings. According to the SIA, the developer has to provide a security for 50% of the engineer's estimate to complete Timbers Boulevard North prior to filing the final plat. As such, if the developer never moves forward with Filing 2, the City can create an SID and use this 50% security to complete the road. This process will ensure this variance will not result in an increase to taxpayer burden.
4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy; and
   This variance does not place the subdivision in nonconformance with zoning or growth policy regulations.
5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.
   The design of building Timbers Boulevard North using 20' wide gravel within a 60' wide right-of-way, as well as building the road to withstand 40 tons will be equally

effective as a full City secondary access for emergency services. This road will be able to withstand the uses of a secondary access point for the subdivision but provide against undue hardship for the developer who is constructing adjacent to Alkali Creek and the unknow wetland conditions.



N

250 0 250 500

SCALE IN FEET

IMEG
1817 SOUTH AVE W, STE. A
MISSOULA, MT
59801
PH: 406.721.0142
FAX: 406.721.5224
www.imegcorp.com

PLOT DATE: 12/20/21 4:14 PM

REVISIONS

DATE

DESIGNED: KK
DRAFTED: GW
CHECKED: KK
DATE: DEC 2021

LOCATION: COS 3795 SECT. 19, T01N, R26E, P.M.M. BILLINGS, MONTANA YELLOWSTONE COUNTY

PREPARED FOR: DAVID MITCHELL

PROJECT NAME: THE TIMBERS SUBDIVISION

SHEET TITLE: OVERALL SITE MAP

PROJECT NO: 20006040

SHEET: 1 OF 1

PRELIMINARY

DWG LOCATION: G:\2020\20006040\LAND DEVELOPMENT\CAD\SHEETS\PLAT\PHASE_PLAT\PHASE_PLAT\PLAT\PHASE_PLAT\20006040_OVERALL.DWG

Hi David and Monica,

We have successfully completed the sale of the three parcels (A, B & C) on the attached COS to the Alkali Timbers LLC controlled by David Mitchell. It appears that only Parcels A and D have been assigned parcel numbers (D05250 and D05658, respectively) so rather than making it confuse by trying to refer to some parcels that have numbers and some that don't, we'll just use the letters that correspond to the parcel numbers on the COS recorded this past summer just prior to the sale (attached).

We intend to continue marketing our retained parcels D and E for eventual development. In view of the change in annexation status of these parcels from orange to pink, and our understanding the City of Billings Public Works department is looking to bring city services up Alkali Creek Rd in the near future, it seems certain future development of these parcels will take place in the City of Billings. To align the future development of all these parcels with the City of Billings subdivision rules and regulations, we would like to make a formal request to you as you review subdivision proposals from Mr. Mitchell to keep in mind that the viability of the development of our Parcel D will depend on having inter-connectivity with the Alkali Timbers, LLC subdivisions to the north. We have attached a map of Parcel D as it adjoins Mitchell's Parcel B and indicated the approximate range in blue along the shared parcel boundary where such access might occur subject to engineering costs and viability in terms of a final location. As we continue our intention would be to have neighborhood connectivity from Foothill Drive through our Parcel D back through the Alkali Timbers, LLC subdivision and into Alkali Creek Road. We believe that if planned for early, all parties will benefit as well as the community and eventual residents of the area. If you'd like any input along the way as these parcels are being developed, we will happily engage with City Planning to review or provide comments along the way.

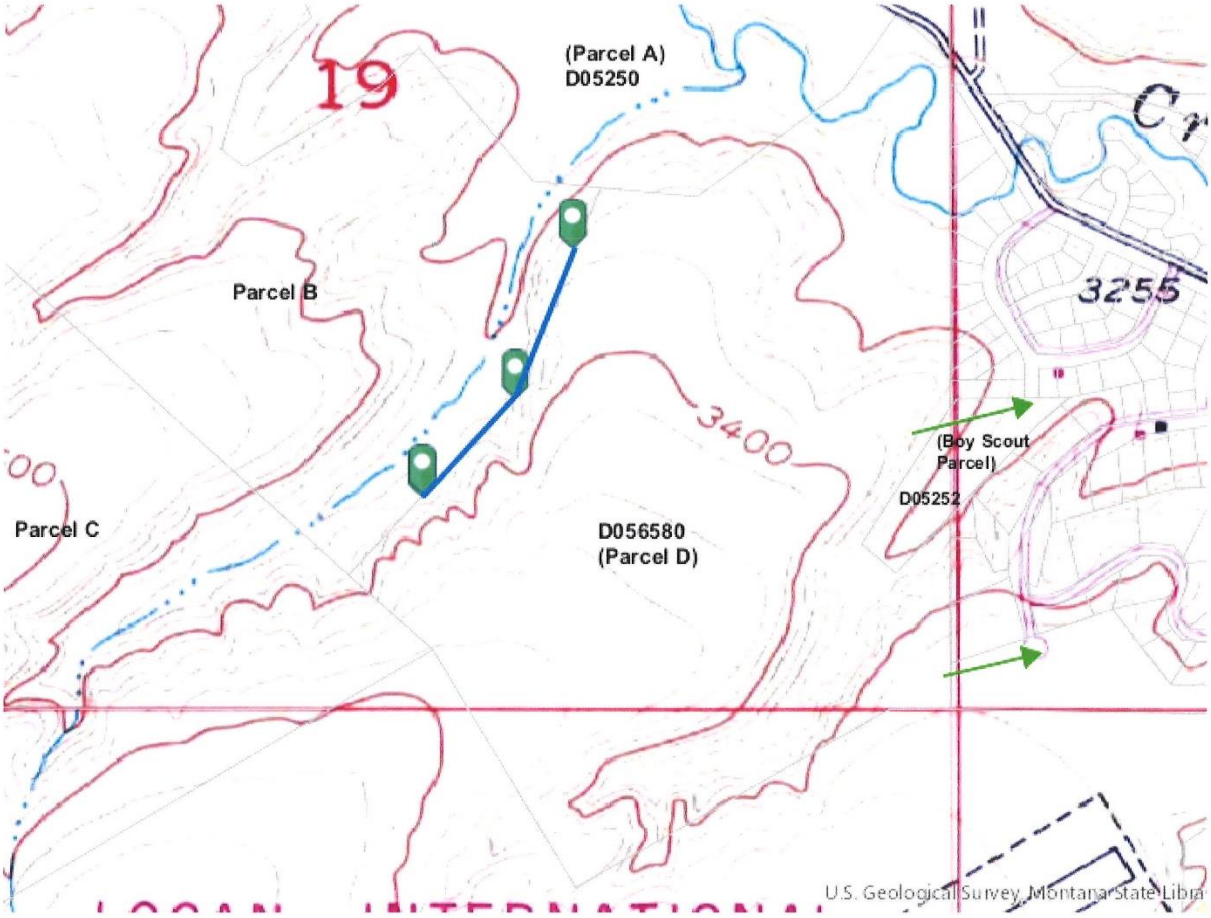
We thank you very much for your assistance and welcome any questions or concerns you might have.

Sincerely

David E. Morledge,

Managing Member

DR Morledge Family, LLC


19
(Parcel A)
D05250
Parcel B
3255
3400
(Boy Scout
Parcel)
D05252
Parcel C
D056580
(Parcel D)
U.S. Geological Survey, Montana State Libra

CITY OF
Billings
MAYOR'S OFFFICE

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

February 28, 2022

Ali and David Mitchell
1655 Valley Heights Road
Billings, MT 59105

Dear Applicant:

On February 28, 2022, the Billings City Council conditionally approved the preliminary plat of The Timbers Subdivision, 1st 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. Any additional information required by City of Billings Engineering will be provided by the applicant and additional language in the SIA will be added as required by Engineering.
2. To protect public health and safety, prior to final plat approval, the applicant will submit all drawings and specifications for fire hydrant locations and installation the City of Billings Fire Department and City Engineering Department for review and approval prior to installation. Any additional information required by City of Billings Fire Department or Engineering Department will be provided by the applicant and additional language in the SIA will be added as required by the Fire or Engineering Departments.
3. To protect public health and safety, prior to final plat approval, the applicant will coordinate with City Engineering concerning proposed discharge methods of detention ponds next to Private Park land. Any proposal must be reviewed and approved by City Engineering prior to installation.
4. To protect public health and safety, prior to final plat approval, the applicant will include language in the SIA under the heading III Transportation B. Sidewalks that the applicant will be responsible for the installation of accessible ramps at the intersections.
5. To protect public health and safety and provide for access to proposed lots, prior to final plat approval, the applicant will provide easement documents for the driveway to lots 18 and 19.
6. To protect public health and safety, prior to final plat approval, the applicant will provide all needed information requested by City of Billings Engineering in their TIS. All recommendations shown in the TIS will be reviewed by Engineering and the required information will be added to the SIA.

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

CITY OF Billings
MAYOR'S OFFFICE

7. To protect public health and safety, prior to final plat approval, the applicant will include language in the SIA under the heading II Property Conditions and Information for Lot Purchasers, lot owners will be advised that the private parkland will be maintained by The Timbers HOA.
8. 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.
9. 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.
10. 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: IMEG, Kolten Knatterud

City Council Regular

Date:	02/28/2022
Title:	Resolution Authorizing the Use of Alternative Project Delivery for New City Hall Facility
Presented by:	Iverson Jessica
Department:	City Hall Administration
Presentation:	No

RECOMMENDATION

Staff recommends that the City Council approve a Resolution authorizing the use of an alternative project delivery method for construction, remodel, and repair of the New City Hall Facility located at 316 N 26th Street (Stillwater Building). An alternative project delivery method is authorized by State Law 18-2-502, MCA.

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

Construction, remodel, and repair work at the New City Hall Facility aligns with the Council Priority to solve the City's space needs and co-locate departments, with an emphasis on Courts, Legal, and Police departments. The significant facility deficiencies of these departments have been identified through both the Facilities Master Plan and the CPSM Report. City Administration desires the discretion to use an alternative project delivery method due to the complexity and phased nature of this project, which makes traditional bidding difficult. Additionally, by involving a contractor early in the process, we can arrive at more accurate estimates, establish a more comprehensive budget, and identify areas for cost-savings during the design process. The proposed alternative project delivery contract is a Construction Manager at Risk (CMAR) method. Under a CMAR contract, the City will select a Construction Manager (CM) through the RFP process, who will then serve as a consultant to the City and design team during the pre-design and design phases and serve as the General Contractor (GC) during the construction phase. A Guaranteed Maximum Price (GMP) will be negotiated with the CM after the construction plans are completed. This ensures that the CM is delivering the project based on the negotiated GMP. The CM is involved with estimating the cost of constructing the project based on the goals of the City and the overall scope of the project. In balancing the costs, schedule, quality, and scope of the project, decisions can be made to modify the design concept instead of having to spend a considerable amount of time, effort, and money re-designing and/or modifying completed construction documents.

The size, complexity, cost, and overlapping design and construction schedules for the building systems upgrades and phased build-out of the building makes this type of alternative project delivery contract more advantageous than the Design/Bid/Build approach traditionally used by staff to complete construction projects. The New City Hall Facility is currently in Phase 1 design with JLG and Collaborative Design Architects, and we expect to have the Master Planning Schedule and Conceptual Design completed in April 2022. Both firms have substantial and applicable experience with the CMAR alternative project delivery method. The contractor will use the conceptual designs from phase 1 to begin to build an accurate budget for the project before moving into the construction document phase of design.

ALTERNATIVES

City Council may:

- Approve the Resolution to use an alternative project delivery method; or,
- Disapprove the Resolution for the use of alternative project delivery method. If the Resolution is not approved, design and construction of the New City Hall Facility would proceed under the typical design-bid-build approach, and potentially significant cost and time advantages of the CMAR delivery method would not be realized.

FISCAL EFFECTS

The financial impact cannot be quantified for this Council action. The goal of using alternative project delivery will be to assess value during the process and construct the most effective project possible. During the construction of an alternative delivery project, the City will have opportunities for competitive bidding for materials and subcontractors through the general contractor. If the Resolution is approved, the Construction Manager will be selected through the RFP process. A selection committee will score the proposals and select the highest scoring proposal based on their qualifications and ability to provide the requested service. Staff will negotiate a fee and contract with the selected CM, and the Council will have the opportunity to review and approve or not approve the agreement at a future business meeting.

Attachments

Resolution for CMAR Delivery Method

RESOLUTION 22-_____

A RESOLUTION AUTHORIZING THE USE OF AN ALTERNATIVE PROJECT DELIVERY CONTRACT METHOD FOR CONSTRUCTION, REMODEL, AND REPAIR OF THE NEW CITY HALL FACILITY

WHEREAS, Section 18-2-502, MCA, authorizes the City to use an alternative project delivery contract method for construction.

WHEREAS, an alternative project delivery contract means a construction management contract, a general contractor management contract, or a design-build contract.

WHEREAS, the City Administrator has determined that an alternative project delivery contract method will likely be the most effective way to achieve significant cost savings and time efficiencies to implement construction of the New City Hall Facility Project.

WHEREAS, a governing body that uses an alternative project delivery contract shall determine that the proposal meets at least two of the criteria described in Section18-2-502, MCA subsections (2)(a) through (2)(c) and the provisions of subsection (3); and

WHEREAS, the City Council desires that City Administration has discretion to use an alternative project delivery contract method for construction, remodel, and repair of the New City Hall Facility and therefore makes the following findings, in conformance with the referenced State law.

FINDINGS

1. The City has working relationships with professional design firms having significant relevant alternative project delivery experience.

2. Procurement of alternative project delivery contracts shall be through an open competitive public process by publishing requests for qualifications and/or proposals for designers and contractors which will not encourage favoritism or bias in awarding the contracts.

3. Under the circumstances pertinent to the New City Hall Facility, an alternative project delivery contract maintains the most efficient project schedules and arrives at the greatest cost certainty and potential savings in both project design and construction. Alternative project delivery contracts bring the selected contractor onto the project team as early as possible to bring their unique expert contributions to the design. By involving the contractor early on in the projects and combining the talents of the project designers and contractor into a unified working team, the following cost and time benefits will be realized:

a. The project team can take early advantage of contractor expertise and receive valuable analysis and evaluation of the constructability of preliminary project designs. Alternatives for improvement, completeness and clarity can be incorporated into the project early.

b. The project is expected to be phased construction and concurrent project design and construction achieves significant cost and schedule benefits. Information gained about means, methods and materials early in construction lead directly to design accuracy and completeness improvements. The result is more efficient project construction, less contractor risk and greater cost certainty.

c. The design/construction overlap of alternative project delivery contracts shortens the overall project schedule over traditional contracts. Completing projects sooner achieves the overall project goals of making the new space available and solving facility space needs more quickly than a traditional bid process.

d. The design and overlapping schedules of upgrading building systems and completing different areas of the building in a phased manner are interrelated and present a high level of technical complexity that can necessitate the use of an alternative project delivery contract.

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

The City Council hereby adopts the above stated findings and authorizes City Administration, in its discretion, to use an alternative project delivery contract method for construction, remodeling, and repair, of the New City Hall Facility. These findings comply with the requirements of Sections 18-2-502(2) and 18-2-502(3), MCA.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the 28th day of February, 2022.

CITY OF BILLINGS

By:_____
William A. Cole, Mayor

ATTEST:

By:_____
Denise R. Bohlman, City Clerk

City Council Regular

Date:	02/28/2022
Title:	Payment of Claims for week of January 24, 2022
Presented by:	Andy Zoeller, Finance Director
Department:	Finance
Presentation:	No

RECOMMENDATION

Staff recommends Council approve the Payment of Claims

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

Claims in the amount of $1,074,385.59 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 01242022

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/24/2022	849302	AT & T Corp	Airport	$ 25.05	MET Transit Tablets
01/24/2022	849302	AT & T Corp	Building	$ 40.14	Building Inspector
01/24/2022	849302	AT & T Corp	CDBG	$ 145.27	Comm Dev
01/24/2022	849302	AT & T Corp	Court Grants	$ 210.67	Muni Court DC
01/24/2022	849302	AT & T Corp	Engineering	$ 118.23	PW-Engineering Cell Phones and MiFi
01/24/2022	849302	AT & T Corp	Engineering	$ 34.84	Engineering Tablets + Two new tablets
01/24/2022	849302	AT & T Corp	Engineering	$ 99.25	PW-Engineering Cell Phones and MiFi
01/24/2022	849302	AT & T Corp	Engineering	$ 109.36	Engineering Tablets + Two new tablets
01/24/2022	849302	AT & T Corp	Facilities	$ 160.05	Facilities Managers- cell and surface
01/24/2022	849302	AT & T Corp	Facilities	$ 93.74	Facilities BOC/CH and iPad 75%25%
01/24/2022	849302	AT & T Corp	Facilities	$ 31.24	Facilities BOC/CH cell and iPad 75%25%
01/24/2022	849302	AT & T Corp	Facilities	$ 90.14	Facilities BOC
01/24/2022	849302	AT & T Corp	Facilities	$ 4.51	Facilities BOC
01/24/2022	849302	AT & T Corp	Facilities	$ 85.63	Facilities City Hall
01/24/2022	849302	AT & T Corp	General	$ 45.31	Municipal Court
01/24/2022	849302	AT & T Corp	General	$ 95.41	City Attorney -Legal
01/24/2022	849302	AT & T Corp	General	$ 354.48	Code Enforcement
01/24/2022	849302	AT & T Corp	General	$ 292.59	PRPL - Recreation Division
01/24/2022	849302	AT & T Corp	Library	$ 220.92	Library
01/24/2022	849302	AT & T Corp	Library	$ 106.96	Library Out Reach
01/24/2022	849302	AT & T Corp	P.W. Admin	$ 27.32	PWBLKNP OFFICE -60/40
01/24/2022	849302	AT & T Corp	P.W. Admin	$ 40.62	PWBLKNP OFFICE -60/40
01/24/2022	849302	AT & T Corp	Park Dist 1	$ 543.30	Parks Dept.
01/24/2022	849302	AT & T Corp	Park Dist 1	$ 124.20	PRPL Parks Tablets
01/24/2022	849302	AT & T Corp	Park Dist 1	$ 1.91	Parks Seasonal
01/24/2022	849302	AT & T Corp	Park Dist 1	$ 452.92	PRPL Parks Tablets
01/24/2022	849302	AT & T Corp	Parking	$ 270.42	Parking Phones and scanner
01/24/2022	849302	AT & T Corp	Parking	$ 180.28	Parking Phones and scanner
01/24/2022	849302	AT & T Corp	Parking	$ 45.07	Parking Phones and scanner
01/24/2022	849302	AT & T Corp	Phone System	$ 50.10	TeleComm Manager
01/24/2022	849302	AT & T Corp	Phone System	$ 49.68	IT iPads
01/24/2022	849302	AT & T Corp	Phone System	$ 17.14	TeleComm Manager
01/24/2022	849302	AT & T Corp	Phone System	$ 3.46	Metro Cell Account
01/24/2022	849302	AT & T Corp	Planning	$ 62.21	PLANNING
01/24/2022	849302	AT & T Corp	Solid Waste	$ 90.14	SOLID WASTE SUPERINTENDANT
01/24/2022	849302	AT & T Corp	Street/Traffic	$ 43.34	Street Traffic iPads

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/24/2022	849302	AT & T Corp	Street/Traffic	$ 273.24	Street Traffic iPads
01/24/2022	849302	AT & T Corp	Street/Traffic	$ 34.84	Street Traffic iPads
01/24/2022	849302	AT & T Corp	Transit	$ 25.05	MET Transit Tablets
01/24/2022	849302	AT & T Corp	Transit	$ 642.24	MET Transit Tablets
01/24/2022	849302	AT & T Corp	Wastewater	$ 27.57	PWBLKNP STORES -75/25
01/24/2022	849302	AT & T Corp	Wastewater	$ 858.58	PWBLNP-WWTRMNT1 Wastewater Treatment Plant
01/24/2022	849302	AT & T Corp	Wastewater	$ 473.20	PWBLKNP Electricians -Phones
01/24/2022	849302	AT & T Corp	Wastewater	$ 260.60	PW-Distribution Collection Tablets 60/40
01/24/2022	849302	AT & T Corp	Wastewater	$ 288.74	PWBELKNAP-DIST COLL CELL PHONES 60/40
01/24/2022	849302	AT & T Corp	Wastewater	$ 69.68	PW-Environmental
01/24/2022	849302	AT & T Corp	Water	$ 609.89	PWBLKNP COMM-METER CityWorks/Neptune
01/24/2022	849302	AT & T Corp	Water	$ 152.15	PWBLKNP MTRSHOP CELL PHONE AND IPADS
01/24/2022	849302	AT & T Corp	Water	$ 193.86	PWBLKNP MTRSHOP CELL PHONE AND IPADS
01/24/2022	849302	AT & T Corp	Water	$ 236.51	PWBLKNP MTRSHOP CELL PHONE AND IPADS
01/24/2022	849302	AT & T Corp	Water	$ 82.70	PWBLKNP STORES -75/25
01/24/2022	849302	AT & T Corp	Water	$ 1,039.03	PWBELKNAP-WT Water Treatment
01/24/2022	849302	AT & T Corp	Water	$ 390.90	PW-Distribution Collection Tablets 60/40
01/24/2022	849302	AT & T Corp	Water	$ 427.78	PWBELKNAP-DIST COLL CELL PHONES 60/40
01/24/2022	849306	Big Sky Heat & Cool	Facilities	$ 1,216.21	Maintenance at Stillwater Bldg
01/24/2022	849306	Big Sky Heat & Cool	Facilities	$ 5,433.29	Maintenance at Stillwater Bldg
01/24/2022	849306	Big Sky Heat & Cool	Facilities	$ 9,588.15	Maintenance at Stillwater Bldg
01/24/2022	849309	Billings Community Cable	General	$ 49,172.50	January - March 2022 Quarterly Disbursement
01/24/2022	849312	Billings Tourism	Tourism BID #2	$ 45,350.26	Paid December Distributed January 2022
01/24/2022	849315	Border States Electric	Wastewater	$ 77.64	Kelem Grips
01/24/2022	849315	Border States Electric	Wastewater	$ 61.20	Control panel cover
01/24/2022	849315	Border States Electric	Wastewater	$ 10.19	Pocket Knife
01/24/2022	849315	Border States Electric	Water	$ 314.90	Term Block Relay
01/24/2022	849315	Border States Electric	Water	$ 6.74	Conduit
01/24/2022	849315	Border States Electric	Water	$ 9,234.60	Replacement service entrance conductors
01/24/2022	849315	Border States Electric	Water	$ 61.20	Control panel cover
01/24/2022	849315	Border States Electric	Water	$ 22.18	Conduit
01/24/2022	849315	Border States Electric	Water	$ 429.82	Conduit
01/24/2022	849315	Border States Electric	Water	$ 10.18	Pocket Knife
01/24/2022	849318	Business Tax Section	Airport	$ 1,867.00	AIP-63 Terminal Expansion Construction Phase 2 - Federal Share
01/24/2022	849318	Business Tax Section	Airport	$ 207.43	AIP-63 Terminal Expansion Construction Phase 2 - Local Share
01/24/2022	849318	Business Tax Section	Airport	$ 125.70	AIP-?? Terminal Expansion Construction Phase 2 - Local Share

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/24/2022	849318	Business Tax Section	Airport	$ 106.34	AIP-?? Terminal Expansion Construction Phase 2 - Ineligible Share
01/24/2022	849318	Business Tax Section	Airport	$ 175.49	AIP-62 Terminal Expansion Construction Phase 2 - Ineligible Share
01/24/2022	849318	Business Tax Section	Airport	$ 1,131.33	AIP-?? Terminal Expansion Construction Phase 2 - Federal Share
01/24/2022	849318	Business Tax Section	Facilities	$ 4.18	retainage release
01/24/2022	849318	Business Tax Section	Facilities	$ 5.94	retainage release
01/24/2022	849318	Business Tax Section	Facilities	$ 173.80	Centennial Park Hail Damage Repair
01/24/2022	849318	Business Tax Section	Facilities	$ 875.66	business tax for TW Clark South Park hail repair
01/24/2022	849318	Business Tax Section	Facilities	$ 565.49	Timber Carpentry Hail Damage Repair at Rose Park
01/24/2022	849318	Business Tax Section	Facilities	$ 47.61	business tax for TW Clark South Park hail repair
01/24/2022	849318	Business Tax Section	Facilities	$ 36.70	business tax for TW Clark South Park hail repair
01/24/2022	849318	Business Tax Section	Facilities	$ 97.99	Upgrade Access Control System
01/24/2022	849318	Business Tax Section	Facilities	$ 96.85	business tax for 22-000391
01/24/2022	849318	Business Tax Section	Facilities	$ 54.88	business tax for 22-000391
01/24/2022	849318	Business Tax Section	Facilities	$ 12.29	business tax for 22-000391
01/24/2022	849318	Business Tax Section	Park Dist 1	$ 89.60	business tax on Koch's tennis courts-Pioneer and Rose
01/24/2022	849318	Business Tax Section	SID Const	$ 534.47	payment #5 Business tax on Good Earth Works-Annafeld
01/24/2022	849318	Business Tax Section	Solid Waste	$ 11,725.14	WO 17-12 Landfill Reconfiguration
01/24/2022	849318	Business Tax Section	Tax Incrmnt S	$ 8,248.48	payment #2- Construction of synthetic grass on soccer field at Amend
01/24/2022	849318	Business Tax Section	Wastewater	$ 43.00	Tile Replacement of Men's Locker Room in Service Center; 000482
01/24/2022	849318	Business Tax Section	Wastewater	$ 68.31	Rebuild Failed Pump at Shiloh Crossing Lift Station
01/24/2022	849318	Business Tax Section	Wastewater	$ 45.00	WRF Administration Building Second floor remodel project
01/24/2022	849318	Business Tax Section	Wastewater	$ 2,569.87	WO 20-11 Lake Hills Lift Station Rehabilitation
01/24/2022	849318	Business Tax Section	Water	$ 219.14	Chain link fence at Waldo pump station & Christensen pump station
01/24/2022	849318	Business Tax Section	Water	$ 549.43	WO 20-32 Water Treatment Plant Sediment Hauling; pMT 2F
01/24/2022	849318	Business Tax Section	Water	$ 60.00	WO 20-20 Walter Pump Station Pump Addition
01/24/2022	849318	Business Tax Section	Water	$ 1,465.41	WO 15-35 Zone 1 WTP Waterline Improvements
01/24/2022	849325	Cucancic Construction	Wastewater	$ 4,455.00	WRF Administration Building Second floor remodel project
01/24/2022	849327	Dana Safety Supply	General	$ 499.00	760515
01/24/2022	849327	Dana Safety Supply	Public Safety	$ 3,622.00	762699
01/24/2022	849327	Dana Safety Supply	Public Safety	$ 3,622.00	762698
01/24/2022	849329	Dell Computer L P	Building	$ 1,568.13	Dell Precision 3450,16GB RAM, external DVD, 2-24" monitors, & sound bar
01/24/2022	849329	Dell Computer L P	Public Safety	$ 770.71	Mobile Precision 3561, 16GB RAM, 256GB SSD 15"
01/24/2022	849329	Dell Computer L P	Public Safety	$ 770.71	Mobile Precision 3561, 16GB RAM, 256GB SSD 15"
01/24/2022	849329	Dell Computer L P	Wastewater	$ 1,450.38	3-24" Monitors & sound bars -PW Environmental
01/24/2022	849330	Dept Natural Resource	Park Dist 1	$ 5,990.40	real estate lease invoice for riverfront
01/24/2022	849331	Desert Mt Corp	Street/Traffic	$ 4,681.94	ice slicer

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/24/2022	849331	Desert Mt Corp	Street/Traffic	$ 4,591.13	ice slicer
01/24/2022	849331	Desert Mt Corp	Street/Traffic	$ 4,777.93	ice slicer
01/24/2022	849331	Desert Mt Corp	Street/Traffic	$ 4,499.01	ice slicer
01/24/2022	849331	Desert Mt Corp	Street/Traffic	$ 4,767.56	ice slicer
01/24/2022	849334	Downtown Billings BID	Downtown BID	$ 42,506.00	BID Assessment; Internal City Owned Properties Tax Year 2021
01/24/2022	849336	Downtown Billings BID	Downtown BID	$ 38,737.42	BID Assessment; Paid December Distributed January 2022
01/24/2022	849337	E Oregon Communicate	Water	$ 5,812.00	Radios
01/24/2022	849337	E Oregon Communicate	Water	$ 6,550.00	Radios
01/24/2022	849346	Four Seasons Landscape	Facilities	$ 4,245.00	Snow removal: BOC, Animal Shelter, Evidence Bldg
01/24/2022	849346	Four Seasons Landscape	Facilities	$ 300.00	city hall snow removal
01/24/2022	849346	Four Seasons Landscape	Facilities	$ 600.00	snow removal - Stillwater bldg
01/24/2022	849347	Galles Filter Service	Fleet	$ 34.80	P1-11402.01 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Fleet	$ 36.00	P1-10939.01 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Fleet	$ 131.92	P1-11501.01 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Fleet	$ 458.77	P1-11443.01 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Fleet	$ 12.40	P1-10512.02 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Fleet	$ 236.54	P1-11007.01 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Fleet	$ 18.10	P1-10044.01 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Fleet	$ 18.40	P1-11070.01 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Fleet	$ 206.64	P1-10900.01 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Fleet	$ 271.99	P1-11329.01 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Fleet	$ 467.10	P1-11129.01 PO NUM 313281
01/24/2022	849347	Galles Filter Service	Solid Waste	$ 204.32	Outer Air Element: RS3700 - 4
01/24/2022	849347	Galles Filter Service	Solid Waste	$ 538.50	Outer Air Elements: RS3508 - 6; RS3700 - 6
01/24/2022	849347	Galles Filter Service	Solid Waste	$ 208.62	Inner Air Element: RS3701 - 6
01/24/2022	849347	Galles Filter Service	Solid Waste	$ 357.56	Outer Air Element: RS3700 - 7
01/24/2022	849347	Galles Filter Service	Solid Waste	$ 204.32	Outer Air Elements: RS3700 - 4
01/24/2022	849347	Galles Filter Service	Transit	$ 36.61	T-99808 PO NUM 313281. Filters
01/24/2022	849347	Galles Filter Service	Wastewater	$ 42.04	NONSTOCKING ITEMS-P.U.D.
01/24/2022	849347	Galles Filter Service	Wastewater	$ 3.04	NONSTOCKING ITEMS-P.U.D.
01/24/2022	849347	Galles Filter Service	Wastewater	$ 19.12	Nonstocking items - PUD
01/24/2022	849347	Galles Filter Service	Wastewater	$ (27.00)	BATTERY CORE RETURN 7957
01/24/2022	849347	Galles Filter Service	Wastewater	$ 139.71	NONSTOCKING ITEMS-P.U.D.
01/24/2022	849347	Galles Filter Service	Wastewater	$ 27.83	NONSTOCKING ITEMS-P.U.D.
01/24/2022	849347	Galles Filter Service	Water	$ 2.72	NONSTOCKING ITEMS-P.U.D.
01/24/2022	849347	Galles Filter Service	Water	$ (2.72)	FILTER CREDIT. UNIT 7355

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/24/2022	849347	Galles Filter Service	Water	$ 27.88	P1-11212.01
01/24/2022	849347	Galles Filter Service	Water	$ 73.83	NONSTOCKING ITEMS-P.U.D.
01/24/2022	849352	Hansers Wrecker	Public Safety	$ 3,075.00	14340,14445,15983,17723,16047,17265,17365 & 16712.
01/24/2022	849354	High Ditch Co	Park Dist 1	$ 9,000.00	ditch user fees-0093
01/24/2022	849361	Integrity Pump Solution	Water	$ 25,280.00	Replacement Parts for Low Service Pump Station #2
01/24/2022	849362	Jares Fence Company	Water	$ 21,694.86	Chain link fence at Waldo Pump Station & Christensen Pump station
01/24/2022	849364	Jottodesk	Public Safety	$ 6,574.60	7839225
01/24/2022	849368	L N Curtis & Sons	Public Safety	$ (136.80)	CREDIT RIGID FEMALE ROCKER LUG/MALE ADPTR RETURNED
01/24/2022	849368	L N Curtis & Sons	Public Safety	$ (6,720.00)	HVPG TFT NOZZLES W/SHUT-OFF RETURNED
01/24/2022	849368	L N Curtis & Sons	Public Safety	$ 136.80	ND TFT 1.5 HF X 1 NHM RIGID FEMALE ROCKER LUG TO MALE ADAPTER
01/24/2022	849368	L N Curtis & Sons	Public Safety	$ 6,720.00	HVPG TFT 1.5NH HANDLINE 95-300 GPM NOZZLE W/SHUTOFF & GRIP
01/24/2022	849368	L N Curtis & Sons	Public Safety	$ 3,030.00	H2VPGI TFT, 2.5NH HANDLINE 95-300 GPM NOZZLE W/SHUTOFF & GRIP
01/24/2022	849368	L N Curtis & Sons	Public Safety	$ (228.29)	DUPLICATE PMT INV441859, CHECK 839299, CM24846
01/24/2022	849368	L N Curtis & Sons	Public Safety	$ 495.00	GLOBE 430A420 - SUPRALITE FIRE BOOTS, SIZE 12.5W
01/24/2022	849368	L N Curtis & Sons	Public Safety	$ 5,125.96	JACKET: G-XTREME 3.0, SPECS PER RFP
01/24/2022	849368	L N Curtis & Sons	Public Safety	$ -	PANT: G-XTREME 3.0, SPECS PER RFP
01/24/2022	849368	L N Curtis & Sons	Public Safety	$ 500.00	QUOTE 194098 - GLOBE 430A420 - SUPRALITE FIRE BOOTS
01/24/2022	849370	Lee Newspaper	General	$ 1,284.44	Finance City Link & Boost
01/24/2022	849370	Lee Newspaper	General	$ 3,470.04	Finance City Link & Boost
01/24/2022	849370	Lee Newspaper	Solid Waste	$ 4,812.48	PW- Christmas Tree Collections
01/24/2022	849374	Mail Tech Service	Central Service	$ 5,016.29	December, 2021
01/24/2022	849374	Mail Tech Service	General	$ 565.63	December, 2021
01/24/2022	849374	Mail Tech Service	Library	$ 2,097.20	LIBR Library mailing December 2021
01/24/2022	849374	Mail Tech Service	Parking	$ 131.88	December, 2021
01/24/2022	849378	MDEQ	Solid Waste	$ 33,601.30	Landfill annual licensing fee. January 2022 - March 2022.
01/24/2022	849381	Moulton Bellingham	General	$ 1,187.50	Inv.#145212 McDaniel v. COB
01/24/2022	849381	Moulton Bellingham	General	$ 2,030.00	Inv.#145278 General BBWA Ditch Maintenance
01/24/2022	849381	Moulton Bellingham	General	$ 840.00	Inv.#145279 Good Stuff Zoning Violations
01/24/2022	849381	Moulton Bellingham	General	$ 225.00	Inv.#145211 Heights Water Contract Dispute
01/24/2022	849381	Moulton Bellingham	General	$ 3,857.50	Inv.#145209 Houser WWFF
01/24/2022	849381	Moulton Bellingham	General	$ 7,090.00	Inv.#145210 Abromeit et al v. COB
01/24/2022	849377	MT Dakota Utilities	Airport	$ 3,915.60	179 053 7751 5. New Concourse. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 25.52	846 093 3091 9. E. Terminal Rooftops. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 478.32	295 580 1000 4. Aero Interiors. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 445.93	160 723 3573 6. USDA. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 704.31	185 580 1000 7. TSA. January 2022

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/24/2022	849377	MT Dakota Utilities	Airport	$ 589.04	283 116 0655 3. IP-12 Alpine Maintenance. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 275.80	229 573 1000 0. Detail Bay 1 Hertz. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 2,972.22	889 373 1000 6. Car Wash. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 349.60	429 573 1000 8. Detail Bay 4 Avis/Budget. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 827.55	129 573 1000 1. Mud Wash. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 126.32	529 573 1000 7. Detail Bay 5 Thrifty/Dollar. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 553.98	629 573 1000 6. Detail Bay 2 National/Alamo. January 2022
01/24/2022	849377	MT Dakota Utilities	Airport	$ 39.90	329 573 1000 9. Detail Bay 3 Enterprise. January 2022
01/24/2022	849377	MT Dakota Utilities	EOC 911	$ 78.49	082-939-8378-2 STANDBY GENERATOR - 911 CENTER, BILLINGS
01/24/2022	849385	NorthWestern Energy	Airport	$ 104.39	3085107-5. Employee Parking. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 1,435.11	3477231-9. Parking Zone. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 2,225.54	0100483-7. Runway Lights. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 1,379.80	0100484-5. ARFF Facility. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 427.14	1669567-8. TSA. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 47.04	3733186-5. Airport Storage. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 149.69	3446396-8. USDA. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 118.92	1138926-9. Aero Interiors. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 999.44	1993430-6. Car Wash. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 416.33	2001848-7. Detail Bay 1 Hertz. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 138.66	2001862-8. Detail Bay 3 Enterprise. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 344.61	2001846-1. Mud Wash. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 181.75	2001865-1. Detail Bay 4 Avis/Budget. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 190.20	2001855-2. Detail Bay 2 National/Alamo. January 2022
01/24/2022	849385	NorthWestern Energy	Airport	$ 139.05	2001867-7. Detail Bay 5 Thrifty/Dollar. January 2022
01/24/2022	849385	NorthWestern Energy	General	$ 135.40	0712536-2
01/24/2022	849385	NorthWestern Energy	General	$ 50.07	0720818-4
01/24/2022	849385	NorthWestern Energy	General	$ 196.62	0720821-8
01/24/2022	849385	NorthWestern Energy	General	$ 37.04	0712387-0
01/24/2022	849385	NorthWestern Energy	Park Dist 1	$ -	1836666-6
01/24/2022	849385	NorthWestern Energy	Park Dist 1	$ -	0722287-0
01/24/2022	849385	NorthWestern Energy	Park Dist 1	$ -	0839280-5
01/24/2022	849385	NorthWestern Energy	Park Dist 1	$ -	0723045-1
01/24/2022	849385	NorthWestern Energy	Street/Traffic	$ 0.15	1740357-7
01/24/2022	849385	NorthWestern Energy	Street/Traffic	$ 0.14	1748896-6
01/24/2022	849385	NorthWestern Energy	Wastewater	$ 59.20	0100606-3
01/24/2022	849385	NorthWestern Energy	Wastewater	$ 66,545.00	0100591-7

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/24/2022	849385	NorthWestern Energy	Wastewater	$ 369.62	822 Shiloh crossing blvd lift
01/24/2022	849385	NorthWestern Energy	Water	$ 177.58	0100606-3
01/24/2022	849385	NorthWestern Energy	Water	$ 4,498.78	0100606-3
01/24/2022	849385	NorthWestern Energy	Water	$ 4.20	1346673-5
01/24/2022	849385	NorthWestern Energy	Water	$ 2,189.27	0723040-2
01/24/2022	849385	NorthWestern Energy	Water	$ 1,313.47	0100485-2
01/24/2022	849385	NorthWestern Energy	Water	$ 39.83	0723059-2
01/24/2022	849385	NorthWestern Energy	Water	$ 2,173.46	0722264-9
01/24/2022	849385	NorthWestern Energy	Water	$ 134.79	1142253-2
01/24/2022	849385	NorthWestern Energy	Water	$ -	1116452-2
01/24/2022	849385	NorthWestern Energy	Water	$ 6,420.87	0100540-4
01/24/2022	849391	Perform Eng & Consult	Park Dist 1	$ 8,460.00	WO 22-12 Optimist Park Parking Lots
01/24/2022	849392	Petty Cash CCSIU	PD Program	$ 7,197.20	January, 2022 PE/PI $. Receipts on file at the BPD.
01/24/2022	849393	Pierce Mfg	Public Safety	$ 1,129.00	2021 PIERCE ENFORCER PUMPERS - ORDER #36061-03
01/24/2022	849393	Pierce Mfg	Public Safety	$ 2,258.00	2021 PIERCE ENFORCER PUMPERS - ORDER #36061-01
01/24/2022	849396	RE Investment	Wastewater	$ 561.00	Scissor lift rental
01/24/2022	849396	RE Investment	Wastewater	$ 994.50	Lift rental
01/24/2022	849396	RE Investment	Water	$ 994.50	Lift rental
01/24/2022	849398	Rexel USA Inc	Wastewater	$ 1,764.35	xformer
01/24/2022	849398	Rexel USA Inc	Wastewater	$ 45.55	Conduit fittings
01/24/2022	849398	Rexel USA Inc	Wastewater	$ 4,389.73	15KV safety tool
01/24/2022	849398	Rexel USA Inc	Water	$ 4,389.73	15KV safety tool
01/24/2022	849399	Rocky Mt Compost	Park Dist 1	$ 6,240.00	playground chips for rosebud and stewart park-21402, 21416
01/24/2022	849399	Rocky Mt Compost	Park Dist 1	$ 3,120.00	playground chips - 21416
01/24/2022	849400	Routeware Inc	Solid Waste	$ 14,790.00	6 tablets- Software and support fees.
01/24/2022	849400	Routeware Inc	Solid Waste	$ -	6 tablets- Software and support fees.
01/24/2022	849400	Routeware Inc	Solid Waste	$ 112.50	Out of warranty repair on device ID: SY9560AT00678 RMA #0932.
01/24/2022	849400	Routeware Inc	Solid Waste	$ -	6 tablets- Software and support fees.
01/24/2022	849400	Routeware Inc	Solid Waste	$ -	6 tablets- Software and support fees.
01/24/2022	849400	Routeware Inc	Solid Waste	$ 170.00	Shipping.
01/24/2022	849400	Routeware Inc	Solid Waste	$ 385.50	6 tablets- Software and support fees.
01/24/2022	849400	Routeware Inc	Solid Waste	$ 9,000.00	6 tablets- Software and support fees.
01/24/2022	849409	St Of MT, Bldng Code	Building	$ 6,099.00	2021 2nd half; July-Dec Education Fund Assessment
01/24/2022	849414	Terracon Consultants	Gas Tax	$ 7,625.00	WO 22-21 Brewington Drive from Kyhl Lane to Wicks Lane
01/24/2022	849416	Timber Carpentry	Facilities	$ 588.19	retainage release
01/24/2022	849416	Timber Carpentry	Facilities	$ 413.36	Rose Park retainage release

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/24/2022	849416	Timber Carpentry	Facilities	$ 17,206.50	Demo, construction & install of a complete roof system at Centennial Park
01/24/2022	849416	Timber Carpentry	Facilities	$ 55,983.91	Rose Park Hail Damage Repair
01/24/2022	849417	Tire-Rama	Solid Waste	$ 2,068.00	55 gal drum of slime. Collections.
01/24/2022	849417	Tire-Rama	Solid Waste	$ (500.00)	Credit. O/BRAND UNLISTED SIZE SECTION & SPOT REP. Collections.
01/24/2022	849417	Tire-Rama	Solid Waste	$ 1,528.00	Tire Repair and purchase. Collections.
01/24/2022	849417	Tire-Rama	Solid Waste	$ 3,562.00	Tire repair and purchase. Collections.
01/24/2022	849417	Tire-Rama	Solid Waste	$ 2,145.00	Tire repair and purchase. Collections.
01/24/2022	849417	Tire-Rama	Solid Waste	$ 2,068.00	55 gal drum of slime. Landfill.
01/24/2022	849417	Tire-Rama	Street/Traffic	$ 995.80	1050027221
01/24/2022	849417	Tire-Rama	Street/Traffic	$ 61.25	1050027142
01/24/2022	849418	Titan Machinery	Wastewater	$ 2,673.70	NONSTOCKING ITEMS-P.U.D.
01/24/2022	849418	Titan Machinery	Water	$ 32.50	NONSTOCKING ITEMS-P.U.D.
01/24/2022	849420	Town & Country Supply	Fleet	$ 21,482.29	PO Num 313778
01/24/2022	849420	Town & Country Supply	Fleet	$ 19,459.29	425409 PO NUM 313777
01/24/2022	849420	Town & Country Supply	General	$ 785.93	fuel oil for cemetery equipment-425222
01/24/2022	849420	Town & Country Supply	Water	$ 511.96	GENERATOR FUEL WTP
01/24/2022	849423	USDA APHIS	Airport	$ 4,021.74	Invoice #3004091584. Wildlife Hazard Mitigation Contract
01/24/2022	849426	Western Municipal Const	Wastewater	$ 254,417.13	WO 20-11 Lake Hills Station Rehabilitation
01/24/2022	849427	WW Goetsch Assoc	Water	$ 9,876.00	COMPLETE PUMP - AURORA 661SF PUMP P/N: 222-080-00030
01/24/2022	849429	Zeta-Meter Inc	Water	$ 8,505.00	z401 instrument accessories

City Council Regular

Date:	02/28/2022
Title:	Payment of Claims for week of January 31, 2022
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 $3,775,318.44 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 01312022

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/31/2022	849439	Arizona Furnishings	Library	$ 1,152.00	30 bookshelves to convert magazine area
01/31/2022	849439	Arizona Furnishings	Library	$ 3,400.00	Assembly
01/31/2022	849439	Arizona Furnishings	Library	$ 2,032.31	Estimated freight costs
01/31/2022	849439	Arizona Furnishings	Library	$ 16,616.22	Fiction bookshelf and one panel for Holds bookshelf
01/31/2022	849440	Associate Employers -MT	Public Safety	$ 2,037.50	Co-Facilitation of investigation
01/31/2022	849440	Associate Employers -MT	Public Safety	$ 2,162.50	Co-facilitation of workplace investigation
01/31/2022	849441	AT & T Corp	Airport	$ 756.54	Airport
01/31/2022	849441	AT & T Corp	Building	$ 597.86	PW-Building Cell Phones
01/31/2022	849441	AT & T Corp	Building	$ 321.12	PW-Building Tablets and Surfaces
01/31/2022	849441	AT & T Corp	Building	$ 361.26	PW-Building Tablets and Surfaces
01/31/2022	849441	AT & T Corp	General	$ 135.45	Legal Dept -Domestic Violence -Added two lines
01/31/2022	849441	AT & T Corp	IT Resources	$ 50.10	IT Department -On call Phone
01/31/2022	849441	AT & T Corp	Parking	$ 77.63	Parking Division Meter Maintenance
01/31/2022	849441	AT & T Corp	PD Program	$ 80.28	CCSIU Toughbook
01/31/2022	849441	AT & T Corp	PD Program	$ 45.31	Domestic Violence
01/31/2022	849441	AT & T Corp	Public Safety	$ 271.89	Animal Control Cell Phones
01/31/2022	849441	AT & T Corp	Public Safety	$ 240.84	Animal Control -MDT
01/31/2022	849441	AT & T Corp	Public Safety	$ 253.76	Comm. Center 9-1-1
01/31/2022	849441	AT & T Corp	Public Safety	$ 40.14	Detective Chartier -Toughbook
01/31/2022	849441	AT & T Corp	Public Safety	$ 1,257.80	Fire Department Cell Phones
01/31/2022	849441	AT & T Corp	Public Safety	$ 487.76	Fire iPads -Inspections and Training
01/31/2022	849441	AT & T Corp	Public Safety	$ 85.45	ICAC
01/31/2022	849441	AT & T Corp	Public Safety	$ 1,249.44	MDT Fire
01/31/2022	849441	AT & T Corp	Public Safety	$ 3,243.97	Police Department Cell Phone
01/31/2022	849441	AT & T Corp	Public Safety	$ 401.40	Police MDT Toughbooks and Loaner MDT's
01/31/2022	849441	AT & T Corp	Public Safety	$ 3,692.88	Police MDT Toughbooks and Loaner MDT's
01/31/2022	849441	AT & T Corp	Public Safety	$ 271.65	Police -Resource Officers
01/31/2022	849441	AT & T Corp	Public Safety	$ 200.70	Yellowstone County Cellular Charges -Three cradlepoints
01/31/2022	849441	AT & T Corp	Street/Traffic	$ 372.55	School Flashers
01/31/2022	849441	AT & T Corp	Transit	$ 100.20	MET Supervisor Cell Phones
01/31/2022	849441	AT & T Corp	Transit	$ 100.10	MET Supervisor Cell Phones
01/31/2022	849441	AT & T Corp	Transit	$ 10.10	MET Supervisor Cell Phones
01/31/2022	849441	AT & T Corp	Transit	$ 50.10	MET Supervisor Cell Phones
01/31/2022	849441	AT & T Corp	Transit	$ 40.10	MET Supervisor Cell Phones
01/31/2022	849441	AT & T Corp	Transit	$ 1,043.64	MET Transit Max Transit
01/31/2022	849441	AT & T Corp	Transit	$ 426.15	MET Transit Tablets

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01/31/2022	849441	AT & T Corp	Wastewater	$ 180.28	PW Environmental
01/31/2022	849442	B.I.G. Enterprises	Airport	$ 32,610.00	Parking Attendant Booths
01/31/2022	849448	Business Tax Section	Airport	$ 290.43	Access Control and CCTV Systems - Eligible Share
01/31/2022	849448	Business Tax Section	Airport	$ 252.76	Access Control and CCTV Systems - Eligible Share
01/31/2022	849448	Business Tax Section	Airport	$ 24.57	Access Control and CCTV Systems - Ineligible Share
01/31/2022	849448	Business Tax Section	Airport	$ 21.38	Access Control and CCTV Systems - Ineligible Share
01/31/2022	849448	Business Tax Section	Airport	$ 8,861.07	AIP-73 Terminal Expansion - Eligible for Reimbursement
01/31/2022	849448	Business Tax Section	Airport	$ 749.63	AIP-73 Terminal Expansion - Ineligible for Reimbursement
01/31/2022	849448	Business Tax Section	Arterial Streets	$ 11,814.41	S 32nd Street W
01/31/2022	849448	Business Tax Section	Facilities	$ 577.38	business tax for TW Clark South Park hail repair
01/31/2022	849448	Business Tax Section	Sidewalk Const	$ 1,513.82	S 32nd Street W
01/31/2022	849448	Business Tax Section	Solid Waste	$ 80.00	WO 19-19 Phase 3 Partial Landfill Closure
01/31/2022	849448	Business Tax Section	Storm Sewer	$ 257.25	WO 21-34 Terrace Estates Erosion Repair
01/31/2022	849448	Business Tax Section	Water	$ 2,640.47	2021 Water Replacement Project
01/31/2022	849450	Cellebrite USA Corp	Public Safety	$ 7,150.00	UFED Touch2 4PC software renewal.
01/31/2022	849457	City of Great Falls	Fire Grants	$ 10,814.21	FIRE/HAZMAT TEAM: ANNISTON TRAINING, OCT 3-16, 2021.
01/31/2022	849459	Conditioned Air System	Public Safety	$ 2,552.27	911 CTR/HVAC SERVICE CALL, NO HEAT 12/18/2021
01/31/2022	849464	Cummins Rocky Mt	Airport	$ 4,338.67	Invoice #38-57167. Generator Alarm Communication Repairs
01/31/2022	849464	Cummins Rocky Mt	Fleet	$ 336.96	56014 PO NUM 313790
01/31/2022	849464	Cummins Rocky Mt	Solid Waste	$ 2,664.12	55886
01/31/2022	849464	Cummins Rocky Mt	Solid Waste	$ 341.86	55903
01/31/2022	849467	Dell Marketing Lp	Library	$ 18,978.82	Staff Computers on the TRP
01/31/2022	849469	Desert Mt Corp	Street/Traffic	$ 4,510.91	ice slicer
01/31/2022	849470	Dex Media West	Airport	$ 285.00	DEX Billing Airport
01/31/2022	849470	Dex Media West	General	$ 285.00	DEX Billing Parks
01/31/2022	849470	Dex Media West	General	$ 285.00	DEX Billing Recreation Division
01/31/2022	849470	Dex Media West	Library	$ 2,115.00	EX Billing Library
01/31/2022	849470	Dex Media West	Public Safety	$ 285.00	DEX Billing Airport
01/31/2022	849470	Dex Media West	Solid Waste	$ 570.00	DEX Billings Solid Waste
01/31/2022	849470	Dex Media West	Transit	$ 1,012.50	DEX Billings MET
01/31/2022	849468	DOEQ	Wastewater	$ 1,470.30	WO 22-10 Alkali Creek Water & Sewer Extension
01/31/2022	849468	DOEQ	Water	$ 1,513.40	WO 22-10 Alkali Creek Water & Sewer Extension
01/31/2022	849473	Downtown Blgs Partners	Tax Incrmnt N27	$ 23,286.75	Urban Revitalization District Operating Agreement
01/31/2022	849480	Finishing Touch Exteriors	Payroll Clearing	$ 10,630.02	BID Refund
01/31/2022	849482	First MT Title Co	CDBG	$ 10,000.00	FTHB Kaleigh Drain 524 S. 30th
01/31/2022	849485	Gallagher Benefit Service	City Ins Fund	$ 32,250.00	January - June 2022 Consulting Services

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01/31/2022	849491	HDR, Inc.	Arterial Streets	$ 44,282.95	WO 22-07 Mullowney Lane, Consultant Agreement
01/31/2022	849491	HDR, Inc.	Arterial Streets	$ 2,753.45	WO 22-07 Mullowney Lane, Consultant Agreement
01/31/2022	849491	HDR, Inc.	Solid Waste	$ 6,165.47	WO 17-12 Landfill Drop-off Facility
01/31/2022	849491	HDR, Inc.	Water	$ 4,177.13	WO 15-35 Water Treatment Plant Valve Replacement
01/31/2022	849497	Iaff	Payroll Clearing	$ 4,841.78	Payroll Summary
01/31/2022	849500	Ingram Library Service	Library	$ 29.98	57001276
01/31/2022	849500	Ingram Library Service	Library	$ 15.34	57001277
01/31/2022	849500	Ingram Library Service	Library	$ 22.00	57001278
01/31/2022	849500	Ingram Library Service	Library	$ 10.61	57001279
01/31/2022	849500	Ingram Library Service	Library	$ 10.19	57001279
01/31/2022	849500	Ingram Library Service	Library	$ 29.50	57001280
01/31/2022	849500	Ingram Library Service	Library	$ 29.47	57001280
01/31/2022	849500	Ingram Library Service	Library	$ 8.99	57001281
01/31/2022	849500	Ingram Library Service	Library	$ 5.99	57001282
01/31/2022	849500	Ingram Library Service	Library	$ 15.93	57001283
01/31/2022	849500	Ingram Library Service	Library	$ 47.14	57001283
01/31/2022	849500	Ingram Library Service	Library	$ 20.64	57001284
01/31/2022	849500	Ingram Library Service	Library	$ 251.87	57001285
01/31/2022	849500	Ingram Library Service	Library	$ 17.67	57001285
01/31/2022	849500	Ingram Library Service	Library	$ 33.92	57001286
01/31/2022	849500	Ingram Library Service	Library	$ 18.63	57001286
01/31/2022	849500	Ingram Library Service	Library	$ 33.58	57050243
01/31/2022	849500	Ingram Library Service	Library	$ 8.40	57050244
01/31/2022	849500	Ingram Library Service	Library	$ 8.99	57050244
01/31/2022	849500	Ingram Library Service	Library	$ 10.19	57050245
01/31/2022	849500	Ingram Library Service	Library	$ 21.22	57050246
01/31/2022	849500	Ingram Library Service	Library	$ 692.93	57050247
01/31/2022	849500	Ingram Library Service	Library	$ 131.72	57050247
01/31/2022	849500	Ingram Library Service	Library	$ 154.13	57050247
01/31/2022	849500	Ingram Library Service	Library	$ 56.05	57050248
01/31/2022	849500	Ingram Library Service	Library	$ 12.57	57050249
01/31/2022	849500	Ingram Library Service	Library	$ 13.79	57050250
01/31/2022	849500	Ingram Library Service	Library	$ 17.09	57050250
01/31/2022	849500	Ingram Library Service	Library	$ 33.62	57093521
01/31/2022	849500	Ingram Library Service	Library	$ 14.74	57093522
01/31/2022	849500	Ingram Library Service	Library	$ 167.39	57093523

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01/31/2022	849500	Ingram Library Service	Library	$ 15.34	57093524
01/31/2022	849500	Ingram Library Service	Library	$ 11.98	57118352
01/31/2022	849500	Ingram Library Service	Library	$ 10.79	57118352
01/31/2022	849500	Ingram Library Service	Library	$ 5.99	57146111
01/31/2022	849500	Ingram Library Service	Library	$ 93.54	57146111
01/31/2022	849500	Ingram Library Service	Library	$ 17.10	57146112
01/31/2022	849500	Ingram Library Service	Library	$ 17.69	57146113
01/31/2022	849500	Ingram Library Service	Library	$ 17.08	57146114
01/31/2022	849500	Ingram Library Service	Library	$ 17.69	57146115
01/31/2022	849500	Ingram Library Service	Library	$ 17.69	57146116
01/31/2022	849500	Ingram Library Service	Library	$ 4.19	57146116
01/31/2022	849500	Ingram Library Service	Library	$ 13.19	57171978
01/31/2022	849500	Ingram Library Service	Library	$ 7.35	57171979
01/31/2022	849500	Ingram Library Service	Library	$ 16.52	57171979
01/31/2022	849500	Ingram Library Service	Library	$ 16.52	57171980
01/31/2022	849500	Ingram Library Service	Library	$ 17.70	57171981
01/31/2022	849500	Ingram Library Service	Library	$ 11.99	57171982
01/31/2022	849500	Ingram Library Service	Library	$ 24.75	57171983
01/31/2022	849500	Ingram Library Service	Library	$ 99.68	57171983
01/31/2022	849500	Ingram Library Service	Library	$ 25.51	57171984
01/31/2022	849500	Ingram Library Service	Library	$ 107.90	57171985
01/31/2022	849500	Ingram Library Service	Library	$ 33.11	57171986
01/31/2022	849500	Ingram Library Service	Library	$ 41.90	57171986
01/31/2022	849500	Ingram Library Service	Library	$ 20.89	57171986
01/31/2022	849500	Ingram Library Service	Library	$ 40.20	57171986
01/31/2022	849500	Ingram Library Service	Library	$ 446.87	57171986
01/31/2022	849500	Ingram Library Service	Library	$ 626.51	57171987
01/31/2022	849501	Inland Truck Parts	Solid Waste	$ 1,935.47	1040917
01/31/2022	849501	Inland Truck Parts	Solid Waste	$ 594.36	1462749
01/31/2022	849506	Johnson Laffen Galloway	GO Const	$ 17,500.00	Phase 1 Stillwater Bldg - develop comprehensive master plan
01/31/2022	849507	Jottodesk	PD Program	$ 5,642.35	Invoice#7804625. Interior Patrol car equipment.
01/31/2022	849510	KLE Construction	Solid Waste	$ 7,920.00	WO 19-19 Phase 3 Partial Landfill Closure
01/31/2022	849511	Knife River	Arterial Streets	$ 1,169,626.83	S 32nd Street W
01/31/2022	849511	Knife River	Sidewalk Const	$ 149,868.17	S 32nd Street W
01/31/2022	849511	Knife River	Street/Traffic	$ 2,985.78	winter sand
01/31/2022	849513	Kone Inc	Facilities	$ 637.00	10/1 - 10/31 2021 maintenance

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01/31/2022	849513	Kone Inc	Library	$ 10,743.12	Annual elevator maintenance and emergency phone monitoring
01/31/2022	849516	L P Anderson Tire	Public Safety	$ 3,074.00	1964306
01/31/2022	849516	L P Anderson Tire	Public Safety	$ 65.00	1964835
01/31/2022	849516	L P Anderson Tire	Street/Traffic	$ 22.00	1964647
01/31/2022	849516	L P Anderson Tire	Street/Traffic	$ 62.50	1965353
01/31/2022	849522	Mead & Hunt	Airport	$ 8,521.81	Consultant Services For Air Service and/or w/Air Carrier Proposals
01/31/2022	849532	MFPE	Payroll Clearing	$ 2,783.75	Payroll Summary
01/31/2022	849526	Millipore Corp	Wastewater	$ 3,091.41	Deionized water replacement
01/31/2022	849538	Morrison Maierle	Airport	$ 36,772.99	AIP-73 Terminal Expansion - Eligible for Reimbursement
01/31/2022	849538	Morrison Maierle	Airport	$ 3,110.95	AIP-73 Terminal Expansion - Ineligible for Reimbursement
01/31/2022	849538	Morrison Maierle	Airport	$ 9,412.00	Amendment #12 Wi-Fi RFP
01/31/2022	849538	Morrison Maierle	Airport	$ 1,643.40	Furniture RFP Terminal Construction - Amendment #11
01/31/2022	849538	Morrison Maierle	Airport	$ 3,363.19	FY 22 Amendment 28. On call Engineering Services
01/31/2022	849538	Morrison Maierle	Airport	$ 537.49	Passenger Boarding Jet Bridges - Eligible Local Share
01/31/2022	849538	Morrison Maierle	Airport	$ 45.47	Passenger Boarding Jet Bridges - Ineligible Share
01/31/2022	849538	Morrison Maierle	Airport	$ 1,994.51	RFP TSA Relocation FY2022 Design - Federal Share (92.2%)
01/31/2022	849538	Morrison Maierle	Airport	$ 696.28	Terminal Expansion Project-Terminal Security-CA-Federal Share
01/31/2022	849538	Morrison Maierle	Airport	$ 58.90	Terminal Expansion Project-Terminal Security-CA-Local Share
01/31/2022	849538	Morrison Maierle	Solid Waste	$ 1,746.72	Solid Waste Maintenance & Parking Building
01/31/2022	849538	Morrison Maierle	Wastewater	$ 1,376.75	WO 20-14 Wastewater Master Plan Update
01/31/2022	849540	MPPA	Payroll Clearing	$ 3,908.80	Payroll Summary
01/31/2022	849529	MT CSED	Payroll Clearing	$ 3,325.98	Payroll Summary
01/31/2022	849531	MT Dakota Utilities	Airport	$ 3,743.14	285 580 1000 6
01/31/2022	849531	MT Dakota Utilities	Airport	$ 16,461.68	595 580 1000 1
01/31/2022	849531	MT Dakota Utilities	Airport	$ 2,544.54	706 580 1000 7
01/31/2022	849531	MT Dakota Utilities	Engineering	$ 515.03	595 373 1000 1
01/31/2022	849531	MT Dakota Utilities	Facilities	$ 2,430.21	130 733 1000 8
01/31/2022	849531	MT Dakota Utilities	Facilities	$ 17,222.27	375 963 4481 4
01/31/2022	849531	MT Dakota Utilities	Facilities	$ 6,772.47	757 633 1000 2
01/31/2022	849531	MT Dakota Utilities	Facilities	$ 5,226.13	929 780 1000 4
01/31/2022	849531	MT Dakota Utilities	Facilities	$ 1,874.26	993 733 1000 4
01/31/2022	849530	MT Dakota Utilities	Fleet	$ 5,175.68	02112022 PO NUM 313814
01/31/2022	849531	MT Dakota Utilities	General	$ 74.04	061 943 1000 6
01/31/2022	849531	MT Dakota Utilities	General	$ 1,009.53	437 780 1000 9
01/31/2022	849531	MT Dakota Utilities	General	$ 777.42	571 295 3342 8
01/31/2022	849531	MT Dakota Utilities	General	$ 249.14	927 890 1000 3

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01/31/2022	849531	MT Dakota Utilities	Library	$ 9,258.32	219 924 4851 0
01/31/2022	849531	MT Dakota Utilities	P.W. Admin	$ 128.75	595 373 1000 1
01/31/2022	849531	MT Dakota Utilities	Park Dist 1	$ 177.25	371 101 1000 6
01/31/2022	849531	MT Dakota Utilities	Park Dist 1	$ 251.47	501 473 1000 2
01/31/2022	849531	MT Dakota Utilities	Parking	$ 406.33	303 725 2591 2
01/31/2022	849531	MT Dakota Utilities	Parking	$ 25.43	717 353 1000 6
01/31/2022	849531	MT Dakota Utilities	Parking	$ 248.41	799 152 1209 0
01/31/2022	849531	MT Dakota Utilities	Public Safety	$ 45.07	062 907 9494 7
01/31/2022	849531	MT Dakota Utilities	Public Safety	$ 1,629.81	169 233 1000 3
01/31/2022	849531	MT Dakota Utilities	Public Safety	$ 945.68	442 190 1000 4
01/31/2022	849531	MT Dakota Utilities	Public Safety	$ 175.25	514 117 0478 9
01/31/2022	849531	MT Dakota Utilities	Public Safety	$ 1,165.81	533 653 1000 1
01/31/2022	849531	MT Dakota Utilities	Public Safety	$ 75.92	602 589 7178 1
01/31/2022	849531	MT Dakota Utilities	Public Safety	$ 997.81	668 670 1000 2
01/31/2022	849531	MT Dakota Utilities	Public Safety	$ 1,966.95	885 880 1000 4
01/31/2022	849531	MT Dakota Utilities	Solid Waste	$ 2,543.35	284 225 1320 1
01/31/2022	849531	MT Dakota Utilities	Solid Waste	$ 76.66	602 680 9335 2
01/31/2022	849531	MT Dakota Utilities	Solid Waste	$ 2,381.01	770 390 1000 2
01/31/2022	849531	MT Dakota Utilities	Transit	$ 4,027.08	962 880 1000 0
01/31/2022	849531	MT Dakota Utilities	Wastewater	$ 7,987.77	293 780 1000 2
01/31/2022	849531	MT Dakota Utilities	Wastewater	$ 7,987.77	293 780 1000 2
01/31/2022	849531	MT Dakota Utilities	Wastewater	$ 15,975.51	293 780 1000 2
01/31/2022	849531	MT Dakota Utilities	Wastewater	$ 495.31	310 490 1000 7
01/31/2022	849531	MT Dakota Utilities	Wastewater	$ 708.83	410 490 1000 6
01/31/2022	849531	MT Dakota Utilities	Wastewater	$ 76.18	596 733 1000 5
01/31/2022	849531	MT Dakota Utilities	Wastewater	$ 75.33	713 064 3190 0
01/31/2022	849531	MT Dakota Utilities	Wastewater	$ 77.68	735 453 1000 2
01/31/2022	849531	MT Dakota Utilities	Wastewater	$ 77.10	843 879 2205 1
01/31/2022	849531	MT Dakota Utilities	Wastewater	$ 173.99	868 563 1000 7
01/31/2022	849531	MT Dakota Utilities	Water	$ 557.23	010 490 1000 0
01/31/2022	849531	MT Dakota Utilities	Water	$ 78.54	076 225 9180 3
01/31/2022	849531	MT Dakota Utilities	Water	$ 112.41	110 490 1000 9
01/31/2022	849531	MT Dakota Utilities	Water	$ 408.95	209 077 5055 6
01/31/2022	849531	MT Dakota Utilities	Water	$ 787.21	210 490 1000 8
01/31/2022	849531	MT Dakota Utilities	Water	$ 1,485.95	310 490 1000 7
01/31/2022	849531	MT Dakota Utilities	Water	$ 142.85	373 580 1000 9

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01/31/2022	849531	MT Dakota Utilities	Water	$ 142.85	373 580 1000 9
01/31/2022	849531	MT Dakota Utilities	Water	$ 2,126.50	410 490 1000 6
01/31/2022	849531	MT Dakota Utilities	Water	$ 7,252.97	500 490 1000 7
01/31/2022	849531	MT Dakota Utilities	Water	$ 193.20	510 490 1000 5
01/31/2022	849531	MT Dakota Utilities	Water	$ 189.62	527 033 1000 4
01/31/2022	849531	MT Dakota Utilities	Water	$ 541.36	541 380 1000 1
01/31/2022	849531	MT Dakota Utilities	Water	$ 230.49	566 923 1000 8
01/31/2022	849531	MT Dakota Utilities	Water	$ 101.49	600 490 1000 6
01/31/2022	849531	MT Dakota Utilities	Water	$ 101.49	600 490 1000 6
01/31/2022	849531	MT Dakota Utilities	Water	$ 246.50	610 490 1000 4
01/31/2022	849531	MT Dakota Utilities	Water	$ 189.62	666 923 1000 7
01/31/2022	849531	MT Dakota Utilities	Water	$ 738.38	700 490 1000 5
01/31/2022	849531	MT Dakota Utilities	Water	$ 234.06	832 001 1000 1
01/31/2022	849531	MT Dakota Utilities	Water	$ 1,291.14	900 490 1000 3
01/31/2022	849531	MT Dakota Utilities	Water	$ 136.69	921 580 1000 6
01/31/2022	849536	MT State Firemen	Payroll Clearing	$ 4,355.06	Payroll Summary
01/31/2022	849543	Nachurs Alpine Solution	Airport	$ 20,193.08	Liquid Runway Deice Fluid for the Winter of 2021-2022
01/31/2022	849544	Napa Auto Parts	Fleet	$ 64.75	356490
01/31/2022	849544	Napa Auto Parts	Fleet	$ 21.90	358915
01/31/2022	849544	Napa Auto Parts	Fleet	$ 9.90	358332 PO NUM 313813
01/31/2022	849544	Napa Auto Parts	Fleet	$ 69.58	358637 PO NUM 313813
01/31/2022	849544	Napa Auto Parts	Fleet	$ 2.76	358769 PO NUM 313813
01/31/2022	849544	Napa Auto Parts	Fleet	$ 22.68	358914 PO NUM 313813
01/31/2022	849544	Napa Auto Parts	Fleet	$ 64.60	358939 PO NUM 313813
01/31/2022	849544	Napa Auto Parts	Fleet	$ 18.76	358939 PO NUM 313813
01/31/2022	849544	Napa Auto Parts	Fleet	$ 79.05	359569 PO NUM 313813
01/31/2022	849544	Napa Auto Parts	Fleet	$ 59.98	359606 PO NUM 313813
01/31/2022	849544	Napa Auto Parts	Fleet	$ 17.42	359608 PO NUM 313813
01/31/2022	849544	Napa Auto Parts	Fleet	$ 16.03	359804 PO NUM 313813
01/31/2022	849544	Napa Auto Parts	General	$ 12.32	357918
01/31/2022	849544	Napa Auto Parts	General	$ 101.90	359085
01/31/2022	849544	Napa Auto Parts	General	$ 80.95	360140
01/31/2022	849544	Napa Auto Parts	Library	$ 136.06	359648
01/31/2022	849544	Napa Auto Parts	Public Safety	$ 23.13	355587
01/31/2022	849544	Napa Auto Parts	Public Safety	$ 444.38	358050
01/31/2022	849544	Napa Auto Parts	Public Safety	$ 295.00	358184

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01/31/2022	849544	Napa Auto Parts	Public Safety	$ 163.09	358315
01/31/2022	849544	Napa Auto Parts	Public Safety	$ 68.61	358630
01/31/2022	849544	Napa Auto Parts	Public Safety	$ 380.64	358684
01/31/2022	849544	Napa Auto Parts	Public Safety	$ 67.20	358773
01/31/2022	849544	Napa Auto Parts	Public Safety	$ 169.88	359054
01/31/2022	849544	Napa Auto Parts	Public Safety	$ 8.14	360355
01/31/2022	849544	Napa Auto Parts	Solid Waste	$ 33.72	359834
01/31/2022	849544	Napa Auto Parts	Street/Traffic	$ 25.71	358283
01/31/2022	849544	Napa Auto Parts	Street/Traffic	$ 20.58	358329
01/31/2022	849544	Napa Auto Parts	Street/Traffic	$ 44.38	358587
01/31/2022	849544	Napa Auto Parts	Street/Traffic	$ 35.55	360364
01/31/2022	849544	Napa Auto Parts	Wastewater	$ 120.83	357747
01/31/2022	849544	Napa Auto Parts	Wastewater	$ 23.53	357842
01/31/2022	849544	Napa Auto Parts	Water	$ 28.54	359738
01/31/2022	849544	Napa Auto Parts	Water	$ 6.78	359956
01/31/2022	849544	Napa Auto Parts	Water	$ 10.15	360132
01/31/2022	849544	Napa Auto Parts	Water	$ 74.05	360284
01/31/2022	849550	NorthWestern Energy	Airport	$ 110.88	1647695-4. De Icer. January 2022
01/31/2022	849550	NorthWestern Energy	Facilities	$ 2,018.95	0975808-7
01/31/2022	849550	NorthWestern Energy	Facilities	$ 826.73	1160802-3
01/31/2022	849550	NorthWestern Energy	Facilities	$ 2,427.48	1160804-9
01/31/2022	849550	NorthWestern Energy	Facilities	$ 2,878.66	1269391-7
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ -	0722260-7
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ -	0722261-5
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ -	0722262-3
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ 0.11	0722265-6
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ -	0722268-0
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ -	0723027-9
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ -	0723038-6
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ -	0723051-9
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ -	0723052-7
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ -	0723170-7
01/31/2022	849550	NorthWestern Energy	Park Dist 1	$ 219.33	0925496-2
01/31/2022	849550	NorthWestern Energy	Public Safety	$ 159.08	0871546-8
01/31/2022	849550	NorthWestern Energy	Solid Waste	$ 2,686.26	3252194-0
01/31/2022	849551	NOVAtime Tech	General	$ 39,620.00	Standard Services of NOVAtime and maintenance at Belknap

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/31/2022	849551	NOVAtime Tech	General	$ 20.98	Timeclock Maintenance for Airport
01/31/2022	849558	Public Utilities	Wastewater	$ 2,912.80	111176
01/31/2022	849563	Sanderson Stewart	Gas Tax	$ 2,497.50	WO 22-02 Missing Sidewalk
01/31/2022	849563	Sanderson Stewart	Gas Tax	$ 8,850.00	WO 22-21 Brewington Dr Reconstruction
01/31/2022	849567	Sletten Construction	Airport	$ 877,245.47	AIP-73 Terminal Expansion - Eligible for Reimbursement
01/31/2022	849567	Sletten Construction	Airport	$ 74,213.83	AIP-73 Terminal Expansion - Ineligible for Reimbursement
01/31/2022	849568	Solid Waste System	Fleet	$ 1,367.86	139231 PO NUM 313808
01/31/2022	849568	Solid Waste System	Solid Waste	$ 3,668.46	138878
01/31/2022	849568	Solid Waste System	Solid Waste	$ 417.35	139061
01/31/2022	849571	SUEZ WTS Analytical	Water	$ 156.63	Shipping- M-Series USB Autosampler
01/31/2022	849571	SUEZ WTS Analytical	Water	$ 11,821.50	M-Series USB Autosampler
01/31/2022	849573	Super Bright LED	Wastewater	$ 2,143.83	Lights for plant buildings
01/31/2022	849573	Super Bright LED	Water	$ 2,143.84	Lights for plant buildings
01/31/2022	849575	T.W. Clark Const	Facilities	$ 57,160.62	South Park hail damage repair
01/31/2022	849579	Titan Machinery	Street/Traffic	$ 3,336.00	brooms for sweepers
01/31/2022	849579	Titan Machinery	Wastewater	$ 4,405.54	16472609
01/31/2022	849579	Titan Machinery	Wastewater	$ 299.22	16472618
01/31/2022	849579	Titan Machinery	Wastewater	$ 365.23	16527033
01/31/2022	849580	TNT Springs	Fleet	$ (238.00)	207757
01/31/2022	849580	TNT Springs	Fleet	$ 2,949.92	207626 PO NUM 313820
01/31/2022	849580	TNT Springs	Solid Waste	$ 1,365.04	207758
01/31/2022	849582	Torgerson's	Water	$ 4,750.46	14246
01/31/2022	849583	Town & Country Supply	Fleet	$ 23,089.62	423781 PO NUM 313786
01/31/2022	849583	Town & Country Supply	Public Safety	$ 743.31	425260 FIRE 5 BLENDED DIESEL DELIVERED
01/31/2022	849583	Town & Country Supply	Public Safety	$ 445.99	425261 FIRE 3 BLENDED DIESEL DELIVERED.
01/31/2022	849583	Town & Country Supply	Public Safety	$ 891.98	425262 FIRE 1 BLENDED DIESEL
01/31/2022	849583	Town & Country Supply	Public Safety	$ 721.66	425262 FIRE 1 UNLEADED 200 GALLONS
01/31/2022	849583	Town & Country Supply	Public Safety	$ 445.99	425263 FIRE 6 BLENDED DIESEL DELIVERED.
01/31/2022	849583	Town & Country Supply	Transit	$ 5,833.00	425526 PO NUM 313778. 2000 Gal Unleaded
01/31/2022	849583	Town & Country Supply	Wastewater	$ 904.33	FUEL FOR VEHICLES. 7813. 7814. 7801. 7871
01/31/2022	849585	Tristate Equipment	Street/Traffic	$ 228,621.16	3-2021 58,000 GVW 12yd dump truck with snowplow assy and sanders
01/31/2022	849585	Tristate Equipment	Street/Traffic	$ 4,902.00	4yr transmission 5yr engine warranty
01/31/2022	849585	Tristate Equipment	Street/Traffic	$ -	trade of unit 1190/1290/1390
01/31/2022	849585	Tristate Equipment	Water	$ 324.03	21352
01/31/2022	849593	Western Municipal Const	Storm Sewer	$ 25,467.30	WO 21-34 Terrace Estates Erosion Repair
01/31/2022	849596	Wilson Bros. Const	Water	$ 261,406.99	2021 Water Replacement Project

Check Date	Check#	Name	Fund Name	Amount	Item Desc
01/31/2022	849598	Yellowstone Co Finance	Building	$ 6,853.89	Miller Building; February Rent; Building Dept.
01/31/2022	849598	Yellowstone Co Finance	CDBG	$ 5,330.52	Miller Building; February Rent; Community Development
01/31/2022	849598	Yellowstone Co Finance	General	$ 2,132.82	Miller Building; February Rent; Code Enforcement
01/31/2022	849598	Yellowstone Co Finance	Planning	$ 4,566.03	Miller Building; February Rent; Planning Dept.
01/31/2022	849599	Yellowstone County GIS	EOC 911	$ 27,500.00	GIS SERVICES PROVIDED TO 9-1-1 CENTER, 2022
01/31/2022	849601	Yellowstone Electric	Airport	$ 28,752.66	Access Control and CCTV Systems - Eligible Share
01/31/2022	849601	Yellowstone Electric	Airport	$ 25,023.00	Access Control and CCTV Systems - Eligible Share
01/31/2022	849601	Yellowstone Electric	Airport	$ 2,116.91	Access Control and CCTV Systems - Ineligible Share
01/31/2022	849601	Yellowstone Electric	Airport	$ 2,432.44	Access Control and CCTV Systems - Ineligible Share

City Council Regular

Date:	02/28/2022
Title:	Public Hearing & Resolution for Nuisance Property Abatement Assessments
Presented by:	Andy Zoeller, Finance Director
Department:	Finance
Presentation:	Yes

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and pass the attached assessment resolution.

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

A nuisance property abatement assessment resolution has been completed and the assessment is ready to be placed on the taxes for the following property.

309 S 28th St (A01128) - On June 1, 2021, the house on property located at 309 S 28th Street was called in as a complaint for Open Storage of Junk > 5 days -- Public Nuisance and Junk Vehicles >3 -- Public Nuisance. Several notices and pictures where sent to the homeowner asking for cleanup. No clean up was made. On November 17, 2021, Defendant did not show up for Court Hearing before Municipal Court Judge Sheila Kolar. Judge Kolar found in favor of Code Enforcement and issued Order to Abate and Warrant of Entry on November 19, 2021. On December 21, 2021, the abatement was completed hauling out junk and debris from the yard, blvd and alley attached to this address. No vehicles were in violation at this time. The work was completed on time and in a satisfactory manner on December 21, 2021. The property owner, Vilavong Keutla, was sent an invoice for the work dated January 28, 2022. The $768.43 bill remains unpaid.

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve, in which case the property owners will not be assessed, and the General Fund will be responsible for paying for the abatement.

FISCAL EFFECTS

The assessments total $768.43 and will reimburse the General Fund.

Attachments

Resolution Nuisance Abatement

RESOLUTION NO. 22 _____

A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY WITHIN THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE COST OF ABATEMENT.

WHEREAS, Billings, Montana City Code, Section 18-301, et seq. sets forth the procedures to be followed (a) to designate property within the City of Billings as a nuisance, and (b) to abate such a nuisance when ordered to do so by the Municipal Court.

WHEREAS, Section 18-305 provides that the property owner will be sent an abatement expense report for the subject property and will be given notice that any assessment that is not paid shall become a lien upon the property and is enforceable in the same manner as the nonpayment of property taxes. The owners of the property described on Exhibit A hav been sent an assessment notice for abatement expenses incurred pursuant to Section 18-301, et seq., but the property owner has not reimbursed the City for its expenses set forth in the report or any part thereof. Further, City policy dictates that the City Clerk shall prepare and present a Resolution containing a list of the properties to be assessed, the recorded owners, and the amount of the cost for abatement, not to exceed the statutory amount for a Municipal Court judgement as in MCA 3-11-103, as amended.

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

1. LEVYING OF SPECIAL TAX. That for the purpose of collecting funds to defray the cost of abatement, there is hereby levied and assessed a special tax upon the owners and the lots or parcels described on the list attached hereto.

2. ASSESSMENT AND COLLECTION. Said tax shall be placed upon the assessment rolls and collected in the same manner as other taxes.

3. DISPOSITION OF COLLECTIONS. Pursuant to Section 18-305(6)k. BMCC, monies collected from taxes shall be paid into a special abatement fund established to account for costs, collections, and transactions necessary to the efficient operation of the Nuisance Abatement program. Assessment funds collected will be returned to the designated abatement account for future use on other involuntary property abatements or for transfer back to the city general fund.

4. NOTICE OF HEARING. On Monday, February 28, 2022, at 5:30 p.m., or as soon thereafter as the matter could be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council heard objections to the adoption of this resolution. The City Clerk published notice twice, at least five (5) days prior to the hearing, in the Yellowstone County News, as provided in Section 7-1-4127, MCA.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 28th day of **February, 2022.**

CITY OF BILLINGS:

BY:_____
William A. Cole, MAYOR

ATTEST:

BY:_____
Denise R. Bohlman, CITY CLERK

Exhibit A

Owner Name	Address	Tax Code	Assessed Amount
Vilavong Keutla	309 S 28th St	A01128	$ 768.43

BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 169, Lot 17 - 18, S20' L:17

City Council Regular

Date: 02/28/2022
Title: Public Hearing & Resolution for Weed Assessments
Presented by: Andy Zoeller, Finance Director
Department: Finance
Presentation: Yes

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and pass the attached assessment resolution.

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

Pursuant to the Billings, Montana City Code (BMCC), Section 25-304, property owners are notified in writing and given ten (10) days from the date of the notice of noncompliance to exterminate weeds or tall grass from their property. If owners fail to cut the vegetation, the City may cut it and assess the costs to the real property, together with an additional administrative fee of 25% of the cost of removal, plus a $25 penalty. If the charges are not paid within a given time, the costs and penalties constitute a lien on the property and special assessments may be levied. The General Fund initially pays the costs, so the collected assessments reimburse those expenses.

The properties on the attached list had weeds removed from them during the growing season, the owners did not pay the charges and the properties may be assessed to recover the costs, penalty and fee.

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve, in which case the property owners will not be assessed, and the General Fund will be responsible for paying for the weed removal.

FISCAL EFFECTS

The assessments total $4,732.50 and the payments will reimburse the General Fund.

Attachments

Resolution Weed Abatement

RESOLUTION NO. 22_____

A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY WITHIN THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE COST OF CUTTING AND/OR EXTERMINATING WEEDS.

WHEREAS, Billings, Montana City Code, Section 25-307, provides that the City Clerk shall prepare and present a resolution containing a list of all parcels of land in the City, from which and adjacent to which, the weeds were cut, exterminated and/or removed, and such list shall contain opposite the number of such lots or description of such parcels of land, the name of the owner, if known, and the amount of cost for cutting and removing such weeds.

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

1. LEVYING OF SPECIAL ASSESSMENT. That for the purpose of collecting funds to defray the cost of cutting and removing of weeds, there is hereby levied an assessment upon the owners and the lots or parcels described on the list attached hereto.

2. ASSESSMENT AND COLLECTION. Said assessment shall be placed upon the assessment rolls and collected in the same manner as other assessments.

3. DISPOSITION OF COLLECTIONS. All monies collected from the assessment shall be paid to the General Fund of the City of Billings.

4. NOTICE OF HEARING. On Monday, February 28, 2022, at 5:30 p.m., or as soon thereafter as the matter could be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council heard objections to the

adoption of this resolution. The City Clerk published notice twice, at least five (5) days prior to the hearing, in the Yellowstone County News, as provided in Section 7-1-4127, MCA.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 28th day of February 2022.

CITY OF BILLINGS:

BY:_____
William A. Cole, MAYOR

ATTEST:

BY:_____
Denise R. Bohlman, CITY CLERK

Exhibit A

5500 MIDLAND LAND LLC	5500 MIDLAND RD.	D01889	1,087.50
B & M STORAGE LLC	2850 GRAND AVE	C02091	177.50
DUNLAP, AMANDA	116 PUEBLO DR.	A04895A	177.50
HOFFERBER, WAYNE	4107 ASHFORD PL	A30464	177.50
HURST, BRANDON	216 STILLWATER LN.	C00425B	177.50
MCCARTEN, SHANE	601 BURLINGTON	A15488	177.50
MCVAY, MICHAEL & TAWNY	1043 TERRY AVE	A03366	177.50
MORLEDGE, KARL E.	223 N 19TH ST	A00473	177.50
PRICE, AMY	2603 TULANE DR	A35546	177.50
PRICE, AMY	2607 TULANE DR	A35545	177.50
PRICE, AMY	5107 AMHERST	A35547	177.50
PRICE, AMY	5129 CLEMSON	A35458	177.50
SHAFFER, MARY LOU	5310 CABERNET	A32058	257.50
SNLD CORP LLC	412 CHARLES ST.	A27779	725.00
TREVATHAN, JAMES	302 S. 30TH ST	A01373	177.50
WALSTON, BRYCE P. & JESSICA A.	4117 ASHFORD PL	A30463	177.50
WEASELBOY, MELVIN	605 CALHOUN LN	A14148A	177.50
WIEBE, DYLAN JON	1547 TANIA CIR	A34279	177.50
	Total Weed Abatement		**$4,732.50**

City Council Regular

Date:	02/28/2022
Title:	Zone Change 1005 - 934 Lewis Ave - from CMU1 to CMU1, NX1 and MX3
Presented by:	Nicole Cromwell
Department:	Planning & Community Services
Presentation:	Yes

RECOMMENDATION

The Zoning Commission recommends approval and adoption of the findings of the 10 review criteria for Zone Change 1005.

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

This is a zone change request from CMU1 (Corridor Mixed Use 1) to CMU1, NX1 (Mixed Residential 1) and NX3 (Mixed Residential 3), on Parcel 1 COS 2474, an 8.02 acre parcel located at 934 Lewis Ave (Elks Lodge & Tennis Center property). A pre application neighborhood meeting was held on December 16, 2021.

APPLICATION DATA

OWNER: Billings Elks Lodge BPOE #394
AGENT: Dave Goodridge, Goodridge Real Estate and Jeff Lee, Thrive Corporation
LEGAL DESCRIPTION: Parcel 1 of C/S 2474
ADDRESS: 934 Lewis Avenue
CURRENT ZONING: CMU1
EXISTING LAND USE: Elks Lodge and Tennis Center
PROPOSED USE: Apartments and fitness center
SIZE OF PARCEL: 8.2 acres

Concurrent Applications: None

SURROUNDING LAND USE & ZONING

NORTH: Zoning: N2 - Mid-Century Neighborhood Residential
Land Use: Single family, 2-family and multifamily dwellings
SOUTH: Zoning: P3- Civic Campus, N1 - First Neighborhood Residential, NX2 - Mixed Residential 2
Land Use: YWCA Campus, single family & two-family dwellings, Midway Townhomes
EAST: Zoning: N1 and N2
Land Use: Single family and 2-family dwellings
WEST: Zoning: NO - Neighborhood Office, NMU - Neighborhood Mixed Use, NX3 - Mixed Residential 3
Land Use: Accountant office, Apex Fitness, The Art of Play children's center, Family Support Network, Stoneridge Apartments

The Elks Lodge, in the heart of the Mid-town neighborhoods of Billings, put its property up for sale in 2019. Membership in the lodge was not robust and declining revenues from the facility required the sale of the property. The lodge itself will move to another smaller location. The lodge has filed for bankruptcy protection. A buyer, Thrive Corporation from Utah, has come forward and proposed to build residential apartments and re-use the entire property for new development.

Prior to the zoning update in 2021, the property was partially zoned Residential 7,000 (R-70) and partly Community Commercial. The north 200 feet was zoned R-70 and the eastern 100 feet was also zoned R-70. The remaining five acres of Community Commercial took up the southwest portion of the property. During the map update in 2021, the parcel was zoned as CMU1 to better match the current and future uses of the land. The parcel has received previous approvals to have on-premise liquor service and events and gatherings were held in the Elks Lodge building. The Elks Lodge was built here in 1967. About 10 years ago, a tennis center was constructed in partnership with the local tennis association. The plan is to leave this large recreational facility in place and re-purpose it if possible as an amenity for the new residents and for the community.

The current zoning of CMU1 requires a mixed use building for any residential development. Single family, two-family or multifamily dwellings would have to be within a building with a ground-floor commercial use. The proposed zoning keeps the CMU1 zoning around the tennis center (~1. 5 acres), and down-zones the remaining 6.5 acres to NX1(1 to 4-family dwellings - ~ 2acres) on the Lewis Avenue frontage and NX3 in the southwest 4.5 acres of the property. A

Master Site Plan approval will be required for the new residential development. This will include adjacent street improvements and on-site improvements to accommodate the development. The developer is financially responsible for these improvements. No adjacent owners will be asked or required to participate in improvements required to accommodate this development.

STAKEHOLDERS

The applicant conducted a pre application neighborhood meeting as required on December 16, 2021, at the Elks Lodge. Twelve surrounding owners or interested citizens attended the pre app meeting. There were questions on tenancy of the proposed units (unit-owned or developer-owned), the development of 10th St West to be a complete street, the number of dwellings units (200-250 estimated) and the type of units allowed in the NX1 zone district. The pre-app meeting notes are included as an attachment. In addition, Planning staff received a few phone inquiries from surrounding owners about the zone change process and how to participate. One owner asked for information on filing a valid protest petition.

The Zoning Commission received several written public comments just prior to the public hearing on February 1. This included comments from nine surrounding property owners. Those public comments are attached to this Zoning Commission report. The concerns expressed included the potential development density, the traffic that could be generated and how the developer planned to deal with the new traffic, as well as issues related to compatibility with adjacent zones and land uses.

The Zoning Commission conducted its public hearing on February 1, and received the staff report and recommendation, the testimony of the applicant represented by Jeff Kanning of Collaborative Design (for the buyer) and Dave Goodridge (for the Elks Lodge) and testimony from 20 individuals. These include Merry Lee Olson director of the YWCA (campus directly south of subject property), John Peart of 828 Yellowstone Ave, Rebecca Noelle of 1109 Lewis Avenue, Jerry Kessler of 237 Avenue E, Anna O'Donnell of 131 Avenue B, Tom Romine of 1128 N 32nd St, Matt Langman of 935 Avenue F, Sharon Wetsch who owns property at 814 Alderson Ave, Richard Thayer of 844 Lewis Avenue, Michael Kittson of 630 Custer Avenue, Ernie Dutton of 2046 Mariposa Lane who owns a commercial property at 1002 10th St West, John Halverson of 239 Avenue F, Desiree Miller of 1005 Lewis Avenue, Laverne Petersen of 744 Yellowstone Avenue, Lauren and John Wright of 511 Yellowstone Avenue, Rita Harding of 123 Alderson Avenue, Dan Berry of 835 Yellowstone Avenue, Kyle Trafton of 531 Clark Avenue, and Larry Ferro of 845 Yellowstone Avenue.

Mr. Kanning stated he was representing the buyers, Thrive Corporation of Utah, on this proposed zoning and project development. He stated Collaborative Design has been working in Billings for over 40 years and has designed and helped build many similar projects. He state the current CMU1 zoning would not fit with this buyer's vision for the development that primarily includes dwellings in small to large apartment structures with on site parking and amenities for the residents. He stated the NX1 zone proposed for the Lewis Ave frontage is to make these units more in scale with the housing on the north side of Lewis. He stated the NX3 zoning to the south and west will have the larger apartment buildings that meet the new zone requirements to have parking to the rear and side yards. The CMU1 zone to remain around the tennis center is to preserve this as an amenity if at all possible. He stated the property has great access to collector streets and arterial streets in every direction. He stated there is no firm number yet on the number of units. He stated parking is likely the limiting factor for the number of potential units. The new code requirement is 1.5 spaces per dwelling unit plus 1 guest space for each 10 dwelling units. All of those must be provided on the property and not on the surrounding streets.

Ms. Olson from the YWCA stated she was not opposed to the new development or zoning but was concerned with the safety and security of the women and children who are in the shelter spaces that are part of the YWCA campus. She stated she would like the developers to commit to buildings of 3 stories or less in height to protect the privacy of her clients and their families. Mr. Peart testified he was offended by the zone change application and requested the Zoning Commission require the applicant to submit a traffic study before the application moves forward. He stated any re-development would appear to be putting lipstick on a pig. Ms. Noelle stated she understood the need to adjust the zoning but did not believe the property could support a zone district like NX3 that allows a much higher density of development than the other NX zone districts. Mr. Kessler stated he was opposed to the zone change due to its implied density and the likelihood none of the units would be affordable. He stated Billings already has enough unaffordable housing at this time.

Anna O'Donnell spoke in opposition to the zoning request. She stated her primary concern was the additional traffic loading to Lewis Ave that provides a primary bike route to and from downtown Billings. She stated she is on the Bicycle and Pedestrian Advisory Committee (BPAC) and is concerned the new traffic from this development would damage the safety of bicyclists and pedestrians on Lewis Avenue. She stated she observes children darting across 8th St West at Lewis Avenue already and any additional traffic would make this situation worse. She stated she was also concerned the developer did not have a community-wide meeting before the application was submitted and there was no traffic study available. Mr. Romine stated he owns the 6-plex apartment across the street and does not

support the proposed zone change. He stated leaving the tennis center in a CMU1 zone could also allow that property to have many inappropriate uses in the future including a liquor store or a restaurant with the drive through service. He stated he would be in support if the zone change made the tennis center a nonconforming use. He stated the north side of Lewis Avenue was mostly one or two-family dwellings and the Elks property zoning should reflect the same type of housing and not the mixed residential zone proposed. He stated multifamily dwellings tend to lower property values of adjacent single family and two-family dwellings. Mr. Langman stated he was in favor of the zone change because it will bring a much-needed housing choice to the mid-town area. He stated there were many amenities nearby and Lewis Avenue can handle the additional traffic. He stated the proposed zoning was preferred to the existing CMU1 zoning. Ms. Wetsch stated there was no demand for this type of housing in this area. She stated the area needs more single family homes and the multifamily housing would reduce the surrounding property values. Mr. Thayer stated he has witnessed a lot of traffic accidents at 9th St West and Lewis Avenue. He state the YWCA does a good job as a neighbor but is concerned this new developer will not provide the same sort of consideration. Mr. Kittsons stated he was opposed primarily because of the traffic including the construction traffic that will destroy the surrounding streets. He stated his neighborhood has tried to get the City Engineer to put in place traffic controls to slow traffic but the city has refused to address the current problem. He stated off-street parking will be a problem by displacing the tennis center parking with new housing. He stated the Elks Lodge has been there a very long time and an environmental assessment should be required in addition to a traffic study. He stated renters don't pay taxes so none of these new residents will contribute to the community.

Mr. Dutton stated the city will not be able to force the new owners to dedicate the east 1/2 of the right of way for 10th St West and this will endanger his tenants by forcing all the new traffic on to a half-developed street. He stated most of the traffic from the Midway Townhomes at Yellowstone and 10th St West and the Stoneridge Apartments uses 10th St West to access Lewis Avenue. He stated Yellowstone Avenue is a completely destroyed street with no remaining pavement between 9th St West and 10th St West. He stated there is not enough off-street parking right now for the Stoneridge Apartments and many of those tenants and guests use the Elks Lodge parking lot. He stated the Zoning Commission should not be seduced into believing the city can require any street improvements through the traffic study process. Ms. Petersen stated she is a daily walker and passes through this area on a regular basis. She state Yellowstone Avenue south of the Elks Lodge is a terrible road and most people only use 9th St West or Lewis Avenue to drive in the area. She stated Lewis and 9th St W already has too much traffic and is not safe for pedestrians. She stated she was also concerned about school overcrowding. Ms Wright stated this application came as a surprise to her and more should be aware of this development. She stated she supports infill but the proposed zoning is too much density for this property. She stated the zoning would allow buildings that are too tall for the area. She stated the mixed residential zone does not require any landscaping, open space or other improvements. She stated she was concerned about a stormwater detention area on the southeast corner of the property and how this development may cause this to overflow. She stated there should be a master plan submitted and a traffic study submitted before the zoning is approved.

Ms. Harding stated she is also a daily walker and that traffic is a big concern for her. She stated many drivers on Lewis Avenue speed and this has resulted in more accidents than ever before. She stated there should be a traffic study first and it should include the accident history of all the surrounding area. She also stated she would like to have more traffic enforcement in the area. Mr. Berry stated he has lived in the same place for over 30 years and has watched the number of kids in the neighborhood increase steadily. He stated there are a lot of kids who walk to school and the speeding on Lewis has gotten worse. He stated he was concerned about adding to the traffic and the number of children who have to walk to school. Mr. Trafton stated a traffic study should be done first and should include a wide area all the way down to Clark Avenue. He stated he understood the need for more multifamily housing but was not in support for this location. Mr. Wright stated he was primarily concerned with the stormwater drainage from the property and the catchment basin on the southeast corner of the property. He wondered whether the developer has even considered this storm water and how to control it when the development occurs. He stated there is significant established architecture in the area and believes a master plan and traffic study should come before the zoning is approved. Mr. Ferro stated he was concerned with the value of his property if this site is built with multifamily apartments. He stated he was stunned the developer thought 200 units would fit on this property. He is concerned that many renters will increase parking issues, crime and other problems. Mr. Halverson stated he was in favor of the zone change because it will bring a much-needed housing choice to this area. He stated it is often the argument that people understand the need for apartments but never support them in an infill situation. He compared this dichotomy to children who tell their parents they can agree that vegetables are good for them, but for this meal they don't want any vegetables.

Mr. Kanning responded to the comments. He thanked everyone for the input and appreciates their concerns. He stated the traffic study literally cannot be done until the site plan, including the arrangement of the buildings, access points and other details are finalized. The traffic study is based on actual numbers of dwelling units. He stated some comments on-line have stated the Avenue C apartments are not affordable and so these apartments will also not be affordable dwelling units. The Avenue C apartments was an example of a recent project by Collaborative Design and is not owned by Thrive Corporation. He stated these apartments will be market rate apartments. These units will not

be subsidized to make them affordable to a certain market segment for low to moderate income families. He stated the zoning regulations dictate the mailed notification area for this application (300 feet from the boundary) as well as notice to the neighborhood task force for this part of town (Central Terry). He stated there is an existing stormwater trunk line that runs down 10th St. West and connects to the larger stormwater drainage system owned by the city. He stated this builder as do all builders, has to comply with the stormwater regulations adopted by the city and enforced through engineering. He stated the NX1 zoning is in character with the existing N2 zoning on the north side of Lewis Avenue. He stated NX1 zoning has a lower height limit that matches the N2 and the buildings will be compatible with the existing homes. He stated all development is required to provide street frontage landscaping, off-street parking and control of stormwater.

Mr. Goodridge also provide testimony in favor of the proposed zone change. He stated he is representing the Elks Lodge and the existing CMU1 zoning is the same zoning as Shiloh Commons at Central Ave and Shiloh Rd. He stated this probably same style of development is not a viable option for most of this property. He state every neighborhood supports kids who walk to and from school and this development will not be detrimental to walkability. He stated the 2016 City Growth Policy supports and encourages this type of infill. He stated the most common word in response to the question of "where should we grow" in 2016 was "infill". The 2016 growth policy adopted guidelines to encourage infill and the zoning code update implemented these guidelines through Project ReCode. He stated not all property generates the same amount of tax revenue per square foot of land. He stated the Shiloh Commons development generates about 83 cents per square foot while the Avenue C apartments generates about $1.18 per square foot of land. He stated this property will have higher tax revenue per square foot when it is re-developed.

Mike Larson, Chair of the Zoning Commission, closed the hearing. Commission member Greg McCall made a motion to forward a recommendation of approval and adoption of the findings of the 10 criteria for Zone Change 1005. The motion was seconded by David Goss. The Commission voted 3-0 to approve the motion.

ALTERNATIVES

The City Council may:

- Approve and adopt the findings of the ten review criteria for Zone Change 1005; or,
- Deny and adopt different findings of the ten review criteria for Zone Change 1005; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

FISCAL EFFECTS

Approval or denial of the proposed zone change will not have an effect on the Planning Division budget.

SUMMARY

Before making a decision of the zone change request, the City Council shall consider the following findings of the ten review criteria as recommended by the Zoning Commission:

1) Is the new zoning designed in accordance with the Growth Policy?
The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy and the Central Terry Neighborhood Plan (1999):

The Central Terry Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The Central Terry Neighborhood Plan was written when the task force area was much smaller and did not necessarily include this specific area. However, some of the stated goals of the neighborhood plan related to housing and land uses are applicable to this major in-fill/re-fill development proposal. The proposed down-zoning is responsive to the need to not allow commercial or non-residential uses to interfere with the existing residential neighborhood patterns. The NX1 proposed for the Lewis Avenue frontage will match the similar type of development on the north side of Lewis that has single-family, two-family and multi-family dwellings. The NX3 zoning for the southwest corner of the property matches the zoning and development on the west side of 10th St W (Stoneridge Apartments). The P3-Civic Campus for the YWCA to the south will be compatible with the proposed uses in the NX3 zone. Reducing the CMU1 zone to just contain the existing tennis center, will allow this recreational facility to be re-used or re-purposed as an amenity for the new development and the neighborhood.

The proposed amendment is also in line with the adopted 2016 Growth Policy goals for:
Strong Neighborhoods:

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels

- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill and social interaction
- Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale street lights, street trees and walkable access to public spaces
- Neighborhoods that are safe and attractive and provide essential services are much desired
- Implementation of the Infill Policy is important to encourage development of underutilized properties

Home Base:

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
- Public safety and emergency service response are critical to the well-being of Billings' residents
- Homes that are safe and sound support a healthy community

Prosperity:

- Predictable, reasonable City taxes and assessments are important to Billings' taxpayers

This area of Billings has attracted some new developments over the past decade including the new Midway Townhomes project to the south and west, and new townhomes (4-unit dwellings) on Wyoming Avenue. The YWCA has also invested in housing to support women and their families transitioning to independent living. There are additional in-fill/re-fill opportunities in the area including some vacant residential lots to the south and west, the Shrine property on Broadwater Avenue, and other property that is ready for a "second" cycle of development. Many of the non-residential buildings in the area are reaching an expected life span of 50-70 years. These properties will be re-developed or re-purposed in the coming decades.

2) Is the new zoning designed to secure from fire and other dangers?
The zoning requires build-to zones, setbacks, open and landscaped areas and building separations. The proposed zoning is designed to secure the development from fire and other dangers.

3) Whether the new zoning will promote public health, public safety and general welfare?
Public health and public safety will be promoted by the proposed change. Approval of the overall zoning plan will provide more certainty both for the property owner and the surrounding owners. Completing incomplete city streets and infrastructure is beneficial to the general welfare.

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

Transportation: The applicant will need to develop a traffic impact study and will need to coordinate with the city Engineering Division. The type of traffic generated (or was generated) by the Elks Lodge facility is very different from the day-to-day traffic of a residential neighborhood. Event-type traffic can bring several hundred vehicles to the location in a short period of time. Lewis Avenue is designated a collector street and currently handles about 5,000 vehicle trips per day. Collector Roads are intended to carry more vehicles than a local street. Specifically, collector roadways collect traffic from the locals streets and link them to arterial roadways. Collector roads are intended to handle lower volumes of traffic, at slower speeds, than an arterial, but are more robust than local streets. These collectors may provide direct residential access. On this section of Lewis, bicycles share the road with vehicles and parked cars. Further west, there is an on-street bike lane and limited on-street parking. In addition to Lewis, the property is adjacent to 9th Avenue, 10th Avenue and Yellowstone Avenue. These are all considered local streets. Tenth Street does not have full right of way and lacks some improvements. Yellowstone Avenue also lacks improvements. Public improvements for all of the streets around the property required by this development will be evaluated by the Public Works department during site plan review.

The tennis center is estimated to generate a maximum of 1,240 trips per day. Multi-family developments can generate between 5 and 8 trips per dwelling unit or about half the number of trips a single family development generates per dwelling unit. A traffic impact study is never required at the time of a zoning application. This is due to the cost of such a study based on uncertain numbers of new dwelling units or intensity of development. One will be required prior to development and will include potential impacts and mitigations for adjacent streets, and street intersections. The mitigation, as determined by the city engineer, will be the responsibility of the developer.

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

Schools and Parks: Schools and parks may be effected by the proposed zone change and development of a new in-fill city neighborhood. Any new children in the development will attend Broadwater Elementary School, Lewis and Clark Middle School and Senior High School. SD #2 did not provide any comments.

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

5) Will the new zoning provide adequate light and air?
The proposed zoning provides for sufficient setbacks and building separations to allow for adequate separation between structures and adequate light and air.

6) Will the new zoning effect motorized and non-motorized transportation?
Non-motorized travel -- walking and biking -- is an essential part of this area of Billings. There are some deficiencies in the surrounding road network including half-built or under-built roads. Connecting this property to a full mobility network will be essential. Completion of the roadway and walking infrastructure usually only happens with new development. The property is within walking distance to Grand Avenue (1/4-mile north) and Broadwater Avenue (2 blocks south) - two major commercial corridors connecting to the rest of Billings. Fixed bus routes on MET transit are available on Grand and Broadwater. Lewis Avenue is a major bikeway corridor connecting this property to the downtown core.

7) Will the new zoning will promote compatible urban growth?
The proposed down-zoning from CMU1 to the NX1 and the NX3 zone districts is compatible with urban growth and the provision of city level services to the new residents. The proposed zone district boundaries are consistent with the urban growth in this area and will be compatible with the surrounding neighborhoods. The CMU1 zone can allow up to a 4-story structure with ground-floor commercial uses and 3 stories of apartment above. The proposed NX1 zoning for the Lewis Avenue frontage will be height limited to 27 feet, and all garages will be rear-loading to allow a compatible residential frontage. The NX3 zone can allow taller structures - up to 4 stories - but also requires rear loading garages or surface parking/detached garages to the rear of a building space. The NX3 also requires provision of some usable open space for each 3 acres of development. Except for a small portion in the southeast corner, the proposed NX3 zone is not across the street from any single-family or two-family zone districts.

8) Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?
The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. This area between Lewis Avenue and Broadwater is an under-developed are of the Central Terry Neighborhood. Geographic challenges are in the area including Spring Creek, a large underground drain and dramatic changes in topography from north to south. The property is suitable for the proposed uses for multi-family development.

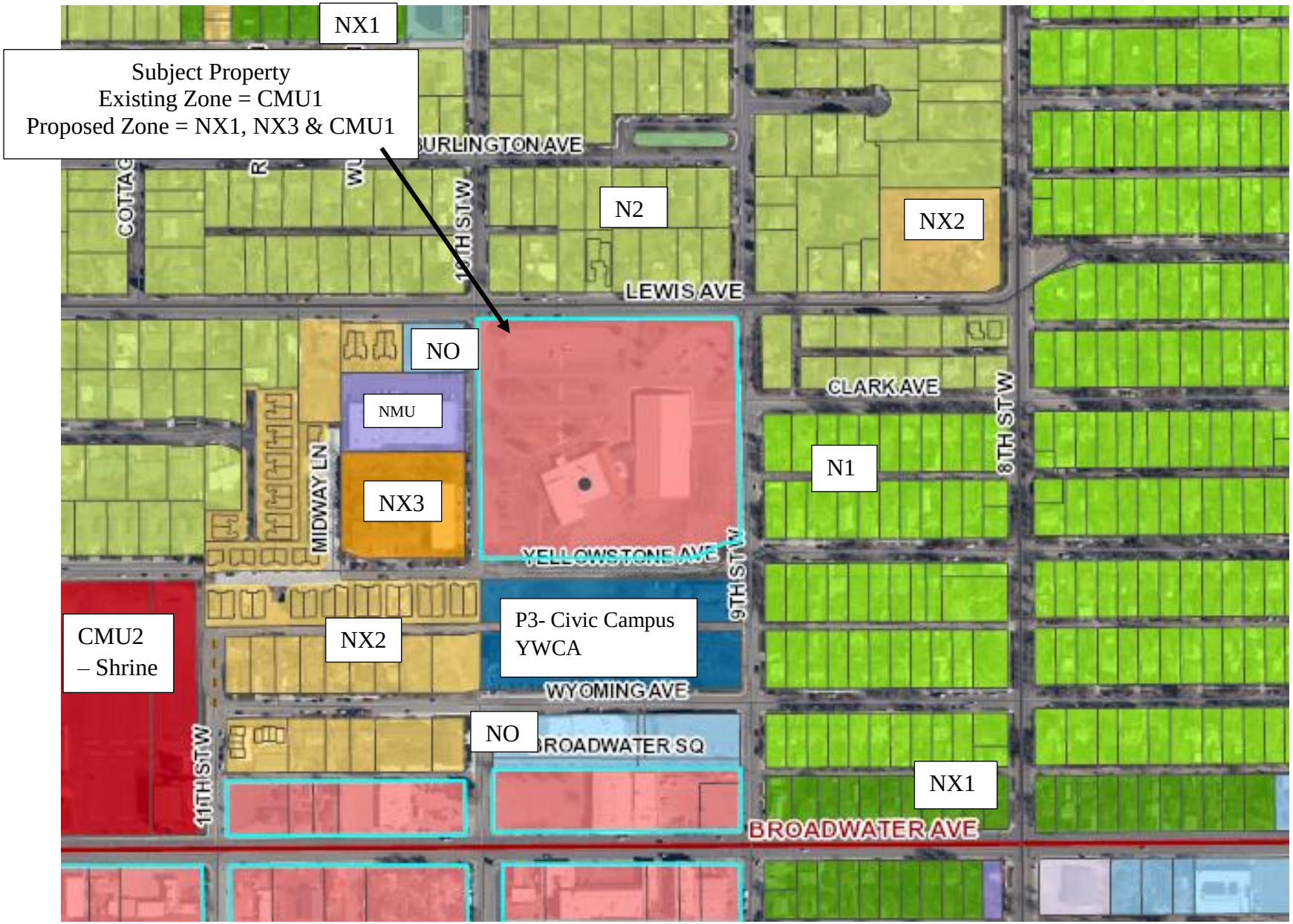
9) Will the new zoning conserve the value of buildings?
The property has an older structure that will be difficult to re-purpose as is. The new zoning will place this building in a zone that does not allow the use by right. It will become legally non-conforming. The buyer does not intend to keep this structure. The newer tennis center will be in the remaining area of the CMU1 zone district. This will preserve the value of this building. Approval of the zone change will provide certainty for the intended development to surrounding landowners and may help to maintain property values of adjacent buildings. In general, new construction tends to raise surrounding property and building values.

10) Will the new zoning encourage the most appropriate use of land throughout the City of Billings?
The proposed down-zoning from CMU1 to NX1 and NX3 for 6.5 acres of the 8-acre parcel will encourage the most appropriate use of this land in Billings.

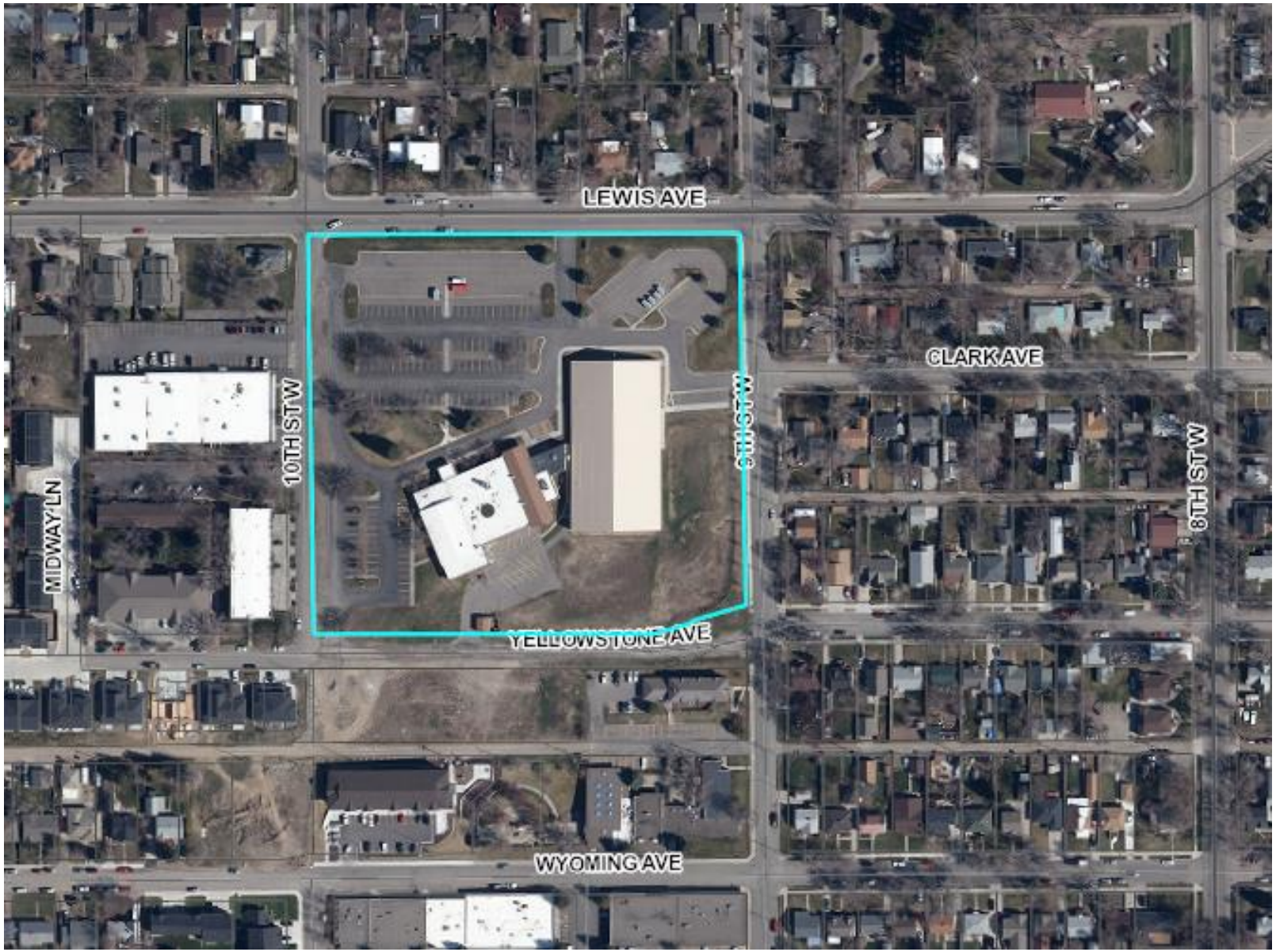
Attachments

Zoning Map and Site photos
Proposed zoning Plan
Application and Pre app meeting
Applicant Letter
Written public comments
Ordinance ZC 1005

City Zone Change 1005 – 934 Lewis Avenue
Zoning Map and Site Photos



N2
LEWIS AVE.
NO
NX1
ZONE
N2
NMU
NX3
ZONE
CMU1
ZONE
TENNIS BUILDING
TO REMAIN
10TH STREET WEST
9TH STREET WEST
N1
EXISTING BUILDING
TO BE REMOVED
NX3
PROPERTY LINE
NX2
P3- Civic Campus
YWCA


LEWIS AVE
CLARK AVE
10TH ST W
MIDWAY LN
8TH ST W
YELLOWSTONE AVE
WYOMING AVE

Subject Property at Lewis Ave

View east on Lewis Avenue

View north east across Lewis Avenue

View north across Lewis Avenue

View west on Lewis Avenue

View from south east corner to the north and west

View north from Yellowstone Avenue

View south and east from Yellowstone Avenue – YWCA Campus

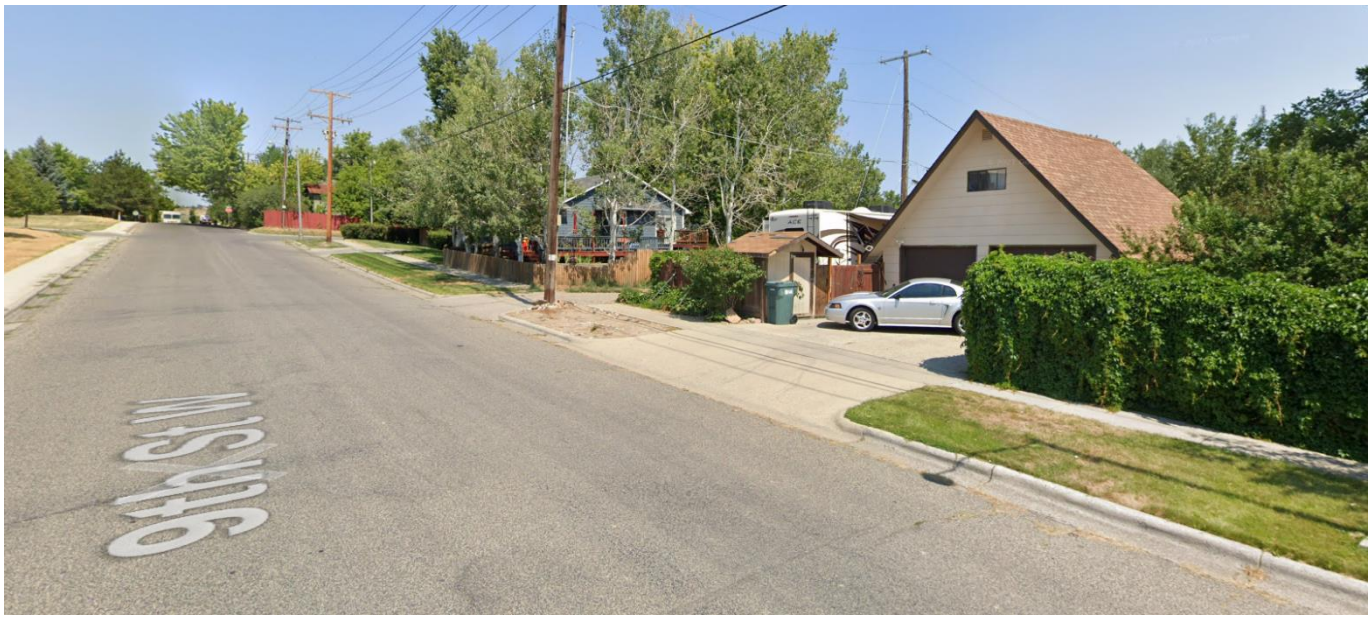
Yellowstone Ave and 10th St West – Midway Townhomes

View north on 10th St West from intersection of Yellowstone Avenue

View north and east from 10th St West

View west on 10th St West near Lewis Ave intersection

View south and west from intersection of 9th St West



View north and east on 9th St West

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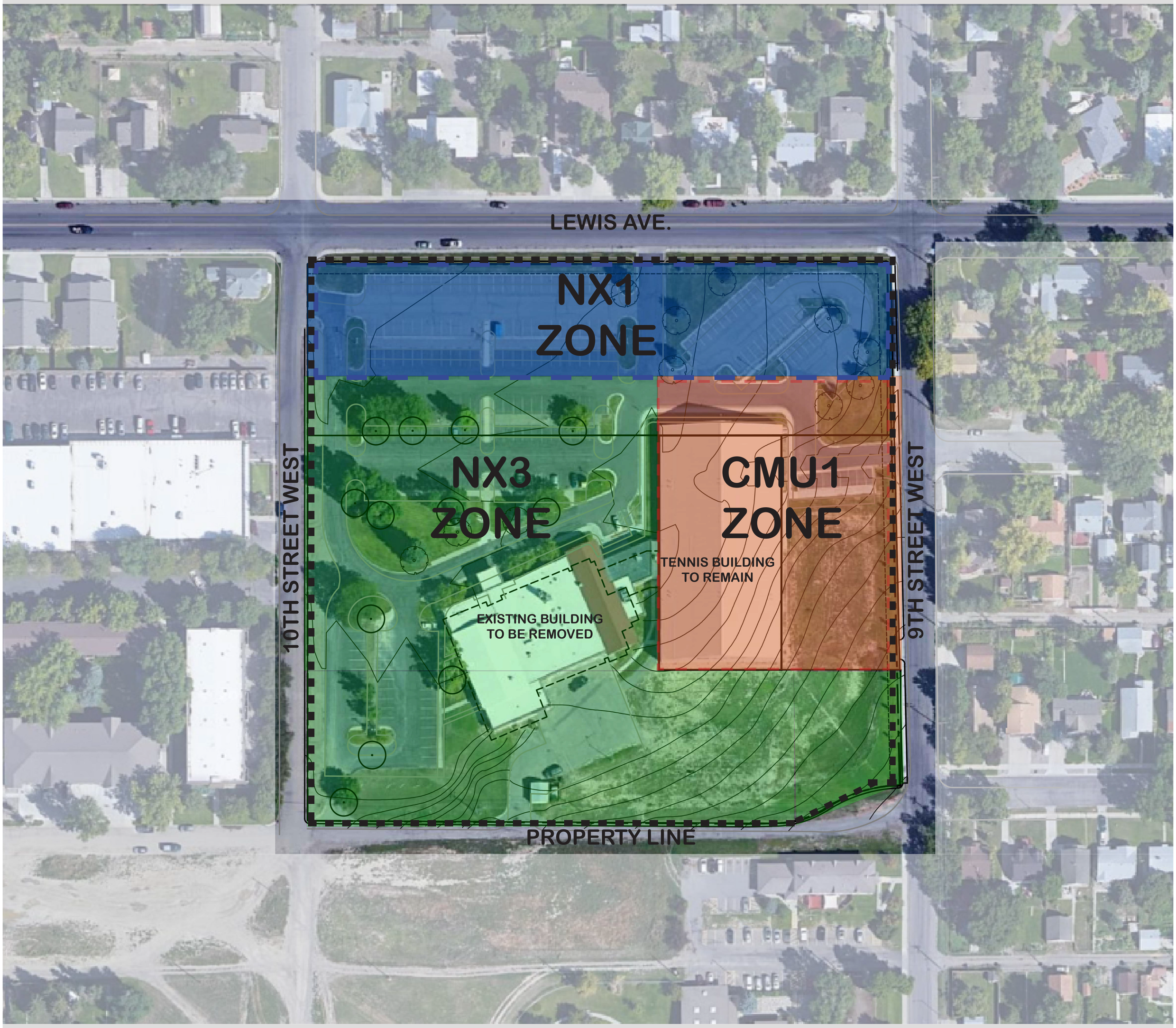

ZONING SITE PLAN

ARCHITECTS

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #** [redacted]1005 **- Project #** PZX21-00314

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning CMU1

Proposed Zoning: NX1, CMU1, NX3

TAX ID# D012810 CITY ELECTION WARD _____

Legal Description of Property: S05, T01S, R26E, C.O.S. 2474, PARCEL 1

Address or General Location (If unknown, contact City Engineering): 934 LEWIS AVE, BILLINGS, MT 59101

Size of Parcel (Area & Dimensions): 8.20 ACRES

Present Land-Use: CMU1 - CORRIDOR MIXED USE

Proposed Land-Use: CMU1 (TO REMAIN IN A DESIGNATED LOCATION) - CORRIDOR MIXED USE NX1 - MIXED RESIDENTIAL 1, AND NX3 - MIXED RESIDENTIAL 3.

Covenants or Deed Restrictions on Property: Yes_____ No X

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Billings Elks BPOE II 394

(Recorded Owner) 934 Lewis Ave

(Address) 406 670 6419 jrickeman1963@gmail.com

(Phone Number) (email)

Agent(s): JEFF LEE

(Name) 7585 UNION PARK AVE. STE 200, COTTONWOOD HEIGHTS, UT 84047

(Address) 801.808.3288 JEFF@THRIVECORP.COM

(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct

Signature: _____ Special Representative Date: Dec 02 2021

(Recorded Owner) BPOE 394

RECEIVED
DEC 22 2024
PLANNING & COMMUNITY SERVICES DEPARTMENT

Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning:** CMU 1

2. **Written description of the Zone Change Plan** including existing and proposed new zoning:

TO ADD AN "NX 1" ZONE ON THE NORTH, REDUCE THE "CMU 1" ZONE, & ADD "NX 3" ON THE WEST & SOUTH OF THE PARCEL.

3. **Subject Property Map**: please attach to this form

4. **Legal Description of Property**:

S05, T01 S, R26 E, C.O.S. 2474, PARCEL 1

5. **Neighborhood Task Force Area**: Yes / No . If Yes, Name of Task Force and mailing address of Chairperson:

CENTRAL TERRY TASK FORCE. LISA SANDAU - 845 MILES AVE., BILLINGS MT 5911

6. **Roster of persons who attended the pre-application neighborhood meeting**: please attach to this form

✓7. **A copy of the meeting notice.** please attach to this form

8. **A brief synopsis of the meeting results including any written minutes or audio recording.** please attach to this form

9. **The undersigned affirm the following:**

1) The pre-application neighborhood meeting was held on the 16, day of DECEMBER, 2021.

2) The zone change application is based on materials presented at the meeting.

Owner (s): Billings Elks BPOE # 394 Telephone: 406 670 6419

Address: 934 Lewis Ave Email: griceman1963@gmail.com

Billings MT 59101

Agent (s): JEFF LEE Telephone: 801. 808. 3288

Address: 7585 UNION PARK AVE. STE 200 Email: JEFF@THRIVECORP.COM

COTTONWOOD HEIGHTS, UT

84047

PLEASE SIGN IN

Roster of Names in Attendance per City of Billings Requirement

	First Name	Last Name	Contact Information (Voluntary)
1	Steve	Zeier	steve@trinityrent.com
2	Jason & Desirae	Miller	
3	Frank	Witt	fjwitt4@hotmail.com
4	[illegible]	[illegible]	
5	Jeff	Isom	jriceman1963@Gmail.com
6	JOAN	CLARK	
7	Dee Dee	Chiesa	
8	MARY	Volesky	
9	Robert	Ostlet	(406) 671-4005
10	Michael	Burke	406-6705243 mburke@bytheriver
11	Ernie	Dutton	406 591 1290
12	Russ	Fagg	406-855-0224
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David Goodridge
PO Box 3174
Billings, Mt
59103
(406)591-1605

December 21, 2021

City of Billings Zoning

Summary of Pre-App Neighborhood meeting held December 16th, 2021, at 7:00PM at 934 Lewis for the purpose of informing the immediate neighbors of the intent to change the current zoning at 934 Lewis.

The meeting was started at 7:00PM. There were 12 in attendance at the start of the meeting with three more coming in a little later for a total of 15. Along with the 15 attendees there were 2 from Thrive Development (applicant), the party seeking the zone change. There were 2 from Thrive's contracted architect firm Collaborative Design, Jeff Kanning and Bill Haynes. Also in attendance was the buyer's Real Estate Broker David Goodridge with Good Ridge Real estate.

Jeff Kanning from Collaborative Design started the meeting by describing the property and its current zoning and what that zoning allows and does not allow. He also described the desired zoning that the applicant is looking to obtain. Collaborative brought illustrations showing the approximate locations of the different zoning lines, NX1, NX3, and CMU1.

Steve Broadbent, Principal with Thrive Development, provided a description of his company and what kind of structures could be built if the desired zoning was obtained. Examples of structures were supplied on boards showing the types of structures that could be built. He and Jeff Kanning both emphasized that a final product and location was not solidified in any way at this point.

Questions from attendees (15 minutes)

- Were there going to be condos available for purchase?
  - No, these units would all be built for rent.
- What was going to happen with the 10th St W half street? Would it be fully built out?
  - Owner/developer would complete whatever the city required.
- How many units would be built?
  - Unknown for right now. Thrive said they need 200-250 for it to make financial sense.
- How far back from Lewis would the bigger apartment buildings be located?
  - Thrive and Collaborative informed the neighbor that it would be behind the NX1 zoning but could not inform him an exact measurement at this time.

The meeting was adjourned at 7:35 after having no more questions.

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DEVELOPMENT

Three Categories discussed in this document:

1) **Statement How the Proposed Zone Change Is consistent with the adopted Growth Policy, Neighborhood Plans, and other city development policies**

2) **How the Zone Change meets the 10 Statutory Criteria for a zone change**

3) **Statement how it fits in with Existing or Planned Developments in the Area**

Statement How the Proposed Zone Change Is consistent with the adopted Growth Policy, Neighborhood Plans, and other city development policies

The proposed zone change is consistent with the Growth Policy, Neighborhood Plans, and other City Development Policies because we are following the city guidelines and policies to ensure a beautiful and healthy development and neighborhood.

One of the city policies our project meets is to have a neighborhood that is safe and attractive, and that provides essential services (such as housing) that are desired. It also meets the policy of choosing to have infill development that is near city infrastructure that will add real value to the community. Currently, much of the parcel goes unused, is allocated purely for parking, or is unfinished grass. Providing a mix of beautiful housing that meets the needs of various Billings residents is an important aspect of city growth.

We also wish to incorporate amenities that are otherwise non-existent in Billings that will provide a nice and different lifestyle than is currently available.

We will enhance and maintain the community fabric as we intend to build aesthetically pleasing, and uniquely Billings, landscapes and architecture that beautify and inspire the residents of the city.

Providing a safe and livable neighborhood can be achieved through smart subdivision design that focuses on complete streets, and walkable access to public spaces. We intend to both provide and enhance a neighborhood that is safe, attractive and provides essential services that are strongly desired.

How the Zone Change meets the 10 Statutory Criteria for a Zone Change

1) The new zoning is consistent with the growth policy because it provides special amenities and active living opportunities that are desirable for an attractive and healthy community. The development will also improve the property values and provide an excellent infill development near existing City infrastructure.
2) The new zoning will meet all fire codes and safety codes for all tenants and guests on the property as we will abide by and incorporate all Billings city fire and safety codes into the development.
3) It promotes public health, safety, and welfare as it will allow a mixture of housing types with access to recreation, special amenities and active living opportunities that are desirable for an attractive and healthy community.
4) It will facilitate adequate provision of transportation, water, sewer, schools, parks, and other public requirements as we will design the property to meet these City requirements and provide for the tenants accordingly.
5) It will provide adequate light and air as we will not exceed the allowable density allotments.
6) We will provide motorized and non-motorized transportation accordingly and build the project in compliance with parking and safety standards for transportation.
7) It does provide for compatible urban growth as we are building a buffer which will contain a mixture of densities for multi-family use. We will have both townhomes and apartments to provide an opportunity for families of all shapes, sizes, and income levels.
8) The architecture will be in character of the district and will be suitable for the property and particular uses. We plan to incorporate architecture that both accentuates and beautifies the surrounding area and landscape.
9) The new zoning will conserve and increase the value of existing and surrounding buildings.
10) The new zoning will encourage the most appropriate use of the land throughout the City of Billings. The parcel is essentially mostly parking lot and grass. We intend to provide the necessary parking through the infill project and provide beautiful and clean housing for all people in Billings.

Statement how it fits in with Existing or Planned Developments in the Area

The proposed zoning fits in with the area as we will be providing infill development that beautifies and adds value to the property and surrounding neighborhood. It also allows a mixture of housing types to provide housing options for all age groups and income levels. A nice mixture of housing also provides for a vibrant and unique community. We will also be planning and enhancing the public space and landscaping on the parcel.

Lastly, the mix of housing types will meet the needs of a diverse population, and the housing and community will be clean, healthy, and safe.

February 1, 2022

City of Billings Zoning Commission
City/County Planning Division
2825 3rd Avenue North
Billings, MT 59101

RE: YWCA Billings comments to requested Zone Change 1005-934 Lewis Avenue

City Zoning Commission Members:

YWCA Billings is the largest adjacent property owner to the project proposed by Thrive Development on the site of the Elks Lodge and Tennis Center. We own the block that stretches between 9th and 10th Streets West, and from Wyoming Avenue north to the undeveloped stretch of Yellowstone Avenue.

Our campus presently includes a shelter for women and children who are victims of domestic violence and human trafficking, a 24-unit apartment building that provides homes for victims and their children, a play park, and an administrative/ services/and community center. We have a new project underway which is a 25-unit shelter for battered women for which plans have been approved by the City. It is scheduled for ground-breaking in March. Another undeveloped lot on our property is large enough to support a second apartment building or a third shelter to protect more victims.

In our build-out of the YWCA campus, we have been careful to avoid situations that would create unpleasant or unsafe situations for the neighborhood. We have committed to preserving green space, to spreading buildings apart, to not building anything over three-stories, to managing parking and traffic control, and avoiding large signage or tall, bright outdoor lighting.

We are not opposed to development of the Elk's property. We are concerned, though, about the density of units, the height of the buildings immediately contingent to our campus, the proximity of units and/or parking to YWCA's two shelters where security is a top priority (we are obligated to provide 24/7 365 days per year protection from further threat to the victims of violence whom we house). We are also very concerned about the effects on traffic, overall noise levels, and changes to the local environment.

The streets adjacent to the Elks property and YWCA's campus, are narrow and limited to 25 miles per hour. The main access road is Lewis Avenue, which intersects with 8th Street West at the awkward, inefficient, and dangerous intersection where Lewis does not match up. There is no traffic control anywhere along Lewis in the area of the project, other than stop signs. Tenth Street does not go through, nor does Yellowstone Avenue – and Yellowstone west of 9th Street does not align with Yellowstone east of 9th, creating another very awkward and hazardous traffic control situation. There is no stoplight to control traffic entering onto Broadwater Avenue at 9th Street. YWCA is concerned about how our employees and campus residents and our neighbors will get in and out to go to work and school.

YWCA requests that the City Zoning Commission and other City departments carefully consider the overall impacts of the very large number of units proposed on the property and work closely with Thrive to assure that best interests of the neighbors and the victims that YWCA safeguards are protected.

Merry Lee Olson

Merry Lee Olson, CEO

eliminating racism
empowering women
ywca
Billings

YWCA Billings
909 Wyoming Ave
Billings, MT 59101
P 406.252.6303
F 406.245.7867
ywcabillings.org

January 25, 2022

828 Yellowstone Avenue
Billings, MT 59101

RECEIVED
JAN 28 2022
PLANNING & COMMUNITY
SERVICES DEPARTMENT

RE: Billings Zoning Change #1005, Project # PZX21-00314

Dear Members of the Zoning Commission:

For the following reasons, I oppose this zoning change for, among other reasons, health and safety concerns, auto and pedestrian traffic concerns, bicycle travel concerns on Lewis Avenue, increased traffic on Yellowstone Avenue, noise concerns, and parking concerns since the residents of the apartments SW of the Elks Club already have inadequate parking and are parking in the Elks parking lots. The intersections of Lewis and 13th and Lewis and 8th Street West are already fraught with danger for the inattentive travelers. Children who attend Lewis and Clark Middle school are far from the most attentive when it comes to their own safety. Many car accidents have occurred at the intersection of Lewis and 8th and that is the current reality. Since your decision must be based on the criteria set out, I am addressing each one individually.

1. **Whether the new zoning is designed in accordance with the comprehensive plan;**

Saying that the new zoning would be consistent with the growth policy, The application's assertion that it designed in accordance with the plan, without evidence, is like me saying, no it doesn't without evidence. If the following criteria are indicative of the growth policy, then my conclusion has more merit than their statement. Only the planning department can make this determination as I have not read the policy, nor do I suspect have the out of state developers.

2. **Whether the new zoning was designed to lessen congestion in the streets.**

Not surprisingly, the request for a zoning change from Thrive Development completely ignores this criterion completely. The math would be that 200 units would increase the number of cars on the streets by, conservatively 300, going in and out of this concrete complex. These additional cars would add traffic to Lewis Avenue, Yellowstone Avenue, Clark Avenue and 8th and 9th streets before entering Broadwater and/or Grand Avenues. Certainly this proposed change will not lessen congestion in the streets but rather will further congest already busy streets. More cars equal more accidents, injuries, etc.

With the added traffic entering Broadwater Avenue and 8th Street West, will traffic lights become necessary at those intersections, paid for with taxpayer, not Thrive Development dollars to address the increased, not decreased congestion?

Parking will also add congestion to the streets. Already the residents of the apartments located to the SW of the current Elks Club are already parking in the Elks Club lot. In other works, there is inadequate parking for those apartments. It's not farfetched to suggest that the developer of those apartments promised there would be adequate parking when their requests were approved but that is not the case.

Parked cars will line Lewis, Clark, Yellowstone and 8th and 9th. More cars parked on the street will further cause congested parking. It will be like the streets around Daylis Stadium jam packed with cars when Senior plays West in football. Unlike that scenario, which is temporary, this will be a constant in my neighborhood.

3. **Whether the new zoning will promote health and general welfare.**

The application boldly addresses this criterion by painting a picture of nirvana for its residents. Recreation, special amenities and active living are benefits they stated in their application. Aside from the already existing tennis courts, it is hard to imagine where these special amenities will be located in such a dense housing area. These only speak to the residents of this concrete complex. I believe that this criterion be applied to the promotion of health and general welfare of the whole community and neighborhood. Under my belief, this application fails for many of the reasons stated throughout this objection. Traffic problems, parking problems, potential drug problems, and problems between neighbors, in and out of the complex, do not promote the health and general welfare of our community. The only general welfare being promoted by the request will be the monetary profit of an out-of-state corporate developer. Conservatively stated, 200 plus units at a minimum of $1000 a month per unit would result in a minimum $200,000 leaving Billings every month landing in the bank accounts of Utah developers.

4. **Whether the new zoning is designed to secure from fire and other dangers;**

Increased housing density, regardless of the building practices, increases the possibility of fire in one or more of the 200 – 250 units that Thrive Development proposes to build on this one city block. If each unit, on average, houses 3 people, that is an additional 600 to 750 fallible people who can make a mistake and turn the entire block into a blaze. High density living increases the risk of high density disaster. The number of proposed or required units (to make the project financially feasible) increases the risks of a catastrophe. The entire block could easily burn down before the Fire Department could even reach it.

Other dangers include traffic problems, potential drug problems, parking problems and garbage problems, all which will be exacerbated by high density housing.

5. **Whether the new zoning will provide light and air**

More cars equals more exhaust pollution impacting the air quality in my neighborhood. As for light, that remains to be seen. When horizontal space is limited the only option is to build vertically. There is simply no way that a developer can build 200 – 250 units on the available horizontal space, especially if the land abutting Lewis Avenue is for nice townhouses, or what I call the lipstick on the pig and the smells and squalor is to the south of that. That is the approach to requesting that strip along Lewis be changed to NX1. The garbage, or less desirable and denser, housing would be built on NX3. How would they do this? If this request is granted, it will followed by a variance request to build higher than the currently allowed 27 feet. The housing building near 13th and Poly Drive is one example of when that happened. In the case of higher, much higher buildings, the view, or light, from my living room window will be impaired.

6. **Whether the new zoning will prevent the overcrowding of land**

It's hard to imagine a more overcrowding of land than in this proposal. The targeted area for construction is surrounded to the north, east and west by mostly single family dwellings. It's a nice area of mostly older homes, most of which are owner occupied. 200 – 250 rental units simply will not comfortably, aesthetically, or safely fit into the horizontal space allowed.

7. **Whether the new zoning will avoid undue concentration of population**

This another criterion that the applicant failed to address. Again, I cannot imagine a greater undue concentration of population than the project proposed by Thrive Development of Salt Lake City, Utah. 200 -250 units would house 600 – 800 people on one square block. That is the definition of over concentration of people. As I have already stated, problems multiply when the dense population increases.

8. **Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements**

My city councilwomen, in justifying the ubiquitous water rate increases stated that the increases were necessary because of the old and antiquated water treatment plant. There will be huge new demands on the water system of the city. Rather than facilitating the aforementioned items, if the proposed project zoning changes are granted there will be additional stress on the existing city infrastructure serving this neighborhood.

Additionally, during the construction of this concrete complex, if these changes are granted, there will be disruptions to traffic, bicycle lanes, pedestrian paths, not to mention the noise and other disruptions during the months, or even years of construction. This area of the city will not be the same during construction nor the years thereafter.

9. **Whether the new zoning gives reasonable consideration to the character of the district.**

The proposal, evidenced by the zoning change request is totally out of character of the district. While Broadwater and Grand Avenues are mainly commercial streets, the surrounding residential streets are comprised of mostly single family dwellings, with some basement apartments. It is a far cry to say look, there's a rental here and there in the area so let us build a dense housing area of 200 – 250 units in the heart of the area. Thrive Development's proposal doesn't care about the character of the district. They see maximum profits from their building a dense concrete complex. Profit should never be a reason for a zoning change.

10. **Whether the new zoning gives reasonable consideration to peculiar suitability of the property for particular uses.**

No. This property would be a good site for a city park, 15 – 20 single family dwellings, several office buildings, or a community garden or wildflower garden. It

is not suitable for 200 – 250 rental units, 500 or more people, with 300 additional cars on the streets, or the parking problems that an approval would create.

11. **Whether the new zoning was adopted with a view to conserving the value of buildings.**

    Let's face facts. An out of state real estate developer does not and will not care about maintaining the value of my house or any other houses or buildings in the area. They may argue that their glorious concrete complex will maintain or even enhance the values of houses in the surrounding area but they have no way to prove it. They may even hope so while those of us who live here, not in Utah, may fear just the opposite.

    No one has seen any plans or architectural drawings to know what is being proposed, or what zoning variances they may seek in the future. We only have their words and mere words, without proof, should not be the reason to grant several zoning changes that will change the character of our neighborhood.

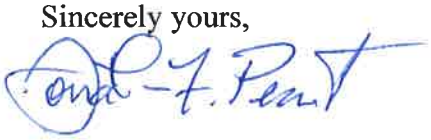
12. **Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.**

    Adequate housing, especially affordable housing is an issue in Billings. Rents are incredibly high, especially for low income families. That being said, Thrive Development has made no mention of building low income housing. Their website speaks of "luxury" apartments they have built in Utah. They also are not saying that they would build luxury apartments on the land for which they are seeking zoning changes. In other words, we do not know what they are really planning. What if they go bankrupt during the construction phase? Who would pick up the pieces with a full block of a concrete mess?

    Appropriate and better uses for this land would be a city park, homeowner occupied houses, office space, mix of office space and housing.

In conclusion, I oppose the zoning changes sought by Thrive Development for the reasons stated above and respectfully ask the Zoning Commission to reject the request for zoning changes for the property currently known as the Elks Club.

Sincerely yours,



Jonathan F. Peart

Cc: Denise Joy, Council Member Ward 3, Danny Choriki, Council Member Ward 3

Bartley, Robbin

From: Bartley, Robbin
Sent: Tuesday, February 1, 2022 8:26 AM
To: Daniel Brooks; David G. Goss (dgg954@gmail.com); Greg McCall; Michael Larson; Trina White
Cc: Cromwell, Nicole
Subject: FW: [EXTERNAL] Concerns About Zoning Change To Allow Construction Of 250 Unit Housing Complex On Lewis

FYI

Robbin P. Bartley
Admin. Support I
Planning & Community Services Division
406-247-8676

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

From: Rita Harding <mtroses22@gmail.com>
Sent: Saturday, January 29, 2022 7:40 PM
To: Bartley, Robbin <bartleyr@billingsmt.gov>
Subject: [EXTERNAL] Concerns About Zoning Change To Allow Construction Of 250 Unit Housing Complex On Lewis

I have lived on Alderson Avenue for about 15 years. I bought the property specifically because I like the quietness and friendliness of the bigger neighborhood. People are often seen walking these streets to do errands or to work downtown. I personally walk the larger neighborhood area regularly to do errands and for exercise. I find the area to be relaxing, safe, and not disturbed by heavy traffic.

The proposed conversion of the Elks property to include 250 housing units is alarming. It has the potential to destroy the neighborhood atmosphere and make walking or driving much more congested. Small residential lots like a subdivision and housing that already exists certainly could work but high rise buildings to house hundreds of people all with vehicles is very alarming.

It seems like this change is for commercialization and for profit and has the potential to destroy the neighborhood atmosphere.

Rita Harding
123 Alderson
Billings, MT

From: Julie Brown
To: Cromwell, Nicole
Subject: [EXTERNAL] Elk"s Club zoning request
Date: Monday, January 31, 2022 1:05:10 PM

Ms. Cromwell,
I am Julie Brown. I live at 726 Lewis Ave. We are 3rd generation homeowners. I am concerned about the change in zoning for the 800 block of Lewis Ave and its negative impact it will have on our neighborhood. We hate to see the charm of our neighborhood change for the worse as it has become revitalized in the last 10 years. The 8th and Lewis intersection is a worry as is the extra traffic (speeders) on our street. What impact will it have on Broadwater Elementary, Lewis and Clark and Senior High? I am not sure to whom I submit my concerns to. Could you please help me?
Thank you,
Bob(Robert J.) and Julie A. Brown

p.s. I sent this email to Robbin Bartley first before I saw the blurb about your position.

From:	Bartley, Robbin
To:	Daniel Brooks; David G. Goss (dgg954@gmail.com); Greg McCall; Michael Larson; Trina White
Cc:	Cromwell, Nicole
Subject:	FW: [EXTERNAL] Comments Re: Proposed Zoning Change at 9th and Lewis
Date:	Friday, January 28, 2022 8:36:56 AM

Good morning Commissioners,

Please see the following letter of support.

Thank you.

Robbin P. Bartley
Admin. Support I
Planning & Community Services Division
406-247-8676

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

From: Simon Cecil <scecil42@gmail.com>
Sent: Thursday, January 27, 2022 6:44 PM
To: Bartley, Robbin <bartleyr@billingsmt.gov>
Subject: [EXTERNAL] Comments Re: Proposed Zoning Change at 9th and Lewis

Good Evening Ms. Bartley,

Would please pass my comments on to the commission? Thank you so much!

-Simon

Good Evening members of the zoning commission,

My name is Simon Cecil. I currently live on Yale Avenue two blocks from Rocky Mountain college. Prior to moving to our current home, my spouse and I lived in the 300 block of Lewis Ave.

I am writing to express my strong support for the proposed zoning change at 9th and Lewis where the Elks Club currently stands. It is my understanding that Thrive, a developer, is requesting the opportunity to build denser housing on this site. I cannot think of a better use of the space. I strongly encourage you to vote in favor of this zoning change.

The site sits less than a mile from Billings downtown. Continuing to build housing close to downtown

will help keep our city vibrant and our downtown area thriving. Moreover, by building housing in our existing city instead of on the far west end we will have an easier and less costly time providing all of the municipal services citizens should expect such as fire protection, police, and snow plowing. Support for public safety levies over the past two years highlights just how important our citizens think those services are. The opportunity to keep them economical is a wonderful chance to provide what residents need without continuing to increase taxes.

In the past two years I have seen home prices in my neighborhood increase by close to 25%. While this is a nice windfall for those of us who own homes, it is not sustainable for our city. Having lived in cities across the country, one thing I love about Billings is that blue collar workers can afford homes and a good life in our city, while they would be stuck in small apartments in a place like Bozeman or Denver. Increasing our housing supply is an important step to help keep home values from sky rocketing.

Additionally, research is quite clear that there is a close connection between housing prices and homelessness. I think all of us understand the homeless population downtown is a concern for residents across our city. If we can make housing more affordable in our city, we will be able to reduce homelessness in turn allowing people in our city to have the dignity of living in a home and strengthening the appeal of our downtown.

I know that there are neighbors who do not wish to see housing built on this site. However, almost all of us started out our lives in a house different from where we now live. Those of us who have the chance to enjoy all the good things Billings provides should do what we can to afford others the same opportunity, not slam the door in the face of those who wish to join our fair city.

We must put the overall wellbeing of our city and its residents at the top of our considerations. Strengthening our downtown, keeping taxes from rising, keeping home prices under control and reducing homelessness are all critical goals that make this a great project that I strongly hope you will support.

Simon Cecil

923 Yale Ave

Billings, MT

From: Katelyn Rebecca Cameron
To: Cromwell, Nicole
Subject: [EXTERNAL] City Zone Change 1005 934 Lewis
Date: Wednesday, January 26, 2022 5:02:33 PM

I do not own a lot in this area but i am a resident and property owner of Billings. I fully support this rezoning. Please allocate a portion to affordable housing or subsidized housing. The market is so tight that people cannot find housing, especially if they are on any form of assistance. We need more housing in almost every area of the city.

Please help that become a reality.

- Katelyn

From: Plecker, Monica
To: Bartley, Robbin; Cromwell, Nicole
Subject: Fw: [EXTERNAL] FW: Very concerned about the plans for appartment buildings to be built on Lewis Avenue
Date: Friday, January 28, 2022 9:35:26 AM
Importance: High

From: Greg Cook <grcook@bresnan.net>
Sent: Thursday, January 27, 2022 8:08 PM
To: Plecker, Monica <PleckerM@billingsmt.gov>
Subject: [EXTERNAL] FW: Very concerned about the plans for appartment buildings to be built on Lewis Avenue

The concentration of people and housing will be too dense. It sounds like the out of state company is trying to make as much money as possible by cramming as many people in a small space as possible. Definitely not good for this area of Billings!

From: Greg Cook [mailto:grcook@bresnan.net]
Sent: Thursday, January 27, 2022 6:30 PM
To: 'pleckerm@billingsmt.gov'
Subject: Very concerned about the plans for appartment buildings to be built on Lewis Avenue
Importance: High

Hello, Ms. Plecker, We are very concerned about the construction of apartment buildings/multifamily units on Lewis Avenue. We have lived on Lewis Avenue for years. It is a beautiful neighborhood. Our neighbors are all single family homes! There may be a duplex scattered here and there, but they are not noticeable. Why would anyone authorize that apartment buildings be allowed to be built there? It will ruin the neighborhood! It will mean a lot more traffic in an already congested street. People complain about the traffic as it is! Not to mention that it is not zoned for multifamily! I understand that it is zoned for commercial, right now. It needs to be zoned for single family, like the rest of the area. I appeal to your sense of fairness and your commitment to the people who live in the area and ask you to not allow apartments to be built there. Please zone it for single family homes, not multifamily units.
Sincerely, Greg and Rose Cook

Dear Members of the City Zoning Commission,

I am asking that you deny the rezoning of the land at 934 Lewis Avenue

(Elks Club) for the following reasons.

-The new zoning will NOT prevent overcrowding of the land. On page 7 the developer states that to be profitable, 200 to 250 units would have to be built. That could average 300 or more cars. How can the tennis courts stay, the units be built and 300 cars fit in that area? Already, the apartments to the west of the Elks has overflow parking that parks along the Elks. Where will those cars go?

-The new zoning will NOT avoid undue concentration of population. Again, citing page 7, if 200 to 250 units are built at an average 2-3 people to unit, that would add 400 to 750 people to this area.

-The new zoning will ABSOLUTELY NOT lessen congestion on the streets. Again, adding 300 or more cars to this corner is too many. 10th street is not finished and dead ends at Yellowstone. Yellowstone is not finished and has no gutters, proper paving or street lights and it dead ends near 10th. This leaves all traffic to be on Lewis and 9th. Both of these streets are 2 lane. Overflow parking will line the streets of Lewis and 9th is narrow and can't accommodate overflow parking.

In conclusion, I have no problem with mixed use 1 but using that to add a buffer (pretty face) on Lewis and then putting the less attractive high density mixed use 3 housing hiding in back abutting our single family homes is not reasonable for the character of our neighborhoods.

Thank you for your consideration.

Dionē Roberts

833 Wyoming Avenue

Billings, MT 59101

(406)591-7591

RECEIVED
JAN 25 2022
PLANNING & COMMUNITY SERVICES DEPARTMENT

From: Tara Stricker
To: Cromwell, Nicole
Subject: [EXTERNAL] zoning
Date: Tuesday, January 25, 2022 2:48:13 PM

Good Afternoon

I am emailing regarding the proposed unit to be built on the Elks Property. As a homeowner in this area, I very much disagree with this unit being built. In additional to creating a huge amount of traffic, this will also adversely affect our sewer system. Where will the parking be for the apartment complex? People moving into this unit with children will then inundate our school district with new enrollment. I would like info on how to share my concerns with the city, in addition to the email. I will also be walking door to door to discuss this with area homeowners. Thank you

Tara Stricker
taras@queenbeebilling.com
406-702-0055

February 1, 2022

Billings Zoning Commission

Hello, my name is Ernie Dutton. I reside at 2046 Mariposa Lane here in Billings. I am part-owner of the commercial property directly west of the Elks Club.

I am concerned that the proposed zone change #1005 will adversely affect the neighborhood. If approved, this zone change will significantly and negatively impact the parking and traffic in the area. **The City of Billings does not have the means to adequately mitigate the problems.**

The Elks Club has never granted the City of Billings any right-of way on their side of 10th Street West. They have granted utility easements, but have specifically retained their "right to fully use and enjoy" the property.

Consequently, 10th Street West south of Lewis Avenue to Yellowstone Avenue is only ½ of a City Street right of way. This substandard street is the only real access for numerous properties, including the Stoneridge apartment complex and numerous duplexes. There is a shortage of on-street parking, (See the picture of the overflow parking from the Stoneridge apartments onto the Elks property), as well as a safety hazard along this substandard road, which is the only way in or out of the area (See the dead-end streets marked on the map.).

You know that you are prohibited from attaching any conditions onto zone change. You may not know that the City is unable to require a right-of-way dedication, unless a property owner seeks to subdivide (confirmed with City Planning and Engineering departments). So please don't be seduced into thinking that a traffic study or the site plan approval can cure the parking and traffic problems previously identified.

Do not be persuaded to approve this zone change based on the argument that the proposed zoning is better than the existing zoning that allows potential commercial development to occur. As a commercial broker in this community for over 40 years, I can tell you that this is not a good commercial location. That is why the property hasn't previously sold despite being on the market for over 2 years. Multi-family might be good use of the property, but the proposed density will have a significant and permanent impact on the neighborhood. Let's make sure that the negative consequences are minimized.

You and the City of Billings only get one bite at the apple. Hopefully, your denial of this zone change request will motivate the Elks Club to dedicate the right-of-way needed to complete 10th Street West, before they attempt another bite of the apple.

The Elks property is strategically located and can potentially be developed to be a significant asset to our community. The property isn't going anywhere, and you will surely have another opportunity to see that it gets properly developed.

I respectfully request you recommend denial of this zone change.

ORDINANCE 22-_____
AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THE ZONE CLASSIFICATION ON Parcel 1,
C/S 2474, BE AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. **RECITALS.** *Title 76, Chapter 2, Part 3, MCA,* and *Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

Section 2. **DESCRIPTION.** **Parcel 1 of C/S 2474,** is presently zoned **Corridor Mixed Use 1 (CMU1)** and is shown on the official zoning map within this zone.

Section 3. ***ZONE DISTRICT AMENDMENT.*** The official zoning map is hereby amended the zoning for **Parcel 1, C/S 2474,** is hereby changed from **Corridor Mixed Use 1 (CMU1) to Mixed Residential 1 (NX1) and Mixed Residential 3 (NX3) and Corridor Mixed Use 1 (CMU1)** as shown on the attached exhibit, and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Mixed Residential 1 (NX1) and Mixed Residential 3 (NX3) and Corridor Mixed Use 1 (CMU1),** as set out in the Billings, Montana City Code.

Section 4. **EFFECTIVE DATE**. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 5. **REPEALER**. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 6. **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 28th day of February, 2022.

PASSED, ADOPTED and APPROVED on second reading this 14th day of March, 2022.

CITY OF BILLINGS

BY:_____

William A. Cole, Mayor

Attest:

BY:_____

Denise R. Bohlman, City Clerk

Zone Change 1005, 934 Lewis Avenue

Zone Change 1005

Zoning Exhibit

LEWIS AVE.
NX1
ZONE
NX3
ZONE
CMU1
ZONE
TENNIS BUILDING
TO REMAIN
EXISTING BUILDING
TO BE REMOVED
10TH STREET WEST
9TH STREET WEST
PROPERTY LINE

City Council Regular

Date:	02/28/2022
Title:	Zone Change 1006 - 1204 Howard from N1 to NX1
Presented by:	Karen Husman
Department:	Planning & Community Services
Presentation:	Yes

RECOMMENDATION

The Zoning Commission recommends approval and adoption of the findings of the 10 review criteria for Zone Change 1006.

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

City Zone Change 1006 -- 1204 Howard Ave -- from N1 to NX1 - A zone change request from N1 (First Neighborhood Residential) to NX1 (Mixed Residential 1), on Block 2, Lots 1-2 of the West Billings Heights Subdivision, a 7,000 square foot parcel located at 1204 Howard Avenue. The purpose of the zone change is to allow the existing duplex to be modified into a 4-unit structure. A pre application neighborhood meeting was held on December 18, 2021.
Presented by Karen Husman, Planner I

APPLICATION DATA

OWNER: Ashley Delp
LEGAL DESCRIPTION: Block 2, Lots 1-2 of the West Billings Heights Subdivision
CURRENT ZONING: N1
EXISTING LAND USE: One two-unit dwelling and one single family dwelling
PROPOSED USE: Residential multi-family (increase units in duplex to make a 4-unit dwelling)
SIZE OF PARCEL: 7,000 sf

CONCURRENT APPLICATIONS:

None

SURROUNDING ZONING AND LAND USE:

NORTH: Zoning: N1 & NX2
Land Use: Residential single family & a 4-unit dwelling
SOUTH: Zoning: N2
Land Use: Residential single family (2 single family dwellings)
EAST: Zoning: NX1
Land Use: Residential multi-family (3-unit dwelling)
WEST: Zoning: N1
Land Use: Residential (2 single family dwellings)

The proposed zoning would allow an existing duplex dwelling to use the basement area to add two units, creating a 4-unit dwelling on the property along with the existing single family dwelling. This will provide additional affordable housing choices without increasing the footprint of the existing structures. There are other similar multi unit properties in the area and throughout this neighborhood, including two 4-unit dwellings on the northeast corner of 12th St West and Howard Avenue. The property east across 12th Street West is zoned NX1 and has a multi-unit building. A Master Site Plan review will be required with the increase in dwelling units, the applicant is prepared to provide additional off-street parking. The additional units will have egress windows added for safety as required by building code, and the new units will meet all other requirements for building and fire codes.

STAKEHOLDERS

The applicant conducted a pre-application neighborhood meeting on December 18, 2021, at 934 Lewis Avenue, there were no attendees. A summary of the meeting is included as an attachment. Planning staff did not receive any comments prior to completing the staff report for the zone change. There is one email attached that was received on February 1, 2022, at 8:34 am in the planning department in opposition to the zone change.

The Zoning Commission conducted its public hearing on February 1, 2022, and received the Planning staff recommendation of approval, and testimony from the owner, who concurred with staff recommendation. There were no members of the public present speaking for or against the application.

The Zoning Commission voted 3-0 on a motion to recommend approval and adoption of the findings of the 10 review criteria.

ALTERNATIVES

The City Council may:

- Recommend approval and adoption of the findings of the 10 review criteria for Zone Change 1006; or,
- Recommend denial and adopt different findings of the 10 review criteria for Zone Change 1006; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

FISCAL EFFECTS

Approval or denial of the proposed zone change will not have an effect on the Planning Division budget.

SUMMARY

Prior to any decision the City Council, shall consider the following:

1. Is the new zoning designed in accordance with the Growth Policy?
The proposed zone change does conform to the following guidelines of the 2016 Growth Policy:
Strong Neighborhoods:

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Neighborhoods that are safe and attractive and provide essential services are much desired

Home Base:

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe

The proposed zoning would allow an existing duplex dwelling to use the basement to add two units, creating a 4-unit dwelling on the property along with the existing single family dwelling. The proposed zone is consistent with the City's Growth Policy and increases density without adding a large demand on city services. This will provide additional affordable housing choices without increasing the footprint of the existing structures.

2. Is the new zoning designed to secure from fire and other dangers?
The new zoning requires minimum build-to zones, open and landscaped areas, and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers. The existing structure footprints will not be expanded so current setbacks and building separation will not be reduced.

3. Whether the new zoning will promote public health, public safety and general welfare?
Public health and public safety will be promoted by the proposed zoning. The existing parcel has already been developed and used for as a two-family residence and for a single family residence since they were built in the 1930's. A zoning of NX1 is required to have more than 2 attached dwelling units. The proposed zoning would allow the owner to acquire a rebuild letter under the new zoning after converting the basement into two more dwelling units. This will also allow the owner to reduce the risk associated with insuring the property and investing in property improvements. The proposed zoning (NX1) would allow the owner to ensure development is not intrusive to neighboring property, and still allow compatible uses with the adjacent N1 and the NX1 zoning.

4. Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?
Transportation: The proposed zoning will have little impact on the surrounding transportation systems.
Water and Sewer: The property has City water and sewer services.
Schools and Parks: Schools and parks should not be significantly affected by the proposed zone change, this will depend on the new tenants.
Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

5. Will the new zoning provide adequate light and air?
The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning effect motorized and non-motorized transportation?
The new zoning will have little effect on vehicle and pedestrian traffic, although additional off-street parking for the added units will be provided.

7. Will the new zoning promote compatible urban growth?

The proposed zoning is compatible with the adjacent zoning and existing urban growth in the vicinity. The proposed zoning will allow an existing structure to become conforming to the NX1 zone district as a four dwelling unit structure.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?
The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning will allow expansion of an existing residential use, without increasing the footprint of the structure. There are other multi unit properties in the area.

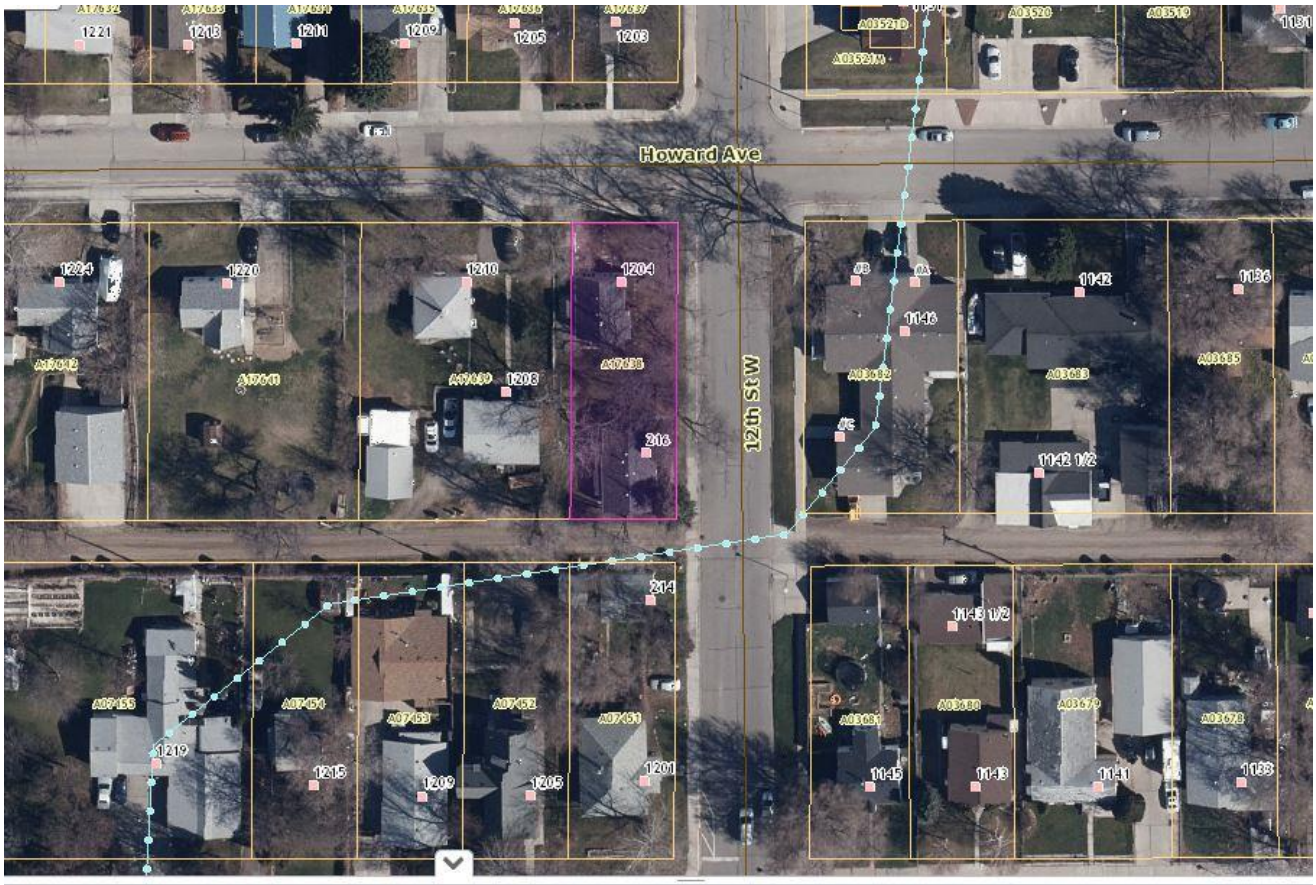
9. Will the new zoning conserve the value of buildings?
The new zoning is not expected to alter the value of any buildings in the area. Any development of the property will need to meet the site development requirements in the zoning code, including landscaping, screening, building heights and setbacks. A Master Site Plan will be required with the remodel and additional dwelling units.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?
The proposed zoning will allow an existing structure to be rebuilt as a 4-unit dwelling if it were destroyed. This is an appropriate location for the zoning to allow additional density that is compatible with adjacent uses. The parcel directly across 12th Street West is currently NX1 and has a multi unit residential structure.

Attachments

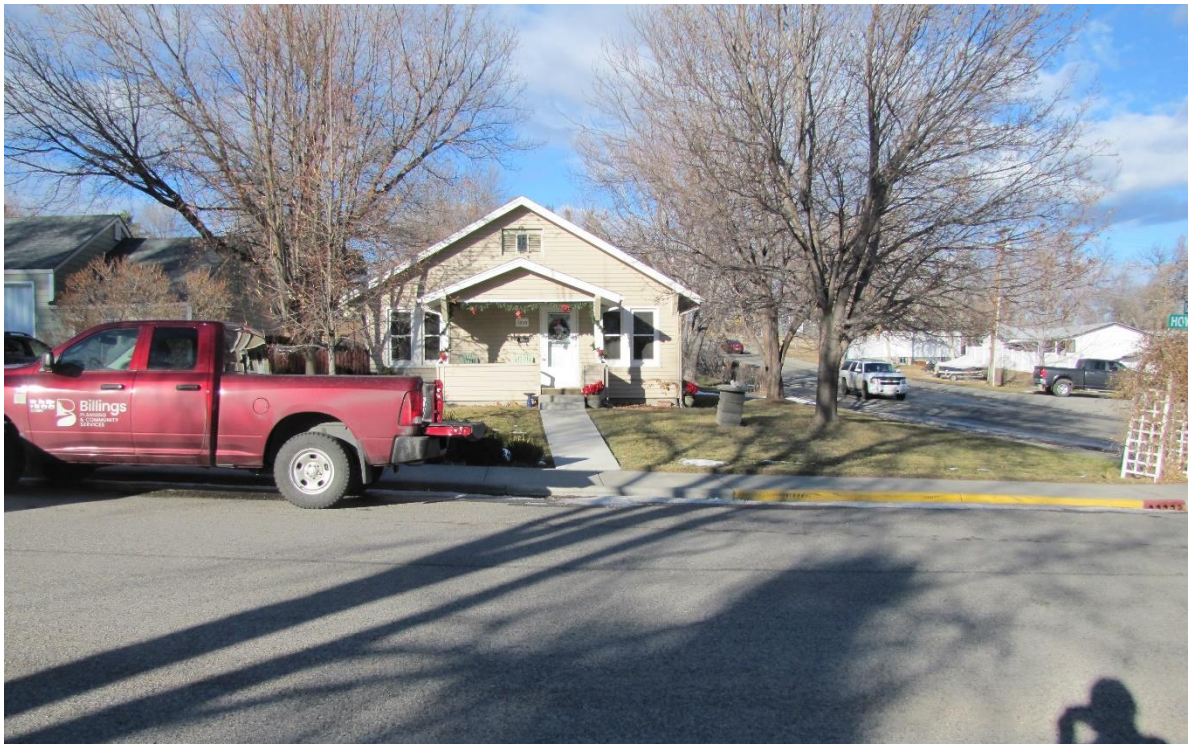
Zoning Map & Site Photos
Application & Applicant Letter
Preapplication Neighborhood Meeting
Zoning History
Ordinance

Zoning Map & Site Photos



South

East



North

West

East

Looking from the intersection south west toward the property

APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change #_____ - Project # PZX-21-00313

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning: N1-First Neighborhood

Proposed Zoning: NX1 - Mixed Residential 1

TAX ID# A17638

CITY ELECTION WARD : Ward 3

Legal Description of Property:

WEST BILLINGS HEIGHTS, S05, T01 S, R26 E, BLOCK 2, Lot 1-2

Address or General Location (If unknown, contact City Engineering):

1204 Howard Avenue, Billings MT, 59102

Size of Parcel (Area & Dimensions): 7000 sq. ft.

Present Land-Use: Residential Multi Family

Proposed Land-Use: Residential Multi Family (Increased by two units) My goal is to configure the duplex into a four-plex. The layout makes it ideal for this modification without changing the footprint of the building.

Covenants or Deed Restrictions on Property: Yes_____ No X If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

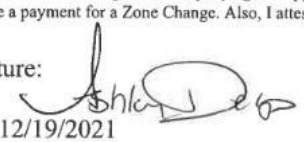
Owner(s):

(Ashley Delp)

(1204 Howard Avenue, Billings MT, 59102)

(406-690-4388) (ashley@ashleydelpteam.com)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: 

Date: 12/19/2021

To whom it may concern,

I would like to take this opportunity to request a zone change for my recently purchased home at 1204 Howard Ave. The property currently is zoned N1 with a Duplex and stand alone 2 bed, 1 bath home. Our goal with the zone change is to get the zoning switched to NX1 which would allow us to modify the duplex into a 4 plex unit. This goal can be achieved without changing the footprint of the existing building. The only access to the basement portion of the duplex is on the west side of the building so makes it very easy to add two additional units as it will just be interior modifications. The proposed zone change request is consistent with the city of Billings growth policy and increases density without a large demand on city services. There is a lack of affordable housing in Billings and this will allow us to provide two more living units in an area that desperately needs additional housing units.

The master site plan will include additional parking with alley access and expanding the on site parking currently in place, additional units will have egress added for safety/light/air, units to be built to code with appropriate fire rating between units, property will have exterior security cameras installed. Being centrally located in Billings and having access to public transportation within walking distance will make this an ideal rental unit.

There are a precedent of multi family units in the direct vicinity of the property and will not affect the usability of the property or the nature of the neighborhood.

This will add value to the lot as current units are renovated, parking improved, unfinished basement will be converted to living quarters so will be 100% completed vs. finished upstairs and less than 25% finished basement.

I feel that I can accomplish this goal with the favorable support of the community and zoning board. I am prepared to accommodate any provisions that the city may impose upon me in granting this zone change request.

Thank you for your consideration and please do not hesitate to contact me with any questions.

Ashley Delp
406-690-4388

Ashley Delp

406-690-4388

12/11/2021

Dear Property Owner:

Please be advised that a formal application will be submitted to Yellowstone County seeking approval of a zoning change for the following described property:

WEST BILLINGS HEIGHTS, S05, T01 S, R26 E, BLOCK 2, LOT 1 - 2

The petitioner is asking the County to approve this application to allow development of the above address to transition from N1-First Neighborhood to NX1 zoning multi family housing on the described property.

In compliance with the City Zoning requirements, a Neighborhood Information Meeting will be held to provide you an opportunity to become fully aware of our development intentions. The Neighborhood Information Meeting will be held on December 18, 2021 at Elks Lodge, Lounge. 934 Lewis Avenue, Billings MT 59101 @ 2:00 p.m

At this meeting the petitioner will make every effort to illustrate how the property will be developed and to answer any questions. Should you have questions prior to the meeting, please contact me.

Sincerely,

Ashley Delp

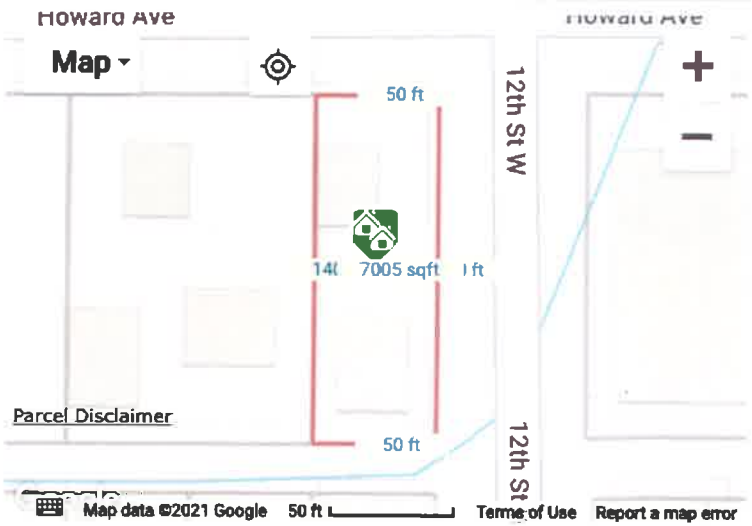
1204 Howard Ave, Billings, MT 59102

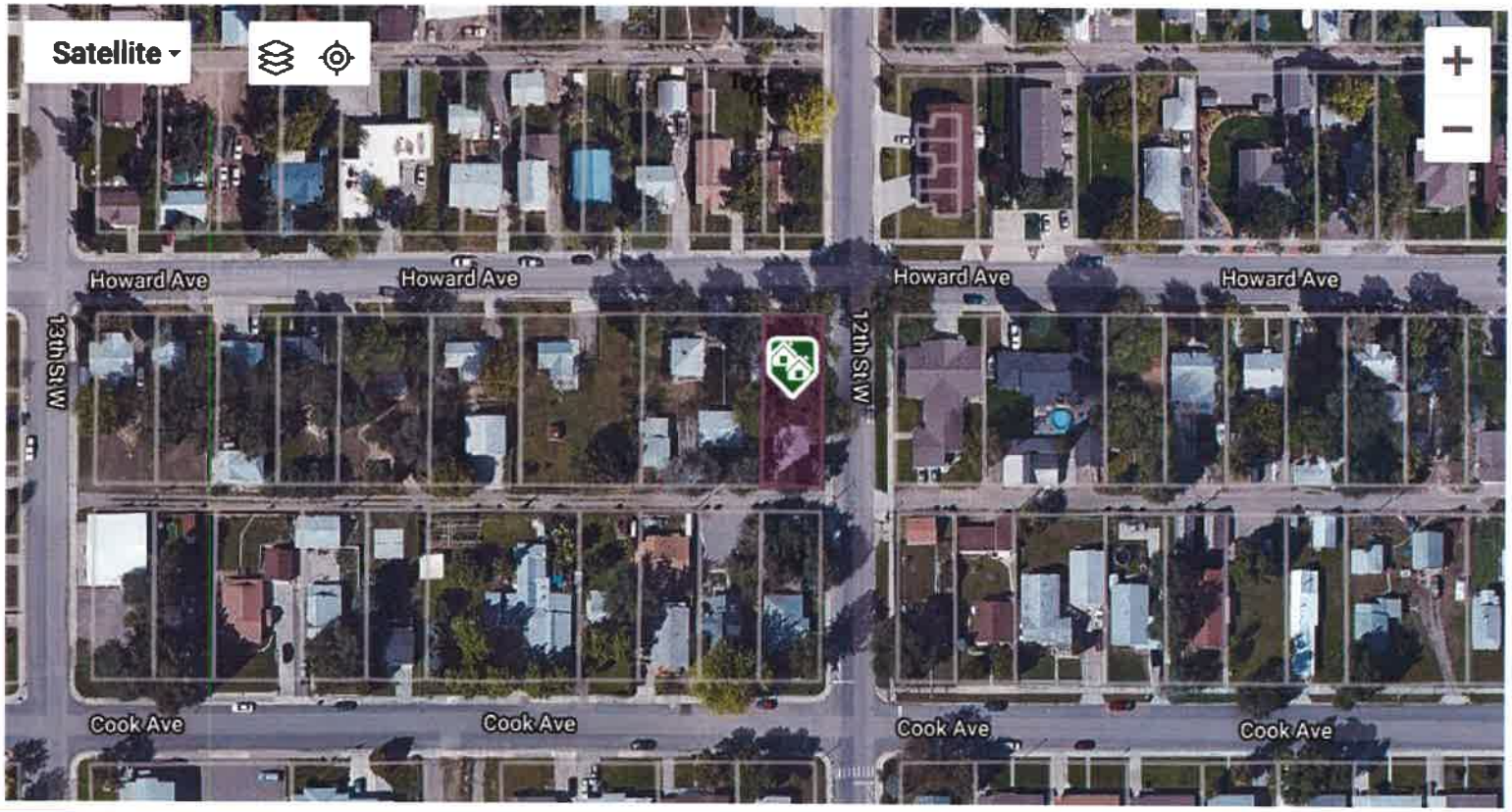
WEST BILLINGS HEIGHTS, S05, T01 S, R26 E, BLOCK 2, LOT 1 - 2

Project Summary:

Zone Change: currently zoned N1, proposed conversion to N(X1 Zoning
This will allow us to modify the duplex into a 4-plex unit. The current building will allow for this modification without changing the footprint of the building itself.

Contact: Ashley Delp
406-690-4388





0 - Attendees

1204 Howard Ave / Zoning Change Meeting

2:00 pm December 18, 2021

Elks Lodge 934 Lewis Ave, Billings, MT 59101

MEETING WITH BE AUDIO RECORDED

* Witness

First/Last Name	Address Near 1204 Howard	Mailing Address	Phone	Email
Rebecca King			406-861-7885	beckyking15@hotmail.com

Synopsis: We held the meeting from 2:00 - 3:30 on Dec 18, 21 @ the Elks Lodge
No one in Attendance.

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1204 Howard Ave	None				
SURROUNDING PROPERTY	**Zone Change**	**DATE**	**FOR**	**APPROVED (Y/N)**	**ADDITIONAL DATA**
Broadwater Sub Blk 4, Lt 8-18	ZC # 314	4/6/81	R60 – RMF-R	N	Denied
Broadwater Sub Blk 16, Lt 1 & 2	ZC # 417	12/12/83	R60 to NC	N	Denied
Keirle Sub, Blk 8, Lt 11-15	ZC # 320	6/8/81	R60 to Public	Y	3rd FIling
Keirle Sub, Blk 5 Lt 1&2	ZC # 340	11/23/81	R72 to R60	N	Denied
Glenn Sub, Lt 8-14	ZC # 43?	11/27/73	CC to R60	Y	2nd filing
Ross Sub, Blk 1, Lt 13-24	ZC # 270	10/22/79	R60 to RP	Y	
1107 Alderson Ave	ZC # 8	3/26/1973	R60 to RMF-R	Y	Apt Building
940 Avenue B	ZC # 53	4/22/1974	R-60 to RMF-R	Y	Renovation of MF
130 Prickett Ln	ZC # 733	07/26/2004	R60 to RMF	N	Denied
1545 Hawthorne Ln	ZC # 936	07/17/2015	R50 to RMF-R	Withdrawn	Applicant Withdrew

ORDINANCE 22-_____
AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE ZONE CLASSIFICATION ON Block 2, Lots 1-2 of the West Billings Heights Subdivision, BE AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. **RECITALS.** *Title 76, Chapter 2, Part 3, MCA,* and *Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

Section 2. **DESCRIPTION.** **Block 2, Lots 1-2 of the West Billings Heights Subdivision**, is presently zoned **First Neighborhood Residential (N1)** and is shown on the official zoning map within this zone.

Section 3. **ZONE DISTRICT AMENDMENT.** The official zoning map is hereby amended and the zoning for **Block 2, Lots 1-2 of the West Billings Heights Subdivision,** is hereby changed from **First Neighborhood Residential (N1) to Mixed Residential (NX1)**, and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining **Mixed Residential (NX1)** as set out in the Billings, Montana City Code.

Section 4. **EFFECTIVE DATE**. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 5. **REPEALER**. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 6. **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 28th day of February, 2022.

PASSED, ADOPTED and APPROVED on second reading this 14th day of March, 2022

CITY OF BILLINGS

BY:_____

William A. Cole, Mayor

Attest:

BY:_____

Denise R. Bohlman, City Clerk

Zone Change 1006, 1204 Howard Avenue

City Council Regular
Date: 02/28/2022
Title: Zone Change 1007- Emma Jean Heights
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

RECOMMENDATION
The Zoning Commission recommends approval of Zone Change 1007 and adoption of the findings of the 10 review criteria.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)
City Zone Change 1007 -- Emma Jean Heights -- from N2 to N3 - A zone change request from N2 (Mid-century Neighborhood Residential) to N3 (Suburban Neighborhood Residential), on 51 parcels in the Emma Jean Heights Subdivision located off Bitterroot Dr. A pre application neighborhood meeting was held on December 11, 2021.

APPLICATION DATA
OWNER: Chamberlain Construction, Charlie Felton, Felton Associates, Rodney & Mary Giesler, Jerry & Sandra Stoltenberg, Livelynye, LLC., Brent & Krista Montague, Kenneth & Denise Roesch, Green Jeans, LLC
AGENT: Charlie Felton & Kerry Martinson
LEGAL DESCRIPTION: Emma Jean Heights Sub. 1st Filing, Block 2, Lots 12-15, Emma Jean Heights Sub 2nd, Block 4, Lot 1,Block 9, Lots 10 & 11,1 Block 10, Lots 10 & 11, Block 19, Lot 1, Emma Jean Heights Sub 4th filing, Block 8, Lots 1-20, Block 9, Lots 12-20, Block 10, Lots 1-9, Block 11, Lot 4, Block 13, Lots 2-14
ADDRESS: Multiple
CURRENT ZONING: N2
EXISTING LAND USE: Residential single family and vacant lots
PROPOSED USE: Residential single family
SIZE OF PARCEL: Multiple

CONCURRENT APPLICATIONS
Several pending Building Permit applications for new construction

SURROUNDING LAND USE & ZONING
NORTH: Zoning: N2/N3
Land Use: Residential
SOUTH: Zoning: N2/N3
Land Use: Residential
EAST: Zoning: N2/N3
Land Use: Residential
WEST: Zoning: N2/N3
Land Use: Residential

STAFF REVIEW
This is a zone change request to change from N2 to N3. The proposed zoning would update the properties within the Emma Jean Heights Subdivision from a mixture of N2 - a zone that allows 1 and two family dwellings - to N3 - a zone that only allows single family dwellings. Both zone districts allow single family dwellings on individual lots. The N2 zone district was included in Project Recode map update for these parcels in an effort to keep the existing development moving forward with the same allowed uses as the previous Residential 7,000 (R-70) zone district. The previous R-70 zoning and the N2 zoning both allow single family dwellings as well as 2-unit dwellings. Planning Staff chose the N2 zone district as it closely resembled the previous zone (Residential-7000). The applicants are

requesting the change to N3 for the undeveloped parcels as these current owners only intend to build single family dwellings, and to clarify the recently constructed single family homes that do not meet the N2 district requirements. During the transition from the previous zoning to the new zoning code, there have been a few building permits that were approved under the previous code and are now nonconforming under the N2 zone district. The change to N3 would bring the nonconforming structures into conformance. The zone change will also allow the developer to use existing house plans for the remainder of parcels in this portion of Emma Jean Heights Subdivision.

Project Recode was widely publicized and all property owners, developers and task forces were encouraged to attend the neighborhood meetings and public meetings to voice their opinions, concerns and recommendations on the proposed changes. After years of preparation and numerous working group meetings developing the code, the Zoning Commission and City Council held public hearings in the summer of 2020 through the end of the calendar year. The new zoning code and map were adopted by the City Council on January 25, 2021. The draft maps and new maps were available online for review and everyone was encouraged to view and comment on the changes. During 2021, there was a transition period allowing staff to make amendments to zoning on parcels and address minor changes or amendments that did not fit the new designation. The transition period ended, and these property owners are requesting a change to N3 on their properties to continue developing the parcels with the previous portions of the subdivision that have single family development.

The Planning staff has reviewed the request and is recommending approval based on the findings of the 10 review criteria. The adjacent zoning and development is similar and will provide continuity within the subdivision. The adopted Growth Policy of Billings does support compatibility of development. The proposed zoning and uses are conforming to the growth policy and development can occur without disrupting the existing neighborhood fabric. Staff received several phone calls from residents within the subdivision asking for an explanation of the zone change and who initiated it. Staff explained the details of the request to the residents.

STAKEHOLDERS

The applicant and agent conducted a pre-application neighborhood meeting on December 11, 2021, at 1410 Jean Avenue, and there were 15 attendees. A summary of the meeting is included as an attachment. Planning staff did receive several inquiries by phone and in person from residents wanting an explanation of the request. Staff clarified the details of the zone change and what the applicants reasons were for the requested change.

The Zoning Commission conducted its public hearing on January 1, 2022, and received the Planning staff recommendation of approval, and testimony from Charlie Felton, owner of a majority of the lots and acting as agent for the remainder of owners. Mr. Felton expressed frustration with the changes made to the zoning of these parcels with Project Recode, and wanted the zoning on these lots to allow him to continue to develop with the same home design. He was in favor of the zone change. There were 3 members of the public in favor of the zone change, there were no opponents in attendance.

The Zoning Commission voted 3-0 on a motion to recommend approval and adoption of the findings of the ten review criteria.

ALTERNATIVES

The City Council may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1007; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1007; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request

FISCAL EFFECTS

Approval or denial of the proposed zone change will not have an effect on the Planning Division budget.

SUMMARY

Prior to any decision the City Council shall consider the following:

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

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

Strong Neighborhoods:

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Neighborhoods that are safe and attractive and provide essential services are much desired

Home Base:

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe

The proposed zone change is consistent with the following goals of the **2006 Billings Heights Neighborhood Plan**:

- 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.

2. Is the new zoning designed to secure from fire and other dangers?
The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. Whether the new zoning will promote public health, public safety and general welfare?
Public health and public safety will not be affected by the proposed zoning. The new zone would not change the public health, safety and general welfare status from the existing zoning.

4. Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?
Transportation: The proposed zoning will not significantly increase post-development traffic volume.
Water and Sewer: The City provides water and sewer to the property.
Schools and Parks: Schools and parks should not be negatively affected by the proposed zoning. School population may increase depending on the demographic of the new residents as homes are built.
Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

5. Will the new zoning provide adequate light and air?
The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning effect motorized and non-motorized transportation?
The new zoning designation itself should not have any increase effect on the transportation system. The N2 zoning may have brought in more dwelling units under the allowed density, therefore the proposed N3 may actually have less of an impact on the transportation system.

7. Will the new zoning promote compatible urban growth?
The new zoning does promote compatibility with urban growth. The proposed zoning will allow this subdivision to provide single family housing compatible with most of the existing neighborhood.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?
The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. Previous portions of filings of Emma Jean Heights are built out in accordance with the N3 district. Therefore, allowing these additional lots to be constructed in the same pattern expands the already existing character. Further, the proposed zoning will continue to allow a housing choice that is in demand in the area and could be built in N2 or N3 zoning districts.

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

Both the N3 (new zone) and N2 (old zone) conserve the value of buildings and allow for single family dwellings. The existing homes in the neighborhoods are predominantly single-family homes and some homes that have already been constructed are built to the N3 standard. Therefore, the new zoning will not diminish the value of the existing neighborhood or the newly zoned property.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?
The proposed zoning will allow the continuance of an existing housing choice in this area of Billings Heights. Residential uses are the most appropriate use of the land.

Attachments

Zoning Map & Site Photos
Applications
Preapplication Meeting Held
Zoning History
Ordinance

Zoning Map & Site Photos

Wicks Ln
Tania Cir
Emma Ave
Jean Ave
Anchor Ave
Shannon St
Columbine Dr
Carson Wy
Bittersweet Dr
Blarney St
Cherry Creek Ln
Ping Cir
Ping Ct

ZONING
REQUEST

Looking West on Anchor

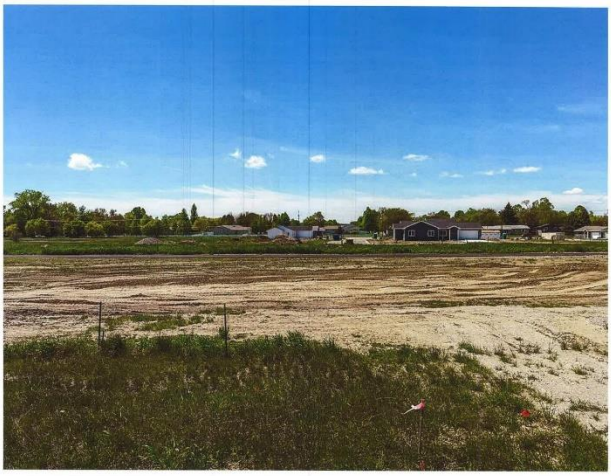
Looking North at the corner of Anchor and Columbine

Looking South

South East

Looking West on Anchor

North on Columbine
Photos submitted by applicant



APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #**_____ **- Project #**_____

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning N-2

Proposed Zoning: N-3 which is consistant with Existing home of 100 plus

TAX ID# _____ CITY ELECTION WARD 2

Legal Description of Property: Numerous: Attached

Address or General Location (If unknown, contact City Engineering): _____

Size of Parcel (Area & Dimensions): _____

Present Land-Use: Single Family Homes

Proposed Land-Use: Single Family Homes

Covenants or Deed Restrictions on Property: (Yes) ✓ No_____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Felton Associates INC. Charles J Felton President
(Recorded Owner)
P.O. Box 598 Frenchtown, MT 59834
(Address)
(406) 239-4964
(Phone Number) (email)

Agent(s): Kerry Martinson
(Name)
2044 Broadwater Ave Billings MT 59102
(Address)
(406) 690-5737
(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Charles J. Felton Date: _____
(Recorded Owner)

RECEIVED
JAN 03 2022
PLANNING & COMMUNITY SERVICES DEPARTMENT

Authentisign ID: 8D41C13D-D118-4BA2-B28B-0C4FC63ADE4C

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #_____- Project #_____**

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning N2 - Mid-Century Residential Neighborhood

Proposed Zoning: N3 - Suburban Residential Neighborhood

TAX ID# None; A35410, A35407 A35408, A35409, A34268 A34269 A34271 A34270 CITY ELECTION WARD 2

Legal Description of Property: See attached sheet

Address or General Location (If unknown, contact City Engineering): Emma Jean Heights

Size of Parcel (Area & Dimensions): NA

Present Land-Use: vacant

Proposed Land-Use: single family residences

Covenants or Deed Restrictions on Property: Yes X No_____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Charlie Felton

(Recorded Owner) Felton Associates

(Address) P.O. Boc 598 Frenchtown, MT 59834-0598

(Phone Number) 406-239-4964 (email) charlie.felton@yahoo.com

Agent(s): Kerry Martinson

(Name) 4 Seasons Real Estate

(Address) 2044 Broadwater Ave Suite A Billings MT 59102

(Phone Number) 406-690-5737 (email) kerry.martinson@outlook.com

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Authentisign Charles J Felton 11/29/2021 8:07:05 AM MST (Recorded Owner) Date: 11/29/2021

Date Stamp

Authentisign ID: 142C51A6-1B01-48BB-A393-3CA2A3F24D9E

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #_____ - Project #_____**

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning N2 - Mid-Century Residential Neighborhood

Proposed Zoning: N3 Suburban Residential Neighborhood

TAX ID# None CITY ELECTION WARD 2

Legal Description of Property: Emma Jean Heights 4th Block 13, Lot 14

Address or General Location (If unknown, contact City Engineering): 1357 Tania Cir

Size of Parcel (Area & Dimensions): 7,918 sf

Present Land-Use: vacant

Proposed Land-Use: single family residence

Covenants or Deed Restrictions on Property: Yes X No_____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Chamberlain Construction
(Recorded Owner)
(Address) 1506 Anchor Ave Billigns, MT 59105
(Phone Number) (email)

Agent(s): Charile Felton & Kerry Martinson
(Name) Felton Associates & 4 Seasons Real estate
(Address)
(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Authentisign 11/28/2021 9:24:57 AM MST (Recorded Owner) Date: 11/29/2021

Date Stamp

Authentisign ID: 8078A01F-CE30-4568-BB2C-3DD359877790

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #_____ - Project #_____**

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning N2 - Mid-Century Residential Neighborhood

Proposed Zoning: N3 Suburban Residential Neighborhood

TAX ID# None CITY ELECTION WARD 2

Legal Description of Property: Emma Jean Heights 4th filing Block 9, Lot 20

Address or General Location (If unknown, contact City Engineering): 1306 Tania Circle (aka 1309 Anchor Ave)

Size of Parcel (Area & Dimensions): 8,745 sf

Present Land-Use: vacant

Proposed Land-Use: single family residence

Covenants or Deed Restrictions on Property: Yes X No_____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Jerry & Sandra Stoltenberg

(Recorded Owner)

(Address) 1840 Walter Rd Billings MT 59105

(Phone Number) (email)

Agent(s): Charlie Felton & Kerry Martinson

(Name) Felton Associates & 4 Seasons Real Estate

(Address)

(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Authentisign 11/28/2021 10:41:09 AM MST Authentisign Sandra Stoltenberg 11/28/2021 10:43:30 AM MST Date: 11/28/2021

(Recorded Owner)

Date Stamp

Authentisign ID: C8F059EA-742D-49F4-89BA-E45CC34917BF

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #_____- Project #_____**

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning N2 - Mid-Century Residential Neighborhood

Proposed Zoning: N3 Suburban Residential Neighborhood

TAX ID# None CITY ELECTION WARD 2

Legal Description of Property: Emma Jean Heights 4th Block 13 Lts 7 & 8

Address or General Location (If unknown, contact City Engineering): 1327 & 1331 Tania Circle

Size of Parcel (Area & Dimensions): 7,973 sf & 8,213 sf

Present Land-Use: vacant

Proposed Land-Use: single family residences

Covenants or Deed Restrictions on Property: Yes X No_____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): KENNETH & DENISE ROESCH

(Recorded Owner)

(Address) 1415 Granite Ave Billings, MT 59102

(Phone Number) (email)

Agent(s): _____

(Name)

(Address)

(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Authentisign Kenneth Roesch 11/27/2021 2:37:04 PM MST (Recorded Owner) Authentisign Denise Roesch 11/27/2021 2:39:42 PM MST Date: 11/27/2021

Date Stamp

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #_____ - Project #_____**

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning N2 - Mid-Century Residential Neighborhood

Proposed Zoning: N3 Suburban Residential Neighborhood

TAX ID# A35382 CITY ELECTION WARD 2

Legal Description of Property: EMMA JEAN HEIGHTS SUBD 2ND FILING BLOCK 4, Lot 1

Address or General Location (If unknown, contact City Engineering): 1419 Anchor Ave

Size of Parcel (Area & Dimensions): 7,479 sf

Present Land-Use: single family residence

Proposed Land-Use: same

Covenants or Deed Restrictions on Property: Yes X No_____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): MONTAGUE, BRENT & KRISTA

(Recorded Owner)

(Address) 1419 Anchor Ave Billings MT 59105

(Phone Number) (email)

Agent(s): Charlie Felton & Kerry Martinson

(Name) Felton Associates & 4 Seasons Real Estate

(Address)

(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: [signature] Date: 12-5-21

(Recorded Owner)

Date Stamp

Authentisign ID: 4F214AE0-8A55-EC11-94F6-281878CED430

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #_____- Project #_____**

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning N2 - Mid-Century Residential Neighborhood

Proposed Zoning: N3 Suburban Residential Neighborhood

TAX ID# None CITY ELECTION WARD 2

Legal Description of Property: Emma Jean Heights 4th Block 10, Lot 3

Address or General Location (If unknown, contact City Engineering): 1312 Emma Ave

Size of Parcel (Area & Dimensions): 8,131 sf

Present Land-Use: vacant

Proposed Land-Use: single family residence

Covenants or Deed Restrictions on Property: Yes X No_____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): LIVELYNYE LLC

(Recorded Owner) 1930 VILLAGE CENTER CIRCLE #3-104

(Address) Las Vegas NV 59134

(Phone Number) (email)

Agent(s): Charlie Felton & Kerry Martinson

(Name)

(Address)

(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Authentisign Robert R. Lively Date: 12/05/21

(Recorded Owner)

Date Stamp

Authentisign ID: 3F06A961-75DF-467B-AE06-C2B594AFE947

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #_____ - Project #_____**

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning N2 - Mid-Century Residential Neighborhood

Proposed Zoning: N3 Suburban Residential Neighborhood

TAX ID# None CITY ELECTION WARD 2

Legal Description of Property: Emma Jean Heights 4th Block 13, Lt 10 & Block 10, Lot 2

Address or General Location (If unknown, contact City Engineering): 1341 Tania Cir & 1308 Emma Ave

Size of Parcel (Area & Dimensions): 10,202 sf & 8,131 sf

Present Land-Use: vacant

Proposed Land-Use: single family residences

Covenants or Deed Restrictions on Property: Yes X No_____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Green Jeans LLC
(Recorded Owner)
(Address) P.O. BOX 50597 Billings, MT 59105
(Phone Number) (email)

Agent(s): Charlie Felton & Kerry Martinson
(Name) Felton Associates & 4 Seasons Real Estate
(Address)
(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Authentisign William B Thompson 11/27/2021 5:22:10 PM MST (Recorded Owner) Date: 11/27/2021

Date Stamp

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #_____- Project #_____**

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning N2 - Mid-Century Residential Neighborhood

Proposed Zoning: N3 Suburban Residential Neighborhood

TAX ID# None CITY ELECTION WARD 2

Legal Description of Property: Emma Jean Heights 4th Filing, Block 10, Lot 9

Address or General Location (If unknown, contact City Engineering): 1410 EMMA AVE

Size of Parcel (Area & Dimensions): 8,195 sf

Present Land-Use: vacant

Proposed Land-Use: single family residence

Covenants or Deed Restrictions on Property: Yes X No_____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): RODNEY & MARY GIESLER
(Recorded Owner)
(Address) 15875 SD HIGHWAY 73 Faith, SD 57626
(Phone Number) (email)

Agent(s): Charile Felton & Kerry Martinson
(Name) Felton Associates and 4 Seasons Real Estate
(Address)
(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: X Rodney Giesler Mary Giesler Date: 12-7-2021
(Recorded Owner)

Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning:** N-2

2. **Written description of the Zone Change Plan** including existing and proposed new zoning:

   Change Zoning from N-2 TO N-3

3. **Subject Property Map**: please attach to this form

4. **Legal Description of Property**:

   numerous ; attached

5. **Neighborhood Task Force Area**: Yes /// No . If Yes, Name of Task Force and mailing address of Chairperson: Billings Heights Task force
   Ming Cabrera

6. **Roster of persons who attended the pre-application neighborhood meeting**: please attach to this form

7. **A copy of the meeting notice.** please attach to this form

8. **A brief synopsis of the meeting results including any written minutes or audio recording.** please attach to this form

9. **The undersigned affirm the following:**

   1) The pre-application neighborhood meeting was held on the 11TH, day of December, 2021.

   2) The zone change application is based on materials presented at the meeting.

Owner (s): Felton Assoc Inc. Charles Felton Telephone: (406) 239-4964
Address: P.O. Box 598 Frenchtown, MT 59834 Email: Charlie.felton@Yahoo.com
Cindysoffice@Yahoo.com

Agent (s): Kerry Martinson Telephone: (406) 690-5737
Address: 2044 Broadwater Ave Email: Kerry.martinson@outlook.com
Billings, MT 59102

Authentisign ID: 6FF230A3-9C53-EC11-9820-0050F210F5C6

December 2, 2021

Dear Property Owner,

This letter is to inform you of an informational meeting regarding a zoning change for Emma Jean Heights Subdivision, 4th Filing, that is being made to the city of Billings. The meeting will be held at 1410 Jean Avenue in the Emma Jean Heights Subdivision on December 11, at 10:00 am.

As you may or may not know, the city recently adopted a new Zoning Code for the entire city. The 1st, 2nd, and 3rd Filings in the Emma Jean Heights Subdivision are now zoned N-3. This is labeled by the city as suburban residential zoning and homes that have been built in the subdivision meet this zoning guideline. The 4th Filing (new filing with vacant lots available) has been zoned N-2, which is labeled by the city as mid 20th century zoning and does not allow for many of the features found in the style of homes that have been and are currently being built in the subdivision. This issue came to the developer's attention when it was discovered that the homes currently being built (and approved by the city) were apparently approved in error after the new zoning took effect. Other than the public hearings regarding the new Zoning Code, there was no notice by the city and it is still not clear to the developer why the change was unilaterally made. There had been no notice by the city of the change that was made and it is still unclear as to why. The City of Billings is requiring the developer and land owners of 4th Filing lots formally apply to change the zoning district to N-3, a zoning designation that will match the rest of the subdivision. It is the city's position that it does not "zone downward", but it is the position of the developer that the 4th Filing has been zoned downward so that the zoning request change will be submitted to protect Subdivision property values.

Attached you will find the city supplied definitions of N-2 and N-3 zoning, the legal descriptions of the Emma Jean 4th Filing lots, map of Subdivision showing current zoning, as well as the contact information for the current owners of affected lots.

Developer, Charles Felton, believes this is in the best interest of all lot owners in the Subdivision to maintain the attractive look and desirability of the Subdivision. 100% of the builders currently building in the 4th Filing of the Subdivision have signed the application for the requested change as well. The developer will be present at the meeting to answer any questions you may have regarding the proposed change to N-3 zoning to conform with the rest of the Subdivision.

Sincerely,

Authentisign
Charles J Felton

Charles Felton
(406) 239-4964
1616 Bitterroot Drive
Billings, MT 59105

SECTION 27-306 N3 DISTRICT

The following site and structure regulations apply to any lot in the N3 district. Refer to 27-303 for general regulations applicable to all districts and Table 27-300.5, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(3). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-300.5 : SITE AND STRUCTURE REGULATIONS

	A. BUILDING SITING		REFERENCES
1	Minimum Lot Width (feet) per principal building Minimum Lot Size (square feet) per principal building	65 none	See Article 27-1500 existing lots of record. See 27-306.C for exemption from minimum lot widths.
2	Maximum Building Width (feet)	None	
3	Front Setback (feet)	20 minimum	
4	Street-Side Setback (feet)	10 minimum	
5	Side Setback (feet) Space Between Principal Buildings on Lot (feet)	5 minimum 10 minimum	
6	Rear Setback (feet)	5 minimum	
7	Accessory Building Yard Location	Rear	
8	Accessory Building: Rear Setback (feet)	5 minimum, except 0 at alley	
9	Maximum Total Building Coverage (%)	40	
10	Permitted Driveway Access Location	Any	See BMCC Section 6-1200 for driveway access standards.
11	Attached Garage Entrance Location	Any façade; front façade limited to no more than 50% of façade	
	B. Height		
	Principal Building: Maximum Height (stories) Maximum Height (feet)	3 34	See Article 27-1800 for instructions for measuring height.
	Accessory Building: Maximum Height (stories)	1.5 stories, no taller than the principal building	Accessory roof pitch shall match principal building

SINGLE-UNIT HOME

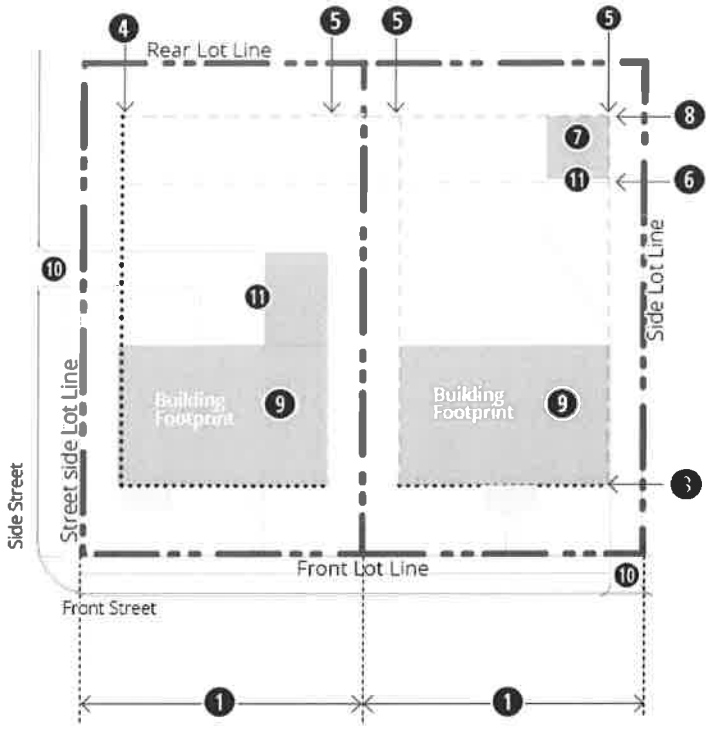


Figure 27-300(3). N3 district diagrammatic plan.

C. Supplemental Regulations

Lots on cul-de-sacs and flag lots are exempt from minimum lot width regulations. See also Article 27-1500, Nonconformities, for existing lots of record.

SECTION 27-305 N2 DISTRICT

The following site and structure regulations apply to any lot in the N2 district. Refer to 27-303 for general regulations applicable to all districts and Table 27-300.4, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(2). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-300.4 : SITE AND STRUCTURE REGULATIONS

	A. BUILDING SITING		REFERENCES
1	Minimum Lot Width(feet) per principal building Maximum Lot Width (feet) per principal building	50 120	See 27-305.D for 2-unit buildings. See Article 27-1500 existing lots of record.
2	Maximum Front Building Width (feet)	80 per principal building	
3	Front Build-to Zone (feet)	10-20; match block face average	See Article 27-1800 for block face averaging instructions
4	Street-Side Build-to Zone (feet)	10-15	
5	Side Setback (feet) Space Between Principal Buildings on Lot (feet)	5 minimum 10 minimum	
6	Rear Setback (feet)	5 minimum	See 27-305.D for side street lots
7	Accessory Building Yard Location	Rear	
8	Accessory Building: Rear Setback (feet)	3 minimum, except 0 at alley	
9	Maximum Total Building Coverage (%)	40	
10	Permitted Driveway Access Location	Any	See BMCC Section 6-1200 for driveway access exceptions
11	Attached Garage Entrance Location	Any façade; front façade limited to no more than 50% of façade	
	B. HEIGHT		
12	Principal Building: Maximum Height (stories). Maximum Height (feet)	1.5; 2 stories on maximum 60% of footprint except as provided in 27-305.D 27	
13	Accessory Building: Maximum Height (stories)	1.5 stories, no taller than the principal building	Accessory roof pitch shall match principal building
	C. WINDOWS, FRONT DOOR, ROOF		
14	Minimum Window & Door Coverage: Front Façade (%)	15 per story	Measured per each full and half story. See Article 27-1800 for information on measuring window and door facade coverage
15	Front Door Location	Street Façade	See 27-305.D for 2-unit buildings.
16	Permitted Roof Types Minimum pitch Maximum pitch	Low pitched, flat 3:12 (rise:run) 6:12 (rise:run), except as provided in 27-305.D	See Article 27-1800 for definition of roof types and exception for other allowed roof types.

SINGLE-UNIT OR TWO-UNIT HOME

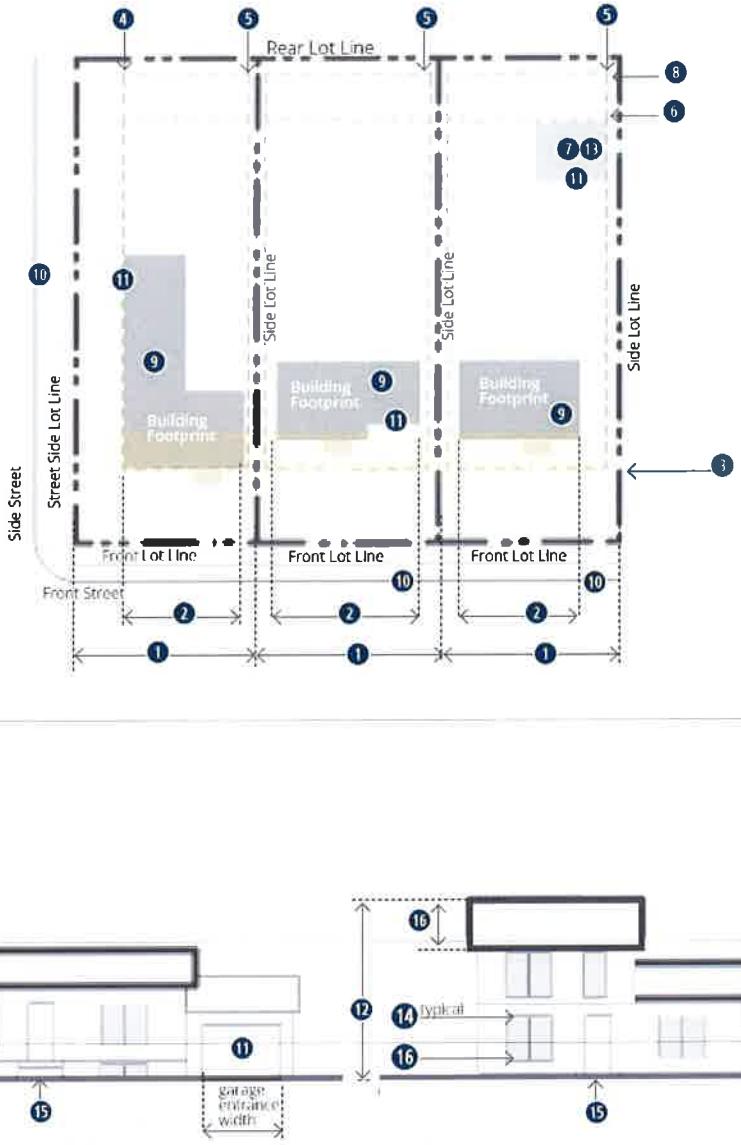


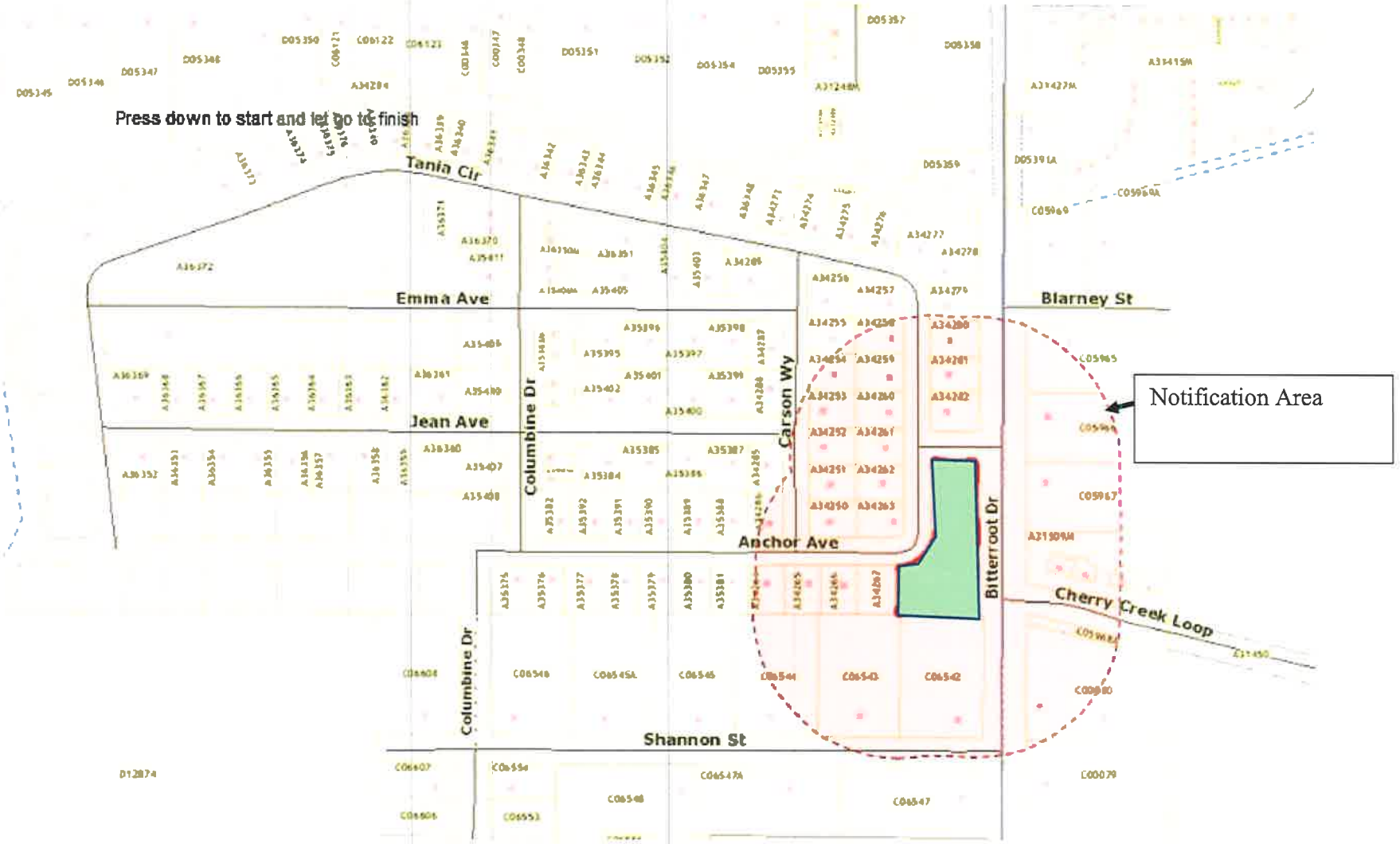
Figure 27-300(2). N2 district diagrammatic plans and elevations.

D. Supplemental Regulations

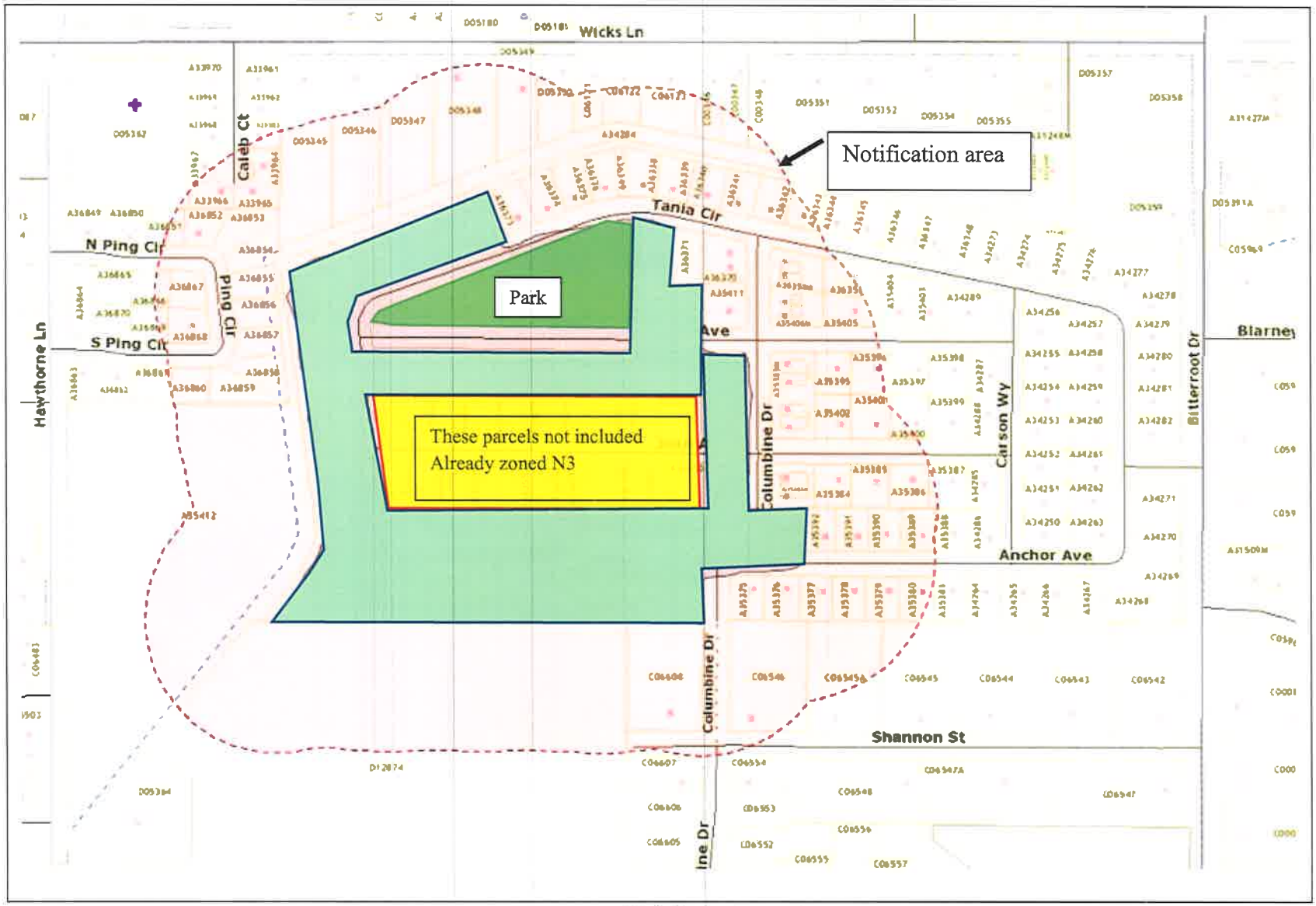
1. Side Street Lots. Side street lots are those lots located along the short end of blocks, where the front of the lot faces the side street and the depth of the lot is generally the width of most of the lots on the block. Lots with only side street frontage are allowed maximum building coverage of 80%.
2. The following standards apply to 2-unit buildings:

   (a) Configuration. Allowed configurations include the following: side-by-side per below, stacked units, front and rear units, all located in the principal building; two principal buildings on one lot; or a principal building with an accessory building (see Article 27-1000).

      1. Garage entrances located on the front façade are limited to no more than 50% of the front façade width.
      2. Up to two front door entrances are permitted on the street façade (Table 27-300.4.C)
      3. Principal buildings may have two stories for the entire footprint of the structure.
      4. Roofs may exceed the 6:12 maximum roof pitch.



300 ft radius map – parcels in Emma Jean Heights 1st Filing – Zone Change N2 to N3



300 ft radius map Emma Jean Heights 2nd and 4th Filing Lots Zone Change N2 to N3

Map above indicates Emma Jean Heights Subdivision 1st, 2nd, 3rd, and 4th Filings

City provided Definitions of N-2 and N-3 Zoning below. Note that existing homes in Emma Jean Heights do not meet N-2 Zoning Guidelines.

N2: MID-CENTURY NEIGHBORHOOD RESIDENTIAL The N2 district is intended to continue the existing character of the residential neighborhoods with single-and two-family homes developed during the middle of the twentieth century. This district may also be used for new neighborhoods designed with similar characteristics of the mid-century neighborhoods. These characteristics include homes wide on the lot, proportionate garages located in the front façade, low pitched roofs, and doors and windows on the front facades. Building and garage location are specified in the regulations, with basic parameters for front doors and windows

N3: SUBURBAN NEIGHBORHOOD RESIDENTIAL The N3 district is intended for residential neighborhoods primarily with single-family homes. Characteristics include wide lots and attached garages typically located on the front building façade, often greater than 35% of the façade. Basic setback and height parameters apply.

Pre application Statement of Owner or Agent

Re: Zone change request – 4th Filing of Emma Jean Heights Subdivision

The zone change from N-3 to N-2 would be inconsistent with the intent for single family homes. With the changes in the set backs in the front and back of new hoes with current N-2 zoning, it would be a great contrast with the already over 100 homes built and would seriously change the look of homes built in the subdivision. It is not the intent of the developer to change the look or characteristics of the subdivision. I believe the changes made by the Zoning and Planning Department would diminish the number of future lot sales, and devaluate the value of existing homes and lots. I have already lost many lot sales over the erroneous change of zoning for the 4th filing and have had threats of lawsuits for recent lot sales against myself and my Realtor, Kerry Martinson.

There is a great need for single family homes with -3 zoning. N-3 zoning protects people with existing homes in the subdivision from box like looking homes and from multi family homes being built in the subdivision, now that multifamily homes can be built on a 7000 sf lot. With regard to Emma Jean Heights Subdivision, any multifamily builds would create parking issues and would inundate the streets with parked cars and trucks making travel and snowplowing a challenge. In closing, I would ask to change the zoning of the 4th filing of the subdivision to an N-3 designation that would be consistent with the current homes built in the subdivision and would better reflect the old zoning of R-7000. I also have several 4th filing lot sales pending with a contingency in each contract of the approval by the City of Billings for zoning of those lots to be changed to N-3.

Emma Jean Heights is a planned development in the Billings Heights of approximately 60 acres in size with an estimated build out of 190 lots. The master plan was approved in 2007 after a lengthy process with the City of Billings departments, HKM Engineering and the Developer. Covenants and restrictions were drafted with input of the City of Billings and to reflect the developers desire to create a subdivision of mostly single family homes. The property was also annexed into the City of Billings so that the developer could create a higher density and provide city services of water, sewer, and garbage collection as well as public transportation to the residents of the subdivision. A land dedication of greater than 11% was granted by the developer to provide for a large city park and a walking path that runs through the entire subdivision from Bitterroot Drive to Hawthorne Avenue. As part of the agreement, it was agreed that the trail would be constructed by the developer as part of the development cost. A list of street names were provided to the Fire Marshall and through interaction between the developer and the Fire Marshall, street names were chosen so that emergency personnel would

EMMA JEAN HEIGHT REZONE MEETING
DEC 11, 2021
ATTENDEES

	FULL NAME *	PHONE *	REASON
1	William C. Ulrickson	406 480-1462	
	EMAIL	willcuband@yahoo.com	
	FULL NAME *	PHONE *	REASON
	Phyllis A. Ulrickson	406-480-2673	
	EMAIL		
	FULL NAME *	PHONE *	REASON
3	ARDENE BIERWAGEN	406-598-8803	
	EMAIL		
	FULL NAME *	PHONE *	REASON
	Susan Schleining	406.208.5785	
	EMAIL	*Prefer hockey59102@hotmail.com	
	FULL NAME *	PHONE *	REASON
5	Terry & Schleining	406-281-0524	Meeting
	EMAIL	wrangway59105@hotmail	Dec 11-10 AL
	FULL NAME *	PHONE *	REASON
	Ross McCulloch	406 860 4586	
	EMAIL	bttrekker@bresnan.net	
	FULL NAME *	PHONE *	REASON
7	Stan Kondracki	406-698-7079	
	EMAIL	[illegible]@bresnan.net	
	FULL NAME *	PHONE *	REASON
	Scott Helmbrecht	406-672-5552	
	EMAIL	Scottegel@hotmail.com	
	FULL NAME *	PHONE *	REASON
9	Brianna Monahan	760-914-1726	
	EMAIL	briemonahan91@gmail.com	
	FULL NAME *	PHONE *	REASON
	William Thompson	406.850.9765	
	EMAIL		

EMMA JEAN HEIGHT REZONE MEETING
DEC 11, 2021
ATTENDEES

	FULL NAME *	PHONE *	REASON
11	STEVEN SPRAGUE SR	406 480 0863	
		EMAIL STEVENSPRAGUE_SR@YAHOO.COM	
	FULL NAME *	PHONE *	REASON
	GARY BECKER	406 696-9940	CONCERNS ??
		EMAIL gbecker64@gmail.com	
13	FULL NAME * Jerry Stoltenberg	PHONE * 406-698-8309	REASON Lot Owner
		EMAIL Wrench242t@gmail.com	
	FULL NAME *	PHONE *	REASON
	Jason Cummings	6265270475	Owner in the Neighborhood
		EMAIL cummingsjg@hotmail.com	
15	FULL NAME * Vanessa Cummings	PHONE *	REASON "
		EMAIL vanessa.ovando@gmail.com	
	FULL NAME *	PHONE *	REASON
	Lindsey Wright Jacob Wright	(406) 671-0785	
		EMAIL	
17	FULL NAME *	PHONE *	REASON
		EMAIL	
	FULL NAME *	PHONE *	REASON
		EMAIL	
19	FULL NAME *	PHONE *	REASON
		EMAIL	
	FULL NAME *	PHONE *	REASON
		EMAIL	

Synopsis of meeting for preapplication neighborhood meeting for request of rezone of Emma Jean Heights

Meeting was held at 1410 Jean Avenue Billings, MT on December 11, 2021 at 10:00 am

Several people from the community attended the meeting and they are documented on the attached attendees list with contact information.

Charlie Felton and Kerry Martinson explained the chain of events in a chronological order, including summarizing e mail chain between city employees, Charlie Felton & Kerry Martinson that prompted the rezoning request after discovering that the 4th filing of the subdivision had been rezoned to an N-2 designation in late November.

Multiple attendees questioned why the change was made and voiced that they are unhappy with the change to N-2 zoning. All attendees were surprised and concerned that the city has the ability to rezone property without notifying property owners. City documents describing N-2 and N-3 zoning and a map of lots in subdivision were provided in all mailings with notice of meeting. The differences between homes and setbacks for the 2 zoning designations were discussed at length. Beau Thompson, owner of Thompson Homes and longtime builder in the subdivision shared how the changes have negatively impacted him.

100% of attendees agreed that they are unhappy with the city decision to change the 4th filing to an N-2 zoning designation, that homes built meeting N-2 zoning will damage the aesthetics of the subdivision, and fear that their property values will decline if N-2 zoning remains in place. 100% of attendees are supportive of change to N-3 Zoning. There was a large amount of frustration with the city voiced by attendees, as there is no understanding why this change was made. Charlie Felton then explained the city position that 2 family homes can be built on the lots and that he is only intending to have single family homes built in the future.

Discussion ensued between attendees and they agreed that they will be reaching out to city council members to encourage the zoning to be changed to N-3 as well as actively encouraging the city to make the zoning change to an N-3 designation. The meeting ended at 10:50 am.

Synopsis prepared by Kerry Martinson

SUBJECT PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
SURROUNDING PROPERTY	**Zone Change #**	**DATE**	**FOR**	**APPROVED (Y/N)**	**ADDITIONAL DATA**
Lot 2, Block 1 Cherry Creek Estates	**County ZC 496**	Feb 1998	A-1 to R-70 and RMH	Withdrawn	
	City ZC 633	April 1998	A-1 to R-70	Withdrawn	Northern lot on Wicks Lane
	County ZC 506	August 1998	A-1 to R-96	Approved	Riverview Estates east of Cherry Creek
	County ZC 524	Dec 1999	A-1 to PD with RMH & Public zones	Denied	BOCC recommended annexation
	County ZC 541	April 2001	A-1 to R-96 & Public	Approved	Subject Property
	County ZC 543	May 2001	A-1 to RMH & Public	Approved	Litigated & BOCC Decision Affirmed
	County ZC 551	March 2002	Clarifying Zone Boundaries R-96 & Public	Approved	
	City ZC 696	April 2002	A-1 to RMH, RMH to Public & R-96 to Public	Withdrawn	Mistaken submittal by agent
	City ZC 702	July 2002	RMH & Public to R-96	Denied	City Council initiated after annexation in June 2002
	City ZC 703	10/6/2020	R96 to R80	Denied	
	City ZC 983	7/27/2020	P to R80	Withdrawn	
	County ZC 562	July 2003	A-1 to R-96	Approved	Small area east of MHP
	County ZC 673	March 2016	R-96 to RMH	Withdrawn	Subject Property
Cherry Island Est	**City ZC 995**	9/13/2021	RR1 to P1 & N3	y	
Bitterroot Sub, Lt 1-16, bk1	**City ZC 673**	9/14/98	R7 to R96	Y	
Bitterroot Heights	**City ZC 751**	2/14/05	R7 to R7R	Y	
1922 – 1950 Mary St	**County ZC 85**	4/27/1976	R-70 to RMH	Y	Court reversed ZC
1415 Yellowstone River Rd	**County ZC 312**	1/22/1982	R-70 to Public	Y	Eagle Cliff Nursing Home
1817 Bitterroot Dr	**County ZC 371**	11/84	R-70 to R-60	Withdrawn	Annexed
Bitterroot Dr & Walter Rd	**County ZC 505**	9/28/1998	R-70 to R-96	Y	Multiple owners adjacent to Cherry Creek
1601 – 1747 Wicks Ln	**City ZC 637**	9/14/1998	R-70 to R-96	Y	Multiple owners adjacent to Cherry Creek
Caleb Park Hawthorne & Wicks Ln	**City ZC 761**	9/20/2005	R-70 to R-50	Y	Townhomes

ORDINANCE 22-_____
AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE ZONE CLASSIFICATION ON Block 2, Lots 12-15, Emma Jean Heights Sub. 1st , Filing, Block 4, Lot 1, Block 9, Lots 10 & 11, Block 10, Lots 10 & 11, Block 19, Lot 1, Emma Jean Heights Sub 2nd, Block 8, Lots 1-20, Block 9, Lots 12-20, Block 10, Lots 1-9, and Block 11, Lot 4, Block 13, Lots 2-14, Emma Jean Heights Sub 4th filing, BE AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. **RECITALS.** *Title 76, Chapter 2, Part 3, MCA,* and *Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

Section 2. **DESCRIPTION.** **Block 2, Lots 12-15, Emma Jean Heights Sub. 1st , Filing, Block 4, Lot 1, Block 9, Lots 10 & 11, Block 10, Lots 10 & 11, Block 19, Lot 1, Emma Jean Heights Sub 2nd, Block 8, Lots 1-20, Block 9, Lots 12-20, Block 10, Lots 1-9, and Block 11, Lot 4, Block 13, Lots 2-14, Emma Jean Heights Sub 4th filing**, is presently zoned **Mid-Century Neighborhood Residential (N2)** and is shown on the official zoning map within this zone.

Section 3. **ZONE DISTRICT AMENDMENT.** The official zoning map is hereby amended and the zoning for **Block 2, Lots 12-15, Emma Jean Heights Sub. 1st , Filing, Block 4, Lot 1, Block 9, Lots 10 & 11, Block 10, Lots 10 & 11, Block 19, Lot 1, Emma Jean Heights Sub 2nd, Block 8, Lots 1-20, Block 9, Lots 12-20, Block 10, Lots 1-9, and Block 11, Lot 4, Block 13, Lots 2-14, Emma Jean Heights Sub 4th filing,** is hereby changed from **Mid-Century Neighborhood Residential (N2) to Suburban Neighborhood Residential (N3)**, and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining **Suburban Neighborhood Residential (N3)** as set out in the Billings, Montana City Code.

Section 4. **EFFECTIVE DATE**. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 5. **REPEALER**. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

***Section 6*. 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 28th day of February, 2022.

PASSED, ADOPTED and APPROVED on second reading this 14th day of March, 2022

CITY OF BILLINGS

BY:_____

William A. Cole, Mayor

Attest:

BY:_____

Denise R. Bohlman, City Clerk

Zone Change 1007, Emma Jean Heights

City Council Regular

Date:	02/28/2022
Title:	Joint Public Hearing and Resolution- Annexation 22-02
Presented by:	Monica Plecker
Department:	Planning & Community Services
Presentation:	Yes

RECOMMENDATION

Staff recommends the City Council hold a public hearing. In this case, a joint public hearing that considers both the annexation and associated zone change. Upon completion of the hearing, staff recommends the City annex the petitioned property with the staff recommended conditions of approval.

NOTE: Though a joint hearing is being held, individual action will need to be taken on each item.

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

Highlands ZHP Subdivision LLC, L & L ZHP Subdivision LLC and Ludwig Consulting, LLC submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located in the Zimmerman Home Place Subdivision. The land being annexed is described as Lot 1, Block 1, Lot 1, Block 2 and Lot 1, Block 3 of Zimmerman Home Place Subdivision, First Filing, recorded April 17, 2017, under Document No. 3811344; Also including all adjacent Right-Of-Way of Colton Boulevard, Avenue D, Avenue E and Green Valley Drive. Said annexation containing 54.684 gross and 48.788 net acres.

The property which contains multiple parcels is zoned a combination of districts including Neighborhood Office, Public 1, Neighborhood 3, and Mixed Residential 1 & 3. These are zoning districts recognized by the City and the County, however, the developer is wishing to change some districts therefore an accompany zoning application will be reviewed by City Council. The accompanying zoning application proposes to change the property to a Planned Neighborhood Development (PND), incorporating multiple zones and open space. The Neighborhood PND is a newly adopted tool specifically designed to incorporate at a minimum, 1 Mixed Use district, 1 Neighborhood district and open space. Zone Change 1009 is an accompanying application that the Council will consider. A joint public hearing to consider both the annexation and zone change will be held on February 28, 2022.

It is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. Staff finds the proposed annexation complies with the adopted Annexation Policy criteria as follows:

1. The area is located within the City's Annexation Petition Area on its Limits of Annexation Map.
2. The City is able to provide adequate city services within a time period mutually agreed to by the property owners requesting annexation and the city.
3. Existing or proposed public improvements within the area to be annexed will meet City standards.
4. All property owners within the area to be annexed must sign a Waiver of Right to Protest future Special Improvement Districts.
5. If annexed, any proposed land use will comply with the zoning.

Departmental Response: City and County Departments were given the opportunity to comment on this annexation. City departments responded favorably and detailed responses are provided below. The County Public Works Department did not respond to this annexation request.

- Water and Sanitary Sewer: Public water and sanitary sewer service is available to the property proposed for annexation. Extension of the public mains shall occur at the time of lot development. More specifically, the developer will be required to extend mains in Green Valley Drive and Avenue E along the Developer Tracts frontage for sanitary sewer and water.
- Storm water: Any development will be compliant with the adopted Stormwater Management Manual. There is an existing 15-inch storm drain pipe located at the intersection of Avenue E and Green Valley Drive. The Developer is required to extend the storm drain piping in the right-of-way as needed in order manage the storm drainage for the public right-of-way.
- Transportation: The subject property will be accessed by way of Green Valley Drive and Avenue E.
- Fire Stations: The Billings Fire Department currently serves the subject property through the Billings Urban Fire Service Area agreement. The Billings Fire Department will continue to serve the property upon annexation. As this and additional annexations are built out, additional fire department resources will be needed in order to meet and maintain our high level of service due to the increased call volume and burden on our department these

annexations will create. The nearest fire station is Fire Station #7, located at Grand and 54th, about 2.93 road miles or 5 minutes driving time to the subject property.
- Parks: The Parks department is aware the development intends to utilize private park space so no creation or expansion of a Parks Maintenance District is required. The Developer will be required to construct a 10' wide trail along the south side of Colton Boulevard along the frontage of the parcels being annexed.
- School facilities: Portions of the proposed property will be used for residential development. With residential growth comes demand on the school system the School district has noted west end schools have faced capacity issues for some time.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property, however the Fire Department in its comments above did note its concerns as additional property is annexed into the City.

- Transit: The proposed property is not currently served directly by a bus route; closest routes in proximity to the property are 24-Poly (which is .25 miles to the north, traveling east and west on Poly Drive) and 5A/5B-Grand (which is .5 miles to the south, traveling east and west on Grand Ave). Bus service on Grand Ave will continue for the foreseeable future; Poly service may be modified depending on the outcome of METs currently in process Transit Development Plan. However, as the area does continue to see commercial growth mixed with residential, MET anticipates fixed route bus service will continue in the area in some fashion.
- Police: The Police Department staff stated there are no issues with this area or annexing the property. The parcel is located in a well established patrol zone. Ingress/egress is sufficient and officers are frequently in the area.
- Public Utilities: The Public Works-- Distribution and Collection Division had no concerns with the annexation request.
- Public Works -Street and Traffic Division: The Street and Traffic Division stated that it has no concerns with serving the property.
- Public Works-Solid Waste: The Solid Waste Division had no concerns with annexing the property, but pointed out that State Law allows the property owner to choose what garbage hauler may service the property after it is in the City.
- Ambulance Service: The City does not provide ambulance service, however it does dictate the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes. Depending on factors at any given time such as traffic and congestion, this property may be within the area of acceptable response time.
- Legal and Finance: General Fund services, such as the Legal and Finance Departments should not be negatively impacted by this annexation.
- Other Departments: City/County services including Library, Planning, and Environmental Health are only slightly affected by the annexation since they will continue to serve the property whether it is in the City or the County. The Planning Division staff supports the annexation because this subdivision was originally created with the sole intent of developing in the City. The Subdivision Improvement Agreement requires annexation prior to development of any lot. The general area of Zimmerman Home Place Subdivision is surrounded by the City. Development of these parcels in the city is critical.

STAKEHOLDERS

Annexation by petition does not require notification of adjoining landowners; however, it does require that the City Council conduct a public hearing, advertise the hearing, and post the property with information on the annexation petition and public hearing. Notice of the public hearing was posted on the property and was advertised in the Yellowstone County News.

ALTERNATIVES

The City Council may approve or deny the petition for annexation. Denial of the petition will mean the City Council cannot consider other agenda items related to this property regarding the development agreement and zoning. On January 3, 2021, the annexation petition was submitted to the Planning Division by the owner's agent. On February 28, 2022, the City Council is scheduled to take action on the petition in combination with considering a zone change.

FISCAL EFFECTS

This application has no impact on the Planning Division Budget.

Attachments

Annexation Resolution

Limits of Annexation Map

RESOLUTION NO. 22 -

A RESOLUTION APPROVING PETITION FOR ANNEXATION AND ANNEXING TERRITORY TO THE CITY.

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law; and

WHEREAS, annexation of said territory would be in the best interest of the City.

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

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

Tracts of Land situated in the SW 1/4 of Section 34, T.1N., R.25E, P.M.M., Yellowstone County, Montana, more particularly described as:

Being Lot 1, Block 1, Lot 1, Block 2 and Lot 1, Block 3 of Zimmerman Home Place Subdivision, First Filing, recorded April 17, 2017, under Document No. 3811344; Also including all adjacent Right-Of-Way of Colton Boulevard, Avenue D, Avenue E and Green Valley Drive.

Said annexation containing 54.684 gross and 48.788 net acres.

(# 22-02) See Exhibit "A" Attached

2. CONDITIONS. The annexation is approved, subject to the following conditions:

- Within 45 working days and prior to site development, a mutually acceptable Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and right-of-way dedication, provide guarantees for said improvements, and include a Waiver of Right to Protest the Creation of Special Improvement Districts which will be recorded with the Yellowstone County Clerk and Recorder.

If the above conditions are not satisfied as set forth herein, the annexation will not be effective and any subsequent requests for annexation of the property legally described within this resolution shall be processed as a new petition for annexation.

4. EFFECTIVE DATE. This resolution to annex the above-described territory shall be effective immediately upon satisfaction of all conditions. If the above condition(s) are not satisfied, this resolution shall be null and void and shall have no effect.

5. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the 28th day of February , 2022.

CITY OF BILLINGS:

BY: _____

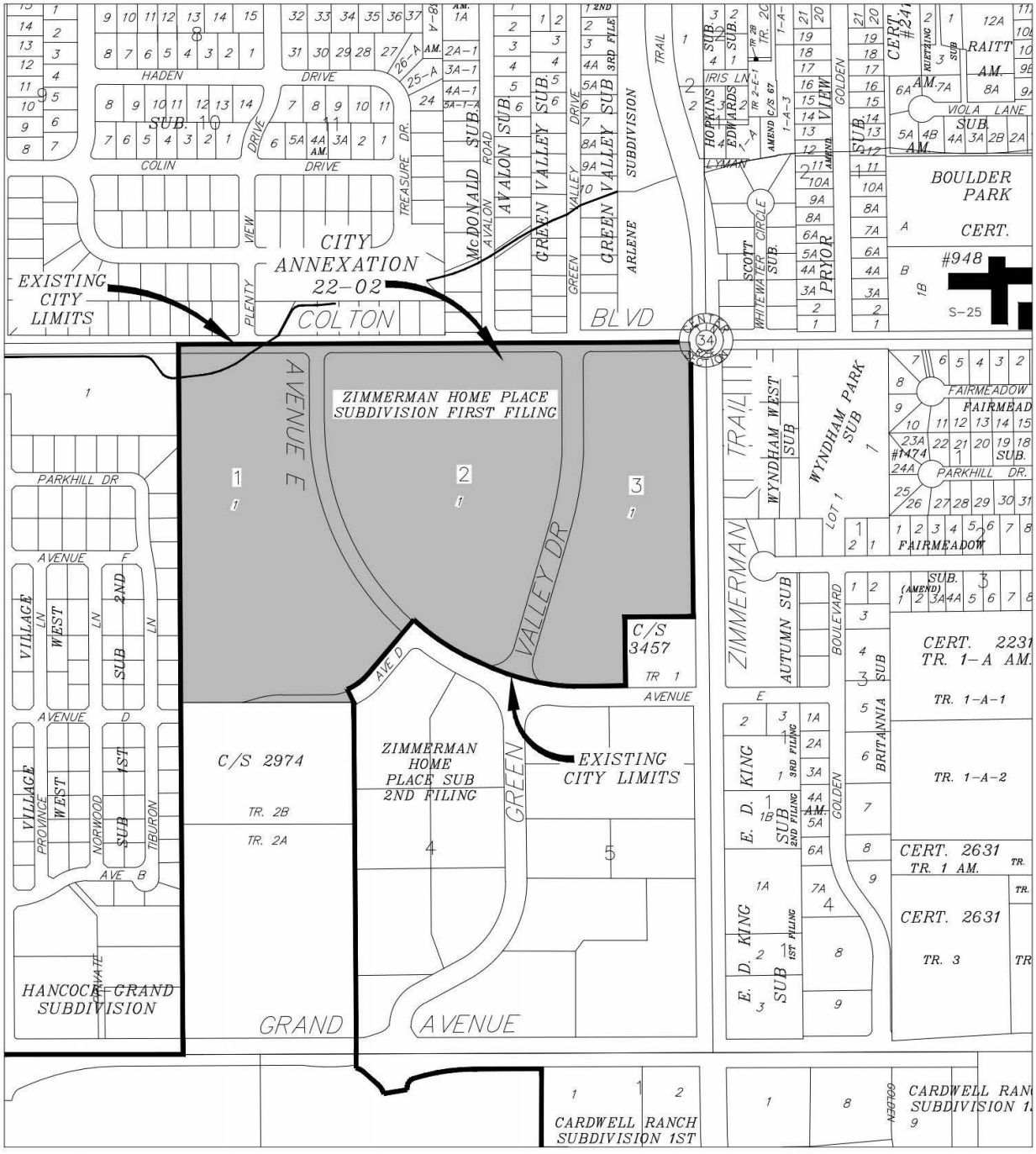
William A. Cole, Mayor

ATTEST:

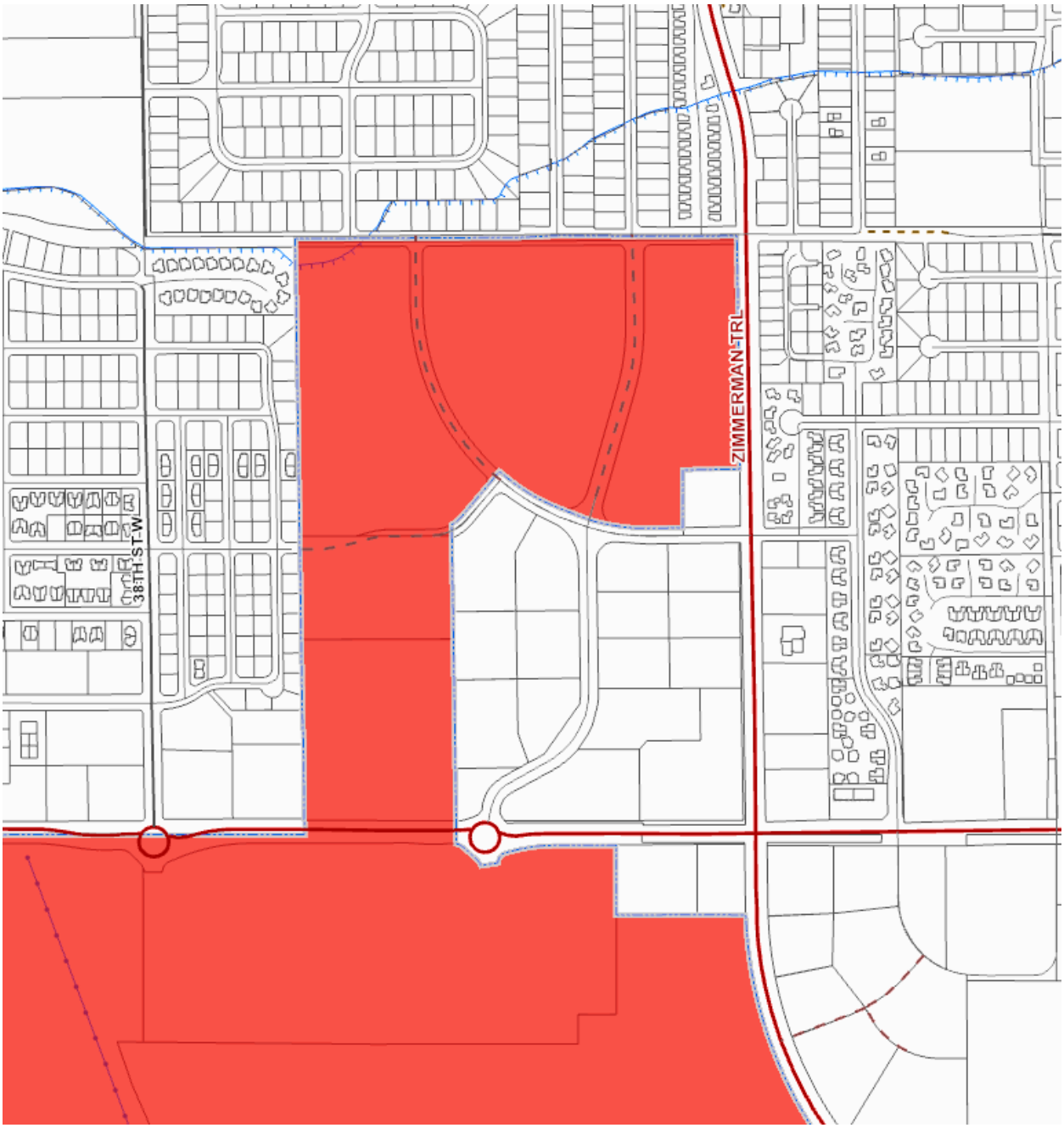
BY: _____

Denise R. Bohlman, City Clerk
(# 22-02)

EXHIBIT "A"


CITY ANNEXATION 22-02
EXISTING CITY LIMITS
ZIMMERMAN HOME PLACE SUBDIVISION FIRST FILING
EXISTING CITY LIMITS
ZIMMERMAN HOME PLACE SUB 2ND FILING
C/S 2974
TR. 2B
TR. 2A
C/S 3457
TR 1
HANCOCK-GRAND SUBDIVISION
CARDWELL RANCH SUBDIVISION 1ST
CARDWELL RANCH SUBDIVISION 1
CERT. 2231 TR. 1-A AM.
TR. 1-A-1
TR. 1-A-2
CERT. 2631 TR. 1 AM.
CERT. 2631 TR. 3
BOULDER PARK CERT. #948
VIOLA LANE
FAIRMEADOW
PARKHILL DR.
WYNDHAM WEST SUB
WYNDHAM PARK SUB
ZIMMERMAN
AUTUMN SUB
BRITANNIA SUB
E. D. KING 1ST FILING SUB
E. D. KING 2ND FILING SUB
E. D. KING 3RD FILING SUB
GREEN VALLEY SUB
GREEN VALLEY SUBDIVISION
AVALON SUB
McDONALD SUB
HADEN DRIVE
COLIN DRIVE
TREASURE DR.
VIEW DRIVE
PLENTY
COLTON
AVENUE E
VALLEY DR
AVE D
AVENUE F
AVENUE D
AVE B
GRAND AVENUE
GREEN VALLEY BLVD
GOLDEN VIEW
PARKHILL DR
TRAIL
BOULEVARD
LOT 1

Limits of Annexation Map



City Council Regular

Date:	02/28/2022
Title:	Zone Change 1009 - Zimmerman Home Place
Presented by:	Nicole Cromwell
Department:	Planning & Community Services
Presentation:	Yes

RECOMMENDATION

The Zoning Commission recommends approval and adoption of the findings of the 10 review criteria for Zone Change 1009.

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

This is a zone change request for two lots within the Zimmerman Home Place Subdivision that are requesting annexation to the city. The current zoning was updated from the previous County adopted zoning of Residential 7,000, Residential 5,000, Residential 9,600, Public and Residential Multi-family-Restricted was adopted by the County in August 2016. When the County and City updated the zoning regulations in 2020 and 2021, new zoning districts were placed on these two lots that reflected to the maximum extent the previous zoning districts. The current zoning of these lots is N3 - Suburban Neighborhood (1 family dwellings), NX1 - Mixed Residential (1-4 family dwellings), NX3 - Mixed Residential 3 (5 and up attached dwellings), and P1 - Parks and Open Space. The arrangement of the current zoning districts is shown on the Zoning Map attachment. The proposed zoning intends to eliminate the N3-Suburban Neighborhood zoning from the northern edge of Lot 1 in Block 2 and replace it with N2 - Mid-century Neighborhood (1 and 2 family dwellings). The applicant also proposes to re-arrange the P1 zoning to be more distributed throughout the NX3 zone district and increases the area from 2.67 acres in Lot 1, Block 2 to 4.32 acres. In Lot 1 of Block 1, the applicant proposes to eliminate the 4.79 acres of N3 zoning on the northern part of the parcel and replace it with 1.02 acres of P1 adjacent to Colton Boulevard and 3.77 acres of NX1 zoning. This will match the southern 12.90 acres of existing NX1 zoning in Lot 1 Block 1.

APPLICATION DATA

OWNER: Highlands ZHP Subdivision LLC, Preston Lees
AGENT: Performance Engineering, Robert Neihart, P.E.
LEGAL DESCRIPTION: Lot 1, Block 1 and Lot 1, Block 2, Zimmerman Home Place Subdivision
CURRENT ZONING: N3, NX1, NX3 and P1
EXISTING LAND USE: Agriculture
PROPOSED USE: Mixed Residential development with 1-2 family as well as multi-family dwellings
SIZE OF PARCEL: 36.66 acres

CONCURRENT APPLICATIONS:

Petition for Annexation 22-02

SURROUNDING ZONING AND LAND USE:

NORTH: Zoning: N3 - Suburban Neighborhood
Land Use: 1 family dwellings
SOUTH: Zoning: RR1 (County), NMU and CMU1(City)
Land Use: Vacant land
EAST: Zoning: NO - Neighborhood Office
Land Use: Vacant
WEST: Zoning: N2 and N3
Land Use: 1 and 2 family dwellings

This area of Billings has been developing over the past 10 to 15 years following the connection of Zimmerman Trail through the Yegen Family Grand Avenue Farm and the major reconstruction of Shiloh Road, another major north/south connection. The Zimmerman family chose to zone the property outside the city limits in 2016, and then market the pre-entitled property to developers who would then annex and build within the city limits. In 2017, Town Pump bought all the commercially zoned property on the southeast corner of the subdivision and put in a new gas station, convenience food store, liquor store and casino. The northern lots of the Zimmerman Home Place subdivision are the subject of this proposed re-arrangement of zoning boundaries. Block 3, Lot 1 will remain in its current zone district of Neighborhood Office (NO) and is being annexed along with Blocks 1 and 2.

Village West Subdivision (west of the subject parcels) began building out in 2005. The subdivisions to the north - Poly Vista and Green Valley - are older subdivision that have homes built in the late 1970s through the 1980s, 1990s and 2000s. The unit ownership development just the west of Zimmerman Trail (Icewine Drive) was built in the 2010s after the completion of Zimmerman Trail south of Poly Drive.

Housing demand reached a high level in 2021 and the trend continues into 2022. Supply of all types of housing choices has not kept up with the demand. At least two decades ago, local planning and growth policy documents indicated a need for independent living units for aging residents who want to "downsize" from a maintenance heavy single family dwelling on a large lot to unit ownership or townhomes as well as rental apartments. The 2010 Census indicated Billings, like many other urban areas, saw a reduction in average household size to 2.3 persons. Smaller households, aging residents and the higher costs of all housing has driven the demand for apartments, townhomes, and smaller multi-family dwellings (studios and 1-bedroom units). Developers have made robust investments in multi-family dwelling choices in west Billings but less so in northwest Billings. There have been more new residential developments south of Broadwater Avenue than this area to the north. The most recent multi-family dwelling development in this area is at 41st St West and Avenue C - Wheatbaker Patio Homes (2016). Prior to 2016, only a handful of multi-family dwellings have been built (Grand Peaks and Falcon Ridge) north of Broadwater. There is a significant deficit of this type of housing choice in this area of West Billings.

There are challenges to an area of urban development that is on an infill property with existing development around it. This is not meant to ensure homogenous development patterns between neighborhoods, but the development plan should include similar and compatible zone districts, connectivity where and when needed, and recognition of similar goals for both types of property. The 2016 Billings Growth Policy and the 2001 West Billings Neighborhood Plan goals and policies support the proposed adjustment to the zone district boundaries. The West Billings Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The proposed zone change supports these goals. The 2016 Billings Growth Policy supports a broad range of housing choices, encourages more walkable neighborhoods with connectivity to other transportation options, and building the community fabric through urban designed public spaces. The proposed zone change supports these goals as well.

STAKEHOLDERS

The applicant conducted a pre-application neighborhood meeting on December 16, 2021. The requirement of annexation stipulates a 1/4-mile notification area for surrounding owners. Over 680 individual property owners were notified of the proposed zone change. The pre-application meeting synopsis is attached to this report. Over 30 persons attended the on-line meeting. The Planning staff has received a few phone calls from surrounding owners regarding the process for the zone change and participation in the hearings. The Zoning Commission received some written comment prior to the hearing. These comments are included as an attachment.

The Zoning Commission conducted its hearing on February 1, and received the staff report and recommendation, testimony from the applicant, Preston Lees and the agent, Craig Dalton from Performance Engineering. Six surrounding property owners also provided comments to the Zoning Commission including Jim Wise of 2202 Avalon Rd, David Munson of 2108 Avalon Rd, Jill Courier of 3834 Fairmeadow, Jeff Carroll of 2105 Avalon Rd, Breanne Mecham of 3804 Fairmeadow, and Chester Sharbono or 2104 Avalon Rd.

Mr. Lees stated the company recently purchased these parcels from the Zimmerman family. The discussion with the owners included the understanding the development would be built to the expectations of the family standards to leave a living legacy of the Zimmerman family. The larger parcel with the NX3 zoning will be the first to develop and will have a lot of open space and amenities included. The developer will be responsible for finishing the south half of Colton Blvd in front of the property including the multi-use path to connect with the existing path on Zimmerman Trail. The proposed N2 zoning on the north end of this development is intended to provide townhome style dwellings with up to 3 bedrooms with garages off the interior roads and not off Colton Blvd. He stated this will keep the walkability of the new multi-use path very safe and usable. He stated the company will be the owner and management company for all the units and open space on the center parcel. The parcel to the west is not yet under consideration for a development concept. He stated the intent of changing the N3 along the north end of the west parcel was to ensure the area will be managed not as a parkland for kids to play but as an area that is vacant but tended by the management company. He stated the P1 designated parts of the development will not be dedicated to the public but will be open to the public and to the new residents.

Mr. Wise stated he was concerned with the dispersal of the parkland and that they would remain private and not public lands. He was concerned this would circumvent the subdivision requirement to dedicate parkland. He stated he was concerned with how traffic would be managed by this developer. He stated Zimmerman Trail was under-built and has been experiencing traffic back-ups since the day it opened. He stated both north and south bound traffic is backed up at every light from Rimrock Road down to Broadwater during the morning and evening rush hour. He stated

he was concerned about the potential Avenue D connection to the west when the west parcel was developed and whether the people in this subdivision were aware of the development. He stated he was also concerned about the private road that will go east to west through the middle of the NX3 development.

Mr. Munson stated the previous zone change kept the single family zoning on the north end of both parcels in order to protect the homeowners to the north. He stated these homes enjoy a high market value in Billings and the zoning of N3 should be kept in place to protect their home values. He stated the developer threatened to build less-than-top-quality single family homes if the zone change to N2 was not approved. He stated this was not a very neighborly way to approach the surrounding owner's concerns. Ms. Courier stated she was not in support of the zone change to N2 from the N3. She stated this was why the previous county zone change was approved because of this identical zoning across the street. She stated changing this area to N2 would violate that previous agreement. She stated the developer should deal with the traffic impacts up front before the zoning was approved. She was also concerned about the increase in the NX1 zoning on the west parcel. Mr. Carroll stated he had a few concerns. He stated the NX3 is to be expected and is reasonable but now the N3 buffer area is really necessary to make the transition between the two neighborhoods. He stated when the zoning was updated, the R-96 was updated to N3. He stated the N2 is not a compatible zone with N3 because N2 allows for the 2-family residence. He stated the surrounding owners already negotiated with the Zimmerman family to keep the same zoning as on the north side of Colton. He stated the Harvard Review article about property values for 1 or two family homes adjacent to or close to multifamily dwellings was out of date and not really comparable to this market. He stated there are many $500,000+ homes in this neighborhood and those values need to be protected. He stated a two-unit dwelling would have a significant impact on the value of these single family homes. He stated this was not a minor adjustment to the zone districts.

Ms. Mecham stated this area of Colton and 38th St West is heavily traveled because of Arrowhead School. She stated there are a lot of accidents where 38th St W dead ends and turns into Colton Blvd. She urged the Zoning Commission to keep the N3 zoning intact. Mr. Sharbono stated he was opposed to the N3 changes. He stated there are currently 8 single family homes on the north side of Colton Blvd. He stated if the N2 zoning is approved, the developer would have up to 24 dwelling units facing these 8 single family homes. He stated this was not a good transition between the two neighborhoods. He stated the Harvard study was done over 14 years ago during the largest real estate bubble in history. He stated a more recent study from the Charter Foundation (2019) found that higher density rental units drives down the property value and marketability of nearby single family homes. He stated the proximity drives down buyer demand and reduces market values.

Mr. Dalton provided response to the public comments. He stated the 2016 zone change by the County is already in place and can just come into the city as it is. He stated this owner desired to make changes to increase pedestrian safety on Colton Blvd. The N3 zone would require multiple driveway crossings from Colton Blvd. He stated the owner was interested in having more parkland and recreation spaces for the new apartments and the existing P1 designated area was not distributed enough. He stated the developer has carefully chosen the zone district to ensure the same category of zone districts face each other across a street but can change at a rear property boundary. The N2 and N3 are in the same category of zone districts. He stated Avenue D currently dead ends and at an adjacent owner's property line. This development will not build Avenue D through another owner's property. If this owner parcel is annexed and zoned, then Avenue D will connect to the west. He stated the traffic impact study is underway and will be completed prior to any development moving forward. He stated the owner would be required to follow all the City Engineer's recommended improvements and mitigation.

Chairman Larson closed the public hearing. Commission member David Goss made a motion to recommend approval and adoption of the findings of the 10 criteria for Zone Change 1009. The motion was seconded by Greg McCall. The Commission voted 3-0 in favor of the motion.

ALTERNATIVES

The City Council may:

- Approve and adopt of the findings of the ten review criteria for Zone Change 1009; or,
- Deny and adopt different findings of the ten review criteria for Zone Change 1009; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

FISCAL EFFECTS

Approval or denial of the proposed zone change will not have an effect on the Planning Division budget.

SUMMARY
Before making a decision on the zone change request the City Council shall consider the following findings of the ten review criteria as recommended by the Zoning Commission:

1) Is the new zoning designed in accordance with the Growth Policy?
The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy and the West Billings Neighborhood Plan (2001):

The **West Billings Neighborhood Plan** goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The West Billings Plan adopted a number of Goals, Policies, and Implementation Strategies. The proposed adjustment to the current zone districts and boundaries is consistent with the following adopted Policies of 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."
- Policy M "Development in the West Billings planning area shall provide for a variety of residential types and densities."
- Policy N "Medium and high-density residential development(including elderly and disabled housing) should be located nearby and within walking distance to commercial centers, medical facilities, parks, and recreational amenities."
- Policy R "Encourage innovative land-use planning techniques to be used in building higher density and mixed-use developments as well as infill developments."

The proposed zoning is compatible with goals of the West Billings Neighborhood Plan. The proposed zone change and street layout will accommodate uses that are compatible in a new mixed residential neighborhood. The proposed development will also have good access to outdoor activities and is in proximity to commercial centers and transportation options. The proposed zoning and development will provide for a variety of housing choices that are not abundant in this area of West Billings. The property is within walking distance to a commercial center, medical facilities, parks and a multi-use trail system.
The proposed amendment is also in line with the adopted 2016 Growth Policy goals for:

Strong Neighborhoods:

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill and social interaction
- Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale streetlights, street trees and walkable access to public spaces
- Neighborhoods that are safe and attractive and provide essential services are much desired
- Implementation of the Infill Policy is important to encourage development of underutilized properties

Home Base:
A mix of housing types that meet the needs of a diverse population is important

- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
- Public safety and emergency service response are critical to the well-being of Billings' residents
- Homes that are safe and sound support a healthy community

The proposed layout for the property will allow the higher density housing to be located internal to the property and the dwellings adjacent to the city neighborhoods to the north and west will be similar in choice (1 or 2 family dwellings). The proposed P1 zoning for the north end of Block 1 is a more reasonable and predictable zoning because of the physical limitations the ditch imposes on this parcel (see attached maps). The proposed N2 zoning for the northern edge of Block 2, Lot 1 will allow a 1 or 2 family dwelling that will be similar and compatible to the single-family dwellings in the subdivisions north of Colton Boulevard. The developer intends to rear-load the garages on these new homes. This will reduce the number of driveway crossings of the multi-use trail that will be constructed on the south side of Colton Boulevard. The development of the multi-family dwellings will be further south on the property behind

this row of dwellings that face Colton Boulevard. The proposal for several interspersed recreation areas for the new apartment residents will provide a much-needed amenity for this area. The proposal is to zone these amenities as P1 - Parks and Open Space to provide predictability to the final development. The NX1 zoning on Block 1 will provide an area to build a mixed residential neighborhood with at least four options for housing. Single family dwellings, two-family dwellings or 3/4 family dwellings are all allowed within the NX1 zone district. Similar NX1 zoned areas include the south end of Grand Peaks Subdivision, the southwest corner of the new Sweetgrass Creek Subdivision, and some townhomes along Golden Boulevard.

2) Is the new zoning designed to secure from fire and other dangers?
The zoning requires minimum setbacks, open and landscaped areas and building separations. The zoning plan and street layout within Block 2, is designed to secure the development from fire and other dangers.

3) Whether the new zoning will promote public health, public safety and general welfare?
Public health and public safety will be promoted by the proposed change. Approval of the adjustment to the zoning boundaries and street layout will provide certainty both for the property owner and the surrounding owners. Annexation and provision of public health and safety services from the city will promote the general welfare of the area. The completion of the south half of Colton Boulevard, the multi-use trail connection from the end of 38th St W to the multi-use trail on Zimmerman Trail, connecting Green Valley Drive and completing the utility connections will all benefit the general welfare of the city.

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

- Transportation: The applicant will start the process of developing a traffic impact study and will coordinate with the city Engineering Division. The traffic study will analyze each of the adjacent street intersections and determine if mitigation or improvements are needed to accommodate the additional traffic. The City Engineering will determine the required improvements. The County Subdivision Improvement Agreement (SIA) anticipated the requirement for analysis of the traffic impact.
- Water and Sewer: The City will provide water and sewer to the property. There will be no additional impacts to the system from the proposed changes.
- Schools and Parks: Schools and parks may be effected by the proposed zone change and development of a new city neighborhood. SD #2 did not provide any comments.
- Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

5) Will the new zoning provide adequate light and air?
The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6) Will the new zoning effect motorized and non-motorized transportation?
Non-motorized travel -- walking and biking -- is an essential part of the circulation plan both within the proposed development and connecting to adjacent areas including the multi-use trail to be finished on Colton Boulevard and connection to the Zimmerman Trail multi-use path, the school and park to the northwest and the commercial area and facilities to the south and east. Pedestrian connections will be ensured through the development, and the property is close to three fixed route MET bus lines (two on Grand and one on Poly Dr). There are no traffic counts on Zimmerman Trail between Rimrock Road and Broadwater Avenue. Traffic counts on Poly Drive near the Zimmerman Trail intersection are about 5,000 vehicle trips per day. Traffic counts on Grand Avenue near the Zimmerman Trail intersections are between 18,000 and 20,000 vehicle trips per day. The proposed street connections with the development will allow multiple pathways for the new residents to enter and leave the area including Green Valley Drive and Avenue E. Green Valley Drive will be built to a local commercial street standard (the NO zone and the CMU1 zone), and will provide the most direct connection to Zimmerman Trail to the east (through Colton Boulevard) and Grand Avenue to the south. A traffic impact analysis will be done prior to any development and mitigation will be required by the City Engineering Division to ensure all existing and future street intersections are maintained in good capacity.

7) Will the new zoning will promote compatible urban growth?
The proposed increase in the overall development density is compatible with urban growth and the provision of city level services to the new residents. The proposed zone district boundaries are consistent with the urban growth in this area and will be compatible with the surrounding neighborhoods.

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

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. This area between Broadwater Avenue and Rimrock Road is beginning to experience growth and development similar to areas further south in West Billings. The city's investment in public infrastructure in the area is spurring the development of new areas for city infill.

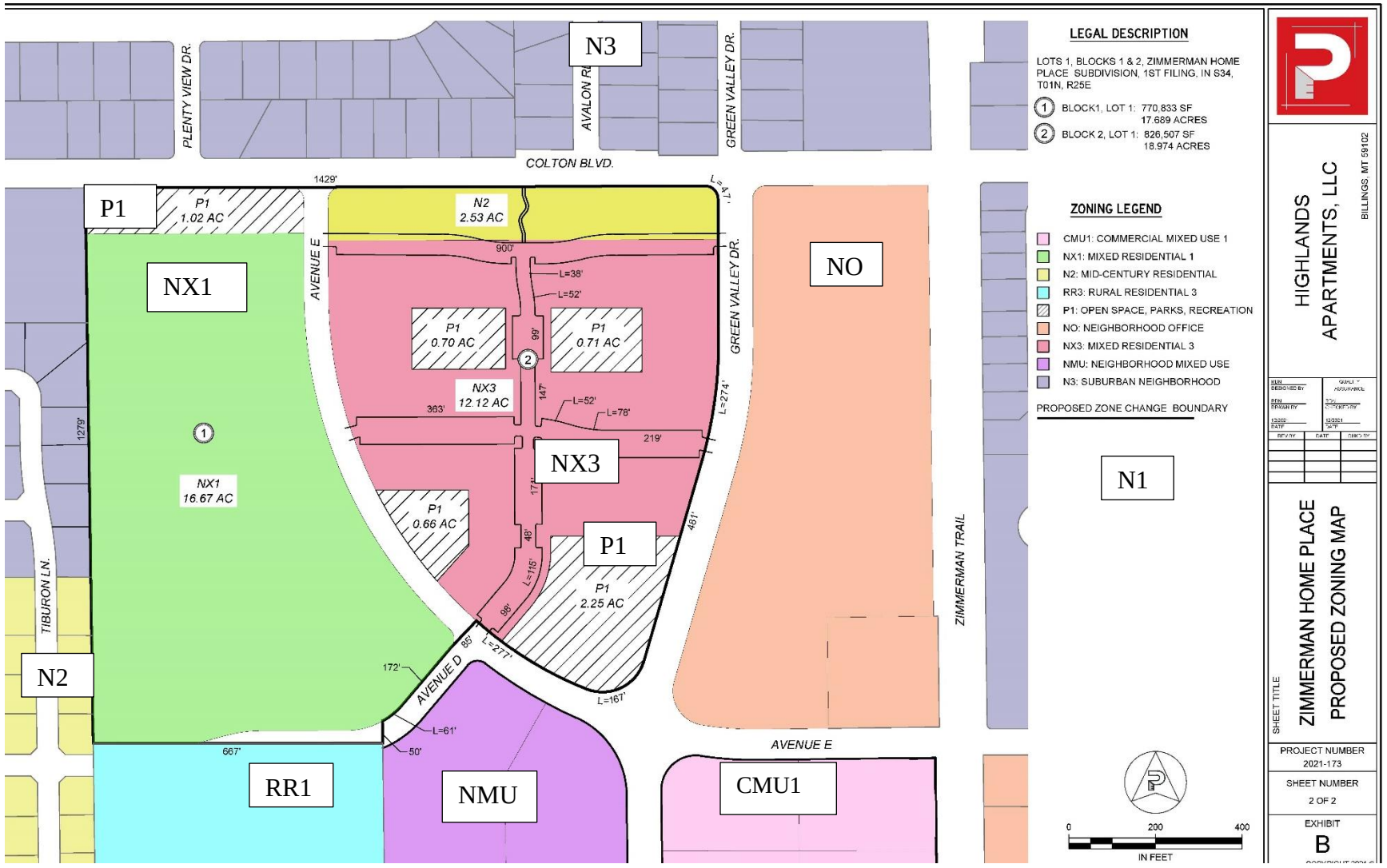
9) Will the new zoning conserve the value of buildings?
The property is an undeveloped agricultural parcel. Approval of the zone change will provide certainty to surrounding landowners and may help to maintain property values of adjacent buildings.

10) Will the new zoning encourage the most appropriate use of land throughout the City of Billings?
The proposed adjustments to the zoning boundaries will encourage the most appropriate use of this land in Billings.

Attachments

Zoning Map and Site Photos
Pre application meeting notes
Applicant Letter
Application Form
Applicants Zoning Exhibit
Chart of Zoning History
Combined Public Comments
Ordinance ZC 1009

City Zone Change 1009 – Zimmerman Home Place
Zoning Map and Site Photos



Proposed Zoning Boundary Adjustments

CORBIN DR
PLENTY VIEW DR
AVALON RD
ICEWINE DR
WHITEWATER CIR
COLTON BLVD
Big Ditch
FAIRMEADOW CT
PARKHILL DR
AVENUE F
AVENUE D
PROVINCE LN
NORWOOD LN
TIBURON LN
AVENUE B
GREEN VALLEY DR
AVENUE E
ZIMMERMAN TRL
WESTON DR
WYNDHAM PARK DR
HAMPTON PL
GOLDEN BLVD

View south from Colton Boulevard

View west on Colton Boulevard from intersection of Avalon Road

View north across Colton Boulevard at Avalon Road

View northeast across Colton Boulvard at Avalon Road

View east on Colton Boulevard

Intersection of Green Valley Drive at Grand Avenue

PERFORMANCE ENGINEERING
608 North 29th Street, • Billings, MT 59101 • (406) 384-0080

Block 1, Lot 1, and Block 2, Lot 1, of Zimmerman Home Place Subdivision, 1st Filing

Zone Change Neighborhood Meeting Notes

The meeting was conducted from 6-7 PM on December 16th, 2021 via a virtual Zoom meeting. The meeting was hosted by Robert Neihart of Performance Engineering (agent).

There were approximately 30 members of the public that participated in the virtual Zoom meeting.

Questions from the individuals and subsequent responses are shown below:

- Who will pay for the public improvements and interior parks as part of the development project?

  The developer will pay for the public improvements through private financing. This will be accomplished through a Private Contract through the City of Billings' Public Works Department. The developer will also pay for the development of the private parks within the development, which will include any amenities such as a basketball court, amphitheater, pickle ball court, etc.

- What is the timeline on the development of the property?

  The developer will start construction on the public improvements (roads, curb & gutter, sidewalks, water, sewer, and stormwater) in the spring of 2022. The site within the development will be built starting from the south end and working to the north. This will take place once the public improvements are completed.

- Why is it being proposed to switch the existing N3 property zoning to N2?

  The N2 district allows more flexibility on the type of homes that can be constructed. The developer currently has plans to construct twin homes with rear loaded garages along Colton Blvd. Under the current N3 zoning, twin-homes are not allowed per the zoning code. If the property were to remain N3, the single-family houses would likely be front loaded off Colton Blvd.

- I am concerned that my property value will decrease with this development.

  This is often a question nearby homeowners have when multifamily development occurs. A study was completed by Harvard University titled, Overcoming Opposition to Multifamily Rental Housing in which the researchers compiled information from several studies across the county in regards to the impacts of

multi-family housing on nearby single-family property values. A few quotes from this study are provided below:

1. *"We find that large, dense, multi-family rental developments…do not negatively impact the sales price of nearby single-family homes."* - *"Effects of Mixed-Income, Multi-family Housing Developments on Single-family Housing Values," Cambridge, MA: MIT Center For Real Estate, April 2005*

2. *"We find that if located properly with attractive landscaping and entranceways, adverse price effects can be minimized and sometimes can add value. In the long term, such apartment complexes probably raise the overall value of detached homes relative to their absence."* - *"Apartments and Detached Home Values," On Common Ground, National Association of Realtors, 2003; "Price Effects of Apartments on Nearby Single-family Detached Residential Homes," Virginia Tech University, 2003*

- Will the homes along Colton Blvd. create a transient community?

  *This **local** developer currently plans to construct "high-end" twin homes along Colton Blvd. with the intent being to attract long-term tenants. These units will be operated and maintained by the overall development of Lot 1, Block 2 to ensure the entire property is kept up to a high standard.*

- What is going to be done to address the increase in traffic in the area?

  A Traffic Impact Study (TIS) was previously completed for this development. However, since the zone change request is being submitted, the developer is required to complete an updated TIS. This TIS report will be submitted to the City's Public Works Department with the Master Site submittal. The updated TIS will include any recommendations of traffic improvements that may be warranted with the revisions to the proposed zoning. If traffic improvements are warranted based on the updated TIS the developer will be required to install these as part of the public improvements with the Private Contract.

PERFORMANCE ENGINEERING
608 North 29th Street, • Billings, MT 59101 • (406) 384-0080

Lots 1, Blocks 1 & 2, Zimmerman Home Place Subdivision, 1st Filing

Zone Change Questions

1. Explain how the proposed project is consistent with the adopted Growth Policy, Neighborhood Plans, and other applicable city development policies?

Essential Investments – The proposed project is classified as an "infill development" making it very cost effective to provide essential City services to the property. The project will extend existing water and sewer infrastructure to service the development. Furthermore, this project will incorporate developed parks which will provide recreation opportunities such as pickleball and basketball courts and playground areas.

Strong Neighborhoods – The proposed project will utilize a mix of housing options (NX1, NX3, and N2) to draw individuals of all ages in addition to families. The development is planned in a way as to provide a strong community by providing easy access to pocket parks and outdoor areas for neighbors to gather.

Business Access – The proximity of the medium- and high-density housing to commercial areas located near this development serve as an attraction for national and regional businesses, which in turn helps to build our city's tax base. Attraction of anchor tenants will lead to the draw of smaller local businesses, developing a well-rounded community node where people can find jobs near where they live.

Zoning – The proposed project complies with the regulations outlined in the new zoning code in the following ways:

a. Districts within the same district category shall face each other across the streets. N2 on the north portion of Lot 1, Block 2 faces N3 across Colton Boulevard. NX1 and NX3 face each other across Avenue E.

b. Change in districts shall generally occur at a rear lot line or an alley. Lot 1, Block 1 provides a transition from N2/N3 to NX1 across the rear (west) property line.

2. Explain how the proposed project meets the 10 zone change criteria.
   a. Is the new zoning is designed in accordance with the growth policy?
      The proposed zoning aligns with the existing growth policy as it is surrounded by the current city boundary and will extend existing infrastructure. Furthermore, the mix of medium- and high-density housing will provide for a strong, diversified community.

   b. Is new zoning is designed to secure from fire and other dangers?
      The proposed project will extend existing water mains and implement new hydrants for fire protection of the proposed residences.

c. Will the new zoning promote public health, public safety and general welfare?
   The proposed project will promote a strong diversified community where residents will be able to access businesses and special outdoor amenities via pedestrian routes. Furthermore, the development of medium- to high-density housing adjacent to commercial areas alleviates traffic as residents will be able to access amenities and services closer to their homes rather than traveling extended distances on city roadways.

d. Will the new zoning facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements?
   The new zoning is located just north of an existing MET route which will service this growing area. The proposed project will extend existing water and sewer infrastructure in Avenue E and Green Valley Dr. The development will also implement a mixture of Greens and larger park spaces to provide outdoor areas for the public. Furthermore, sidewalks and pedestrian paths will interconnect the development to trails along Colton Blvd.

e. Will the new zoning provide adequate light and air?
   The development is proposed to provide a mix of housing opportunities with open space and park areas located throughout the project providing adequate light and air.

f. Will the new zoning effect motorized and nonmotorized transportation?
   The proposed project will have some impact on the motorized transportation system in the area as it was historically agricultural property and will move to residential development. However, the development of medium- and high-density housing near commercial districts affords residents the ability to access amenities and services by walking or driving on roadways internal to the subdivision, and not needing to enter onto the city's main roads. Additionally, this development will extend sidewalks internally within the subdivision as well as the multi-use path along Colton Boulevard. The developer has already begun the process of coordinating with City personnel for a traffic study update to be submitted at the time of master site plan submittal.

g. Will the new zoning promote compatible urban growth?
   The proposed zoning will promote compatible urban growth, providing the desired density gradient from the north and west down to the commercial areas located around the Grand Avenue and Zimmerman Trail intersection.

h. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?
The proposed development continues the character of the N district category from the north and transitions the property effectively down into the commercial district. The proposed PND will maintain the character of the existing neighborhoods while also providing diversification in housing options for the area.

i. Will the new zoning conserve the value of buildings?
The proposed development will conserve the value of buildings by maintaining characteristics of the existing neighborhood while providing an attractive blend of housing options to the area.

j. Will the new zoning will encourage the most appropriate use of land throughout the City of Billings?
The proposed development is surrounded by city limits and therefore is the next logical annexation for the City and it meets the intent of the zoning code by providing diverse housing options near commercial areas and major intersections.

2. Does the new zoning fit with the existing or planned developments within the area.

To current surrounding zoning is generally described as single-family homes to the north and west (N2 and N3), professional services to the east (NO), and commercial to the south (NMU and CMU1). The proposed PND fits with the existing zoning in the area by maintaining district categories across Colton Boulevard (N3 to N2) and Avenue E (NX1 to NX3), and providing a preferred density gradient from the surrounding low density neighborhoods towards the existing commercial districts just south of the proposed PND. transitioning to high-density as one moves south toward the commercial districts. Additionally, the proposed NX1 and NX3 will face each other across Avenue E.

single-family, to 2-unit residences and then continuing that gradient to high-density housing to the south. The high-density residential will then transition to the existing zoning of commercial to the south and east.

ZONE CHANGE PRE-APPLICATION MEETING AFFIRMATION

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a zone change application.

Check one: ☑ **City of Billings Zone Change** ☐ **Yellowstone County Zone Change**

Property Address Near the intersection of Colton Blvd. and Avenue E.

Legal Description Lot 1, Blocks 1 & 2 of Zimmerman Home Place Subdivision, 1st Filing

City Present Zoning NX3 - Mixed Residential 3 **City Proposed Zoning?** PD – Planned Development and

County Present Zoning Choose One **County Proposed Zoning** Choose One

Neighborhood Task Force Area? Westend Task Force

Task Force Chairperson Howard Holz

Required Uploads to Online Project Attachments:

- **Zone Change Pre-application Meeting Affirmation Form**
- **Statement:** Written description of the Zone Change Plan including square footage or acres of proposed new zoning.
- **Subject Property Map**
- **Roster of persons who attended the pre-application neighborhood meeting**
- **Meeting Notice and a brief synopsis of the meeting results**

Affirmation:

1) The pre-application neighborhood meeting was held on: December 16, 2021

2) The zone change application is based on materials presented at the meeting.

Recorded Owner(s) Highlands ZHP Subdivision, LLC

Owner's Address 2116 Broadwater Ave., Ste. 101, Billings, MT 59102

Owner's Phone Number (406) 839-7661 **E-mail** preston@beartoothholding.com

Applicant/Agent Performance Engineering, Robert Neihart

Applicant/Agent's Address 608 N. 29th Street, Billings, MT 59101

Applicant/Agent's Phone Number 406-384-0080 **E-mail** rob@performance-ec.com

Signature of Recorded Owner(s) **Date** 12/22/21

**Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

ZONE CHANGE REQUEST

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the Yellowstone County Regulations.

Check one: ☑ **City of Billings Zone Change** ☐ **Yellowstone County Zone Change**

Address: Near the intersection of Colton Blvd. and Avenue E.

Legal Description: Lot 1, Blocks 1 & 2 of Zimmerman Home Place Sub. 1st Filing

STATEMENT: Answer the following questions on a separate document and upload to the online project attachments.

1. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy? Explain your need for the intended zone change and why the property cannot be used under the existing zoning.
2. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.

REQUIRED UPLOADS Online Applications: https://services.billingsmt.gov/citizenaccess/

--Pre-Application Statement of Owner(s) or Agent(s) affirming pre-application meeting was held, and include the following: 1) the pre-application neighborhood meeting was held, and 2) the zone change application is based on materials presented at the meeting. Include a copy of the meeting notice, written materials mailed or provided at the meeting, the sign-in sheet of attendees, and a brief synopsis of the meeting results.
--Signed Application and Zone Change Statement (Zone Change questions)
--Site Plan --Typed Mailing Labels Certified Surrounding Property Owners
--Radius Map & Certified List of Property Owners

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. I attest that all the information presented herein is factual and correct.

Recorded Owner(s): Highlands ZHP Subdivision, LLC

Owner's Address: 2116 Broadwater Ave., Ste. 101, Billings, MT 59102

Owner's Phone Number: (406) 839-7661 **E-mail** preston@beartoothholding.com

Applicant/Agent: Performance Engineering, Robert Neihart

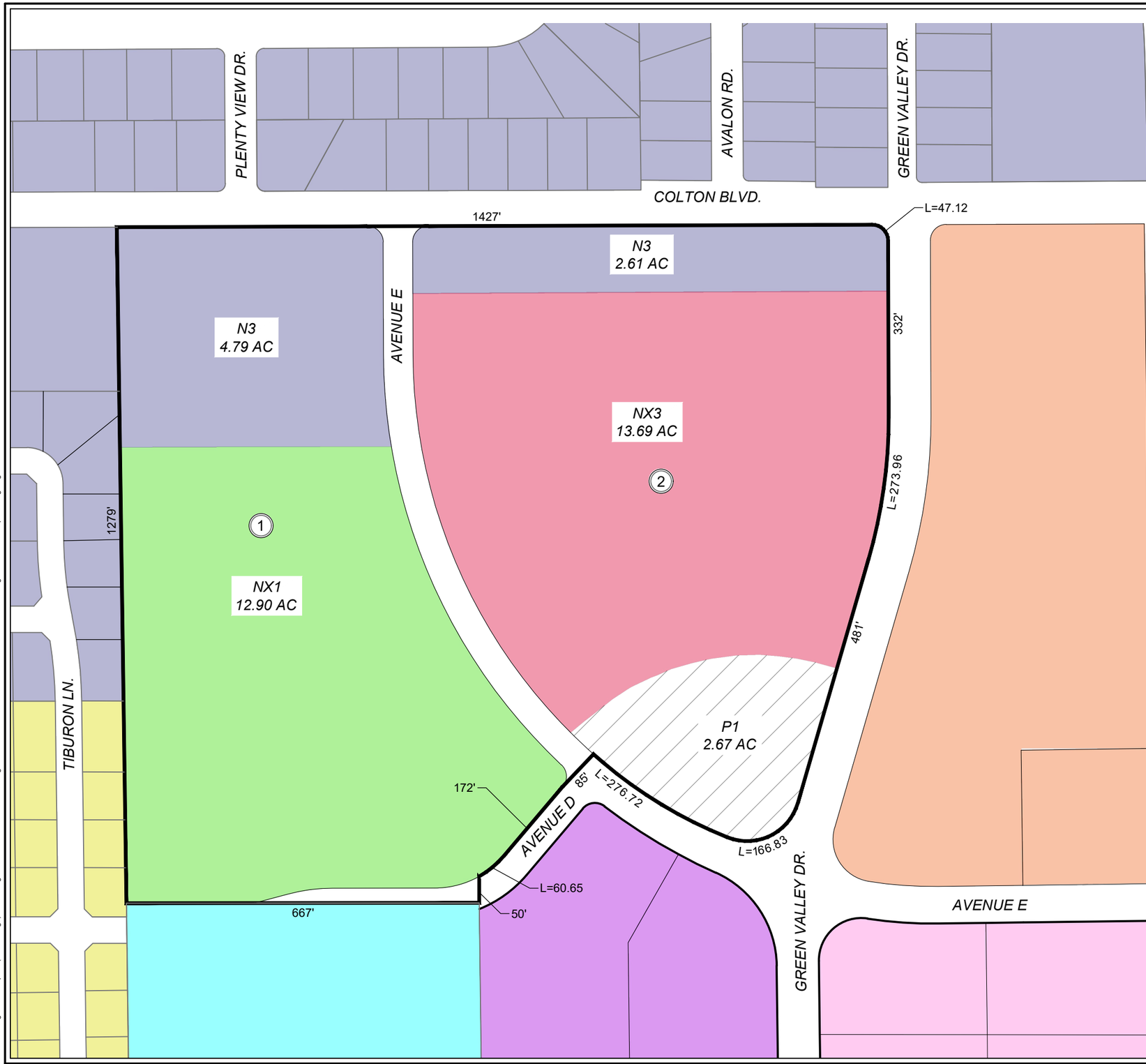
Applicant/Agent's Address: 608 N. 29th Street, Billings, MT 59101

Applicant/Agent's Phone Number: 406-384-0080 **E-mail** rob@performance-ec.com

Signature of Recorded Owner(s) Date

AUTHORITIES: Procedures and Review Criteria for Zone Change requests Billings Montana City Code (BMCC) Section 27-1502 et seq. SEC. 27-1502. AMENDMENTS TO CHAPTER. (a) General. This chapter, including the official zoning map, may be amended only by the city council but no amendment shall be finally approved by the city council unless it has been submitted to the city zoning commission for review and recommendation. Proposals to amend this chapter, including the official zoning map, may be initiated by the city council or by the board of planning. Proposals to amend this chapter, except for the official zoning map, may also be initiated by the city zoning commission. Before enacting an amendment to this chapter, the city council shall give public notice and hold a public hearing thereon. Before enacting on its own motion an amendment to the official zoning map, the city council shall provide written notification by mail of such amendment to each property owner whose name appears on the last tax record of the property subject to the amendment. The notification shall include what the proposed amendment is, the time, date and place of the public hearing on the proposed amendment. Such notification shall be made no less than fifteen (15) days nor more than thirty (30) days in advance of the date of public hearing.

AUTHORITIES: Procedures and Review Criteria for Zone Change requests Unified Zoning Regulations Section 27-1508 et seq. SEC. 27-1508. AMENDMENTS TO CHAPTER. (a) General. Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan. ****Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.**



LEGAL DESCRIPTION

LOTS 1, BLOCKS 1 & 2, ZIMMERMAN HOME PLACE SUBDIVISION, 1ST FILING, IN S34, T01N, R25E

1. BLOCK1, LOT 1: 770,833 SF, 17.689 ACRES
2. BLOCK 2, LOT 1: 826,507 SF, 18.974 ACRES

ZONING LEGEND

- CMU1: COMMERCIAL MIXED USE 1
- NX1: MIXED RESIDENTIAL 1
- N2: MID-CENTURY RESIDENTIAL
- RR3: RURAL RESIDENTIAL 3
- P1: OPEN SPACE, PARKS, RECREATION
- NO: NEIGHBORHOOD OFFICE
- NX3: MIXED RESIDENTIAL 3
- NMU: NEIGHBORHOOD MIXED USE
- N3: SUBURBAN NEIGHBORHOOD

PROPOSED ZONE CHANGE BOUNDARY

0 200 400
IN FEET

HIGHLANDS APARTMENTS, LLC
BILLINGS, MT 59102

RDN DESIGNED BY	QUALITY ASSURANCE
RDN DRAWN BY	RDN CHECKED BY
12/2021 DATE	12/2021 DATE

REV BY	DATE	CHKD BY

SHEET TITLE
ZIMMERMAN HOME PLACE
EXISTING ZONING MAP

PROJECT NUMBER
2021-173

SHEET NUMBER
1 OF 2

EXHIBIT
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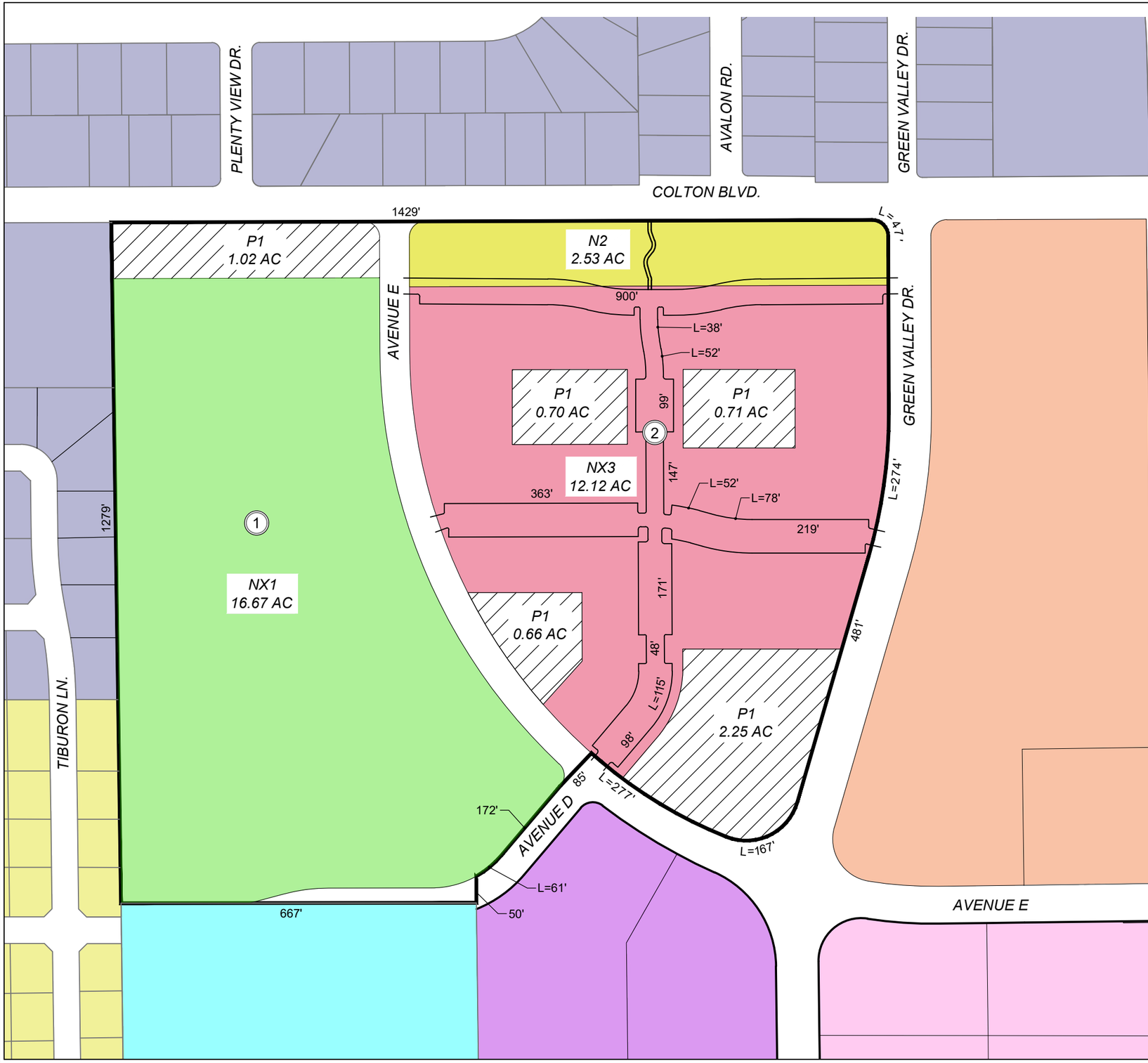

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- CMU1: COMMERCIAL MIXED USE 1
- NX1: MIXED RESIDENTIAL 1
- N2: MID-CENTURY RESIDENTIAL
- RR3: RURAL RESIDENTIAL 3
- P1: OPEN SPACE, PARKS, RECREATION
- NO: NEIGHBORHOOD OFFICE
- NX3: MIXED RESIDENTIAL 3
- NMU: NEIGHBORHOOD MIXED USE
- N3: SUBURBAN NEIGHBORHOOD

PROPOSED ZONE CHANGE BOUNDARY

HIGHLANDS APARTMENTS, LLC
BILLINGS, MT 59102

RDN	QUALITY ASSURANCE
DESIGNED BY	
RDN	RDN
DRAWN BY	CHECKED BY
12/2021	12/2021
DATE	DATE

REV BY	DATE	CHKD BY

SHEET TITLE
ZIMMERMAN HOME PLACE PROPOSED ZONING MAP

PROJECT NUMBER
2021-173

SHEET NUMBER
2 OF 2

EXHIBIT
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SUBJECT PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Zimmerman Home Place Subdivision	**County ZC 675**	August 2, 2016	A-1 to CC, NC, RP, Public, RMF-R, R-50, R-70 and R-96	Y	CC & NC parcels annexed for Town Pump development 3411 Grand Ave 2018
SURROUNDING PROPERTY	**Zone Change #**	**DATE**	**FOR**	**APPROVED (Y/N)**	**ADDITIONAL DATA**
Cardwell Ranch PD	986	October 26, 2020	Update to PD	Y	
E.D. King Sub	782	7/10/2006	A-1 to CC	Y	Country Meadow Apts 1997
1501 Zimmerman Trail	807	7/9/2007	R-60-R to CC & RP	Y	Ace Hardware & Offices
3737 Grand Ave	779	6/26/2006	RP to NC	Y	Multi-tenant office/retail
1500 Golden Blvd	572	2/28/1994	A-1 to RMF	Y	Carriage Homes 1997
3155 Avenue C	413	10/25/1983	R-96 to RMF-R	Y	Aspen Meadows 2005
2291 Avenue C	68	8/26/1974	PD to R-60	Y	Rosepark Plaza Apts 1981

In RE: CITY zone Change 1009
Project Number: PZX-22-00006
February 1, 2022

Remarks submitted by Ellen Pfister
owner of 3641 Colton Blvd., Billings, MT

1. There seems to be some confusion as to where the hearing on this zone change will be held on February 1, 2022. Your MPO Notice gives the date, but not the time of the meeting. I called your office, and they gave me the place of the hearing as well as the time. A legal notice without time, date and place is a defective notice. The city zoning commission listed the place as being in the Miller Building, but no time given. A call to the zoning office uncovered a meeting in the Public Library together with a time.

2. I did not participate in the zoom meeting, because where I live in the county, the internet does not have sufficient bandwidth to support zoom.

3. I do not think this proposal thinks through how it will work out on the ground. If the Zoning Commission staff thinks that Montana seniors are going to want to downsize to apartments and studio apartments where they have to walk to get their groceries and then pull their loaded grocery bags up hill from Grand Avenue, they do not know their quarry for tenants very well. The staff discussion puts this whole development in competition with Mission Ridge and numerous other facilities built in the general area in the last several years.

4. I really don't see any concrete discussion of where the automobiles of the area residents will be kept. The Zoning staff seems to think people will walk clear down to Grand or up to Poly to catch a bus. That might work in Massachusetts or Virginia, but hardly in Eastern Montana. I think a Met stop will have to be located somewhere within this project.

5. An assumption that there will be no young children living there is not feasible. I have seen big buses turning off GreenValley Drive onto Colton Blvd. Is the subdivision planning to admit buses or keep the loading or unloading areas on Colton?

6. How many stories high does the Planning staff consider to be "High density" housing? Will they have elevators for the residents? Where will be residents park their transportation? How much square footage per building per story will be allowed for "High Density" housing?

7. Will P1 of 1.02 acres simply be paved over the ditch banks there? Who will pay for lighting Ditch Bank Park? Will the Ditch Company release its easement on the smaller

ditch that does not cross Colton, but stays on the south side? Part of the ditch easement in P1 (1.02 acres) is 30 feet wide in the designated park area.

8. If you allow the developers to put in duplexes with back loading parking, will we wind up facing a long plastic fence such as those on Zimmerman, which in essence will be the duplex residents back yard facing on Colton? Will the long plastic fence be the thing which will make the sidewalk on the south side of Colton a "trail"? Will most of the ditch be paved over on the South side of Colton?

9. Lot 1 is 16.67 acres of ambiguity. Will you require an alley along the west side of it against all those plastic fences. The access for emergency vehicles would be non-existant without access of some kind along that area.

10. What is rural residential zoning?

This proposal strikes me that it has no been thought out completely, and until it has a few more details, it should be put on hold.

Ellen Pfister
PO Box 330
Shepherd, MT 59079

Feb. 1, 2022

Dear City of Billings Planning Division,

I live at 2104 Avalon Rd and I am against changing the current designation of the lots on the south side of Colton Blvd from single family home lots to the smaller higher density duplex lots now requested for the new proposed development. (City zone change 1009 Project PZX-22-00006N3 to N2).

Here is why this change would not be good for the neighborhood:

1) Currently, there are 8 single family home spaces on the N side of Colton. Directly across the street from the current 8 single family living spaces the new proposal would have 24 living spaces. This is not in the best interest of the nearby neighborhoods. The 24 living spaces is not a soft buffer to the larger complexes to the south; it would be a transitioning train wreck.

2) The square footage of each living space would be much smaller than any of the single- family homes on the North side of the street. Any potential buyer for one of the current single-family homes would, for many reasons, have a negative perception about making a purchase there.

3) We should know more about the details of the buildings being proposed not just about making the lots smaller, adding more lots and changing them to duplex designations. Details should be clearly spelled out for the structural changes. For example, I am wondering how many feet above the Colton Ave pavement would these buildings reach.

    a. I requested an answer by email to Performance Engineering as to the elevation question. The answer came back, "The maximum height will be 2 story."
    Then following my inquiry, I received a photo from Mr. Lees showing a single story structure. So I still do not know the elevation of the proposed structures to be on Colton.

In a related matter

The proposal notification for zone change sent out to those of us in the neighborhood included quotes from a study by Harvard University which iss outdated by around 14-15 years. However, everyone knows information changes in way less time than 14- 15 years. Also, we don't even know the relevant or irrelevant factors included in that study.

The Harvard Study is not the only study out there. I read a more recent article which was written by Carl Oleskewicz then later reviewed by Chartered Institute for Securities and Investments dated April 2019. It is about research on the subject of having rental property nearby.

Here are two quotes from that article:

1) "..other studies have shown that a high density of rental properties can drive down home values."

2)"A large number of renters in a given area also reduces the amount of buyer demand."

These are only a few reasons out of many as to why the zoning on the Colton lots should not be changed to N2. The zoning along Colton should be kept the way it is now. Back loading (mentioned in the proposal) can be done for single family homes too. This requested change in density is far too drastic for the adjacent neighborhoods.

Sincerely,

Chet Sharbono
2104 Avalon Rd
Billings, MT 59102

Bartley, Robbin

From: Chad Woodyatt <chadwoodyatt@gmail.com>
Sent: Tuesday, February 1, 2022 9:58 AM
To: Bartley, Robbin
Subject: [EXTERNAL] Zone Change 1009 - Zimmerman Home Place - Written Comment

While we understand the need for additional housing options on the west end of Billings, the existing zoning does not need to be changed. There is good development and bad development. Good development adds value to the surrounding areas. Bad development aims to take advantage of the local community amenities and conveniences while not offering any additional value.

Why this zoning change proposal needs not be approved.

1. Adding additional multi-unit rentals only adds additional traffic pressure to the already existing proposed apartment complex in the middle of the development. The current street layout in the proposed development encourages traffic to flow directly on to Colton Blvd.
2. Increased enrollment of students at an already approaching maximum capacity at Arrowhead Elementary School. No projections or investigations have been presented to definitely say this development will not impact the affected schools.
3. Increased potential for property crime. There is no question that crime rates are increasing in the City of Billing. Rental units by design encourage a transient population. The current layout of the development encourages crime to be focused in the north.
4. Removing a boundary of single family homes. Removing the transition from single family homes to multi-unit dwellings completely removes the identity of the single family home neighborhood. There needs to be a logical transition between building types.

Chad and Aubry Woodyatt - 3745 Colin Dr, Billings, MT 59102
480-259-8845
chadwoodyatt@gmail.com

Bartley, Robbin

From: Bruce Carlson <bruced1975@gmail.com>
Sent: Tuesday, February 1, 2022 10:00 AM
To: Bartley, Robbin
Subject: [EXTERNAL] Oppose City zone change 1009

February 1, 2022

Attn: City Zoning Commission
RE: City Zone Change 1009
Project Number PZX-22-00006

I oppose this change for the following reasons:

Twin homes are predominantly investment properties and not owner occupied. They are essentially two living units with a common wall and are typically low-end construction built. I feel they will degrade the value and change the integrity of our single -family neighborhood as it was originally designed. I am in favor of keeping the property as N3 zoning with single family house front loaded off Colton Blvd.

This Zoning Change should NOT go forward because of the potential impact to area schools that are already reaching capacity. Changing Single-family homes to Multi-unit homes on this property are not needed at this time due to multiple projects that are already addressing this need on the westend.

Sincerely,

Bruce D. Carlson-Homeowner
3749 Hayden Dr
Billings, MT 59102

Bartley, Robbin

From: BreAnn Mecham <ladybugstar30@hotmail.com>
Sent: Tuesday, February 1, 2022 8:01 PM
To: Bartley, Robbin
Subject: [EXTERNAL] City Zone Change 1009

My letter is in regards to concerns over the City zone change 1009 project number PZX-22-00006. I have 3 main points. The first one being how unprofessional everything has been up to this point with the meetings and the change of meetings without letting the public know. It is also been decieiving with reguards to the wording claiming that these N2 mid century properties will not bring down the value of our houses. Where is the data to prove that. We have not been shown plans. We do not know what the houses will look like. The materials they will be made out of and the aesthetics, or even what the landscaping plans will look like. These are all going to contribute to property value in the area. You have poor quality homes being built to make some money and that effects every ones prices. Also, who is going to take care and clean these new properties and park. As a Fairmeadow neighborhood we already do a couple clean up days a year because our trail behind our house gets trashed everyday. It is just unprofessional how little and lack of information has been given to the public.

Second, with the amount of people entering into the area, traffic is going to increase in an already busy spot due to two schools currently there. We like not having connecting roads because it cuts down the traffic. There have already been two accidents on 38th and Colton in the last 6 months, resulting in cars crashing in the ditch. We are bringing more people into this already over populated area. We are building more N2 residentail neighborhoods with out plans for building more schools.

Third, the existing zoning of our N3 subruban neighborhood is already a good mix of commercial and existing zones the picture below shows how far the new zone is encroaching into the space. Thanks for your time.

Fairmeadow property owner.

Sharon Rd

Bartley, Robbin

From: Alexis Richards <jlrichards12@gmail.com>
Sent: Tuesday, February 1, 2022 12:55 PM
To: Bartley, Robbin
Subject: [EXTERNAL] City Zone Change 1009- Zimmerman Home Place

Good morning,

I am writing in objection to city zone change 1009- Zimerman Home Place. The initial plan- to have a barrier of suburban neighborhood homes built along Colton- is a better plan aesthetically, and practically, to assist in the quality and cohesiveness of the neighborhood. The P1 of 1.02 acres is practical, but there should still be a barrier of N3 homes behind that area as initially planned.

However, we are concerned with a few things:

1. This proposed zone change and building of rentals will decrease home values in the area. If we are trying to build a better Billings, it seems illogical to undermine the integrity of a neighborhood by inviting transients to the area, increasing theft, vandalism, noise, traffic, crime in general, and decreasing home values in the area.

2. While the idea of having the pedestrian paths extended is great in theory, we have lived in the area a long time and know that it takes a lot of work to keep them up to par. We already have a neighborhood cleanup crew that takes care of the path because, without it, the path would be so overrun with trash and dog poop it'd be unbearable to use. I fear that adding so many new residents to the area, due to high density units being built, that complacency for care of the path and other outdoor areas will really tank and the residents trying to use it will suffer. How is this going to be addressed?

3. Arrowhead Elementary is already busting at the seams and class sizes exceed what they are meant to. We realize this is the case all over town... so it's hard to understand why we are focused on increasing the number of people we can fit into the area by building high density units, rather than taking care of those who are already here and need improvements made.

4. Since 38th St. W. was connected to Colton a couple years ago, that street has become downright dangerous. Something needs to be done to slow traffic down and/or decrease traffic in that area. Adding units and increasing traffic seems like it'd make it more unsafe and dangerous than it already is.

Poly Vista Homeowner

ORDINANCE 22-_____
AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE ZONE CLASSIFICATION ON Lot 1, Block 1 and Lot 1, Block 2 of Zimmerman Home Place Subdivision, BE AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. **RECITALS.** *Title 76, Chapter 2, Part 3, MCA,* and *Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

Section 2. **DESCRIPTION.** **Lot 1, Block 1 and Lot 1, Block 2 of Zimmerman Home Place Subdivision,** is presently zoned **Suburban Neighborhood (N3), Mixed Residential 1 (NX1), Mixed Residential 3 (NX3) and Public 1 (P1)** and is shown on the official zoning map within this zone.

Section 3. ***ZONE DISTRICT AMENDMENT.*** The official zoning map is hereby amended the zoning for **Lot 1, Block 1 and Lot 1, Block 2 of Zimmerman Home Place Subdivision,** is hereby changed from **Suburban Neighborhood (N3), Mixed Residential 1 (NX1), Mixed Residential 3 (NX3) and Public 1 (P1) to Mid-Century Neighborhod (N2), Mixed Residential 1 (NX1) and Mixed Residential 3 (NX3) and Public 1 (P1)** as shown on the attached exhibit, and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Mid-Century Neighborhod (N2), Mixed Residential 1 (NX1) and Mixed Residential 3 (NX3) and Public 1 (P1)**, as set out in the Billings, Montana City Code.

Section 4. **EFFECTIVE DATE**. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law, or upon effective date of Resolution 22-_____ approving the annexation of the above territory, whichever is later.

Section 5. **REPEALER**. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 6. **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 28th day of February, 2022.

PASSED, ADOPTED and APPROVED on second reading this 14th day of March, 2022.

CITY OF BILLINGS

BY:_____

William A. Cole, Mayor

Attest:

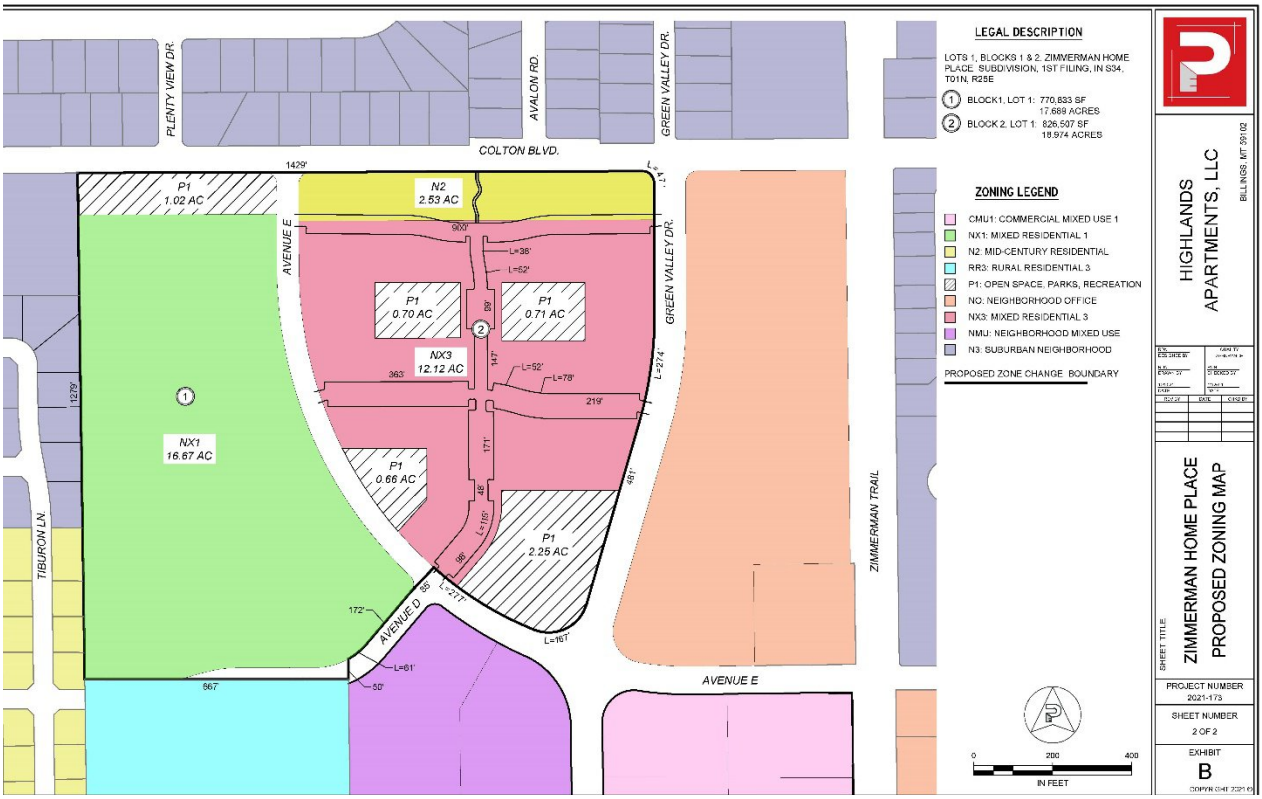
BY:_____

Denise R. Bohlman, City Clerk

Zone Change 1009, Zimmerman Home Place Subdivision Lot 1, Block 1 and Lot 1, Block 2

Zone Change 1009

Zoning Exhibit



HIGHLANDS APARTMENTS, LLC
BILLINGS, MT 59102

SHEET TITLE
ZIMMERMAN HOME PLACE
PROPOSED ZONING MAP

PROJECT NUMBER
2021-173

SHEET NUMBER
2 OF 2

EXHIBIT
B

City Council Regular

Date:	02/28/2022
Title:	Development Agreement for Lot 1, Block 1, Lot 1, Block 2 and Lot 1, Block 3 of Zimmerman Home Place Subdivision
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends that the City Council approve the Development Agreement for Lot 1, Block 1; Lot 1, Block 2; and Lot 1, Block 3 of Zimmerman Home Place Subdivision.

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

City Council will consider annexation of Lot 1, Block 1, Lot 1, Block 2, and Lot 1, Block 3 of Zimmerman Home Place Subdivision, 1st Filing. The property proposed to be annexed is located south of Colton Boulevard and west of Zimmerman Trail. The Developer desires to develop the property as a residential development. Typically, as a condition of approval of the annexation, the property owner enters into a Development Agreement with the City of Billings 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. The Development Agreement provides for City required off-site improvements should the property be annexed and developed without a subdivision plat. The Development Agreement for this Council action generally includes the following conditions or improvements:

- Construction of the south-half of Colton Boulevard along with a multi-use trail along north property line of property;
- Construction of water and sanitary sewer mains in Green Valley Drive and Avenue E;
- Construction of Green Valley Drive and Avenue E along with boulevard sidewalk;
- Construction of storm drain in Green Valley Drive and Avenue E;
- Outlines an option for use of Big Ditch water for irrigation purposes;
- Outlines requirements for a traffic impact study.

ALTERNATIVES

City Council may:

- If the annexation is approved, then 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 is one requirement of the Development Agreement that would not be required upon site development. Section 6 requires the dedication of public right-of-way if needed. If the site develops without subdividing, the City would not be able to acquire right-of-way.

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

Return to:
Performance Engineering, LLC
608 N. 29th Street
Billings, MT 59101

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made this _____ day of _____, 20____, by and between Highlands ZHP Subdivision, LLC, 2116 Broadwater Avenue, Suite 101, Billings, MT 59102 and L&L ZHP Subdivision, LLC, 2116 Broadwater Avenue, Suite 101, Billings, MT 59102 and Ludwig Consulting, LLC, 5445 Green Teal Drive, Billings, MT 59106 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:

> Lot 1, Block 1, Lot 1, Block 2, and Lot 1, Block 3 of Zimmerman Home Place Subdivision First Filing, situated in the SW1/4 of Section 34, T 01N, R 25E, P.M.M., in the City of Billings, Yellowstone County, hereinafter referred to as "Developer Tracts".

WHEREAS, DEVELOPER has submitted to the CITY a Petition for Annexation to the City for Developer Tracts; and

WHEREAS, DEVELOPER desires to annex Developer Tracts to the CITY; and

WHEREAS, CITY has approved the Petition for Annexation by Resolution No. _____ for the Developer Tracts contingent upon a Development Agreement being executed between CITY and DEVELOPER to identify required off-site infrastructure improvements and guarantees of those improvements.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties do hereby agree as follows:

1. *Roads and Access.* The Developer Tracts will be accessed by way of Green Valley Drive and Avenue E.

2. *Sanitary Sewer.* DEVELOPER is required to extend a sanitary sewer main in Green Valley Drive and Avenue E along the Developer Tracts frontage. Size of sanitary sewer mains to be determined by the City.

   DEVELOPER shall be responsible for payment of the City wastewater system development fee prior to the issuance of any building permits.

3. *Water.* DEVELOPER is required to extend a water main in Green Valley Drive and Avenue E along the Developer Tracts frontage and connect both water mains into the existing water main in Colton Boulevard to provide a looped system. Size of water mains to be determined by the City.

   DEVELOPER shall be responsible to reimburse the City for their proportionate share of the existing water line in Zimmerman Trail. Developer is responsible for payment of the current City water system development fee prior to the issuance of any building permits.

4. *Storm Drain.* DEVELOPER will manage storm drainage for the public right-of-way and the Developer Tracts in accordance with the City of Billings Stormwater Management Manual (2018). There is an existing 15-inch storm drain pipe located at the intersection of Avenue E and Green Valley Drive. DEVELOPER is required to extend the storm drain piping in the right-of-way as needed in order manage the storm drainage for the public right-of-way.

5. *Irrigation.* DEVELOPER has the right to analyze alternatives for irrigation purposes (ditches or wells) for Blocks 1 and 2. Should the DEVELOPER elect to utilize municipal water, City Engineering may require an additional system development fee for irrigation to be paid by the DEVELOPER at the time of lot development based on current Water and Wastewater Regulations.

6. *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.

7. *Street Construction, Widening and Sidewalks.* DEVELOPER is required to construct and widen the south half of Colton Boulevard to a collector width. Construction shall include street widening, grading and filling, curb and gutter, storm drain, piping of ditch if needed, and a 10-foot-wide multi-use

path along the Colton Boulevard frontage of the Developer Tract at the expense of the DEVELOPER.

Prior to development of the lots, DEVELOPER is required to construct Green Valley Drive. Boulevard sidewalk is required to be constructed along Green Valley Drive at the time of lot developments.

Prior to development of the lots, DEVELOPER is required to construct Avenue E. Boulevard sidewalk is required to be constructed along Avenue E at the time of lot developments.

8. *Multi-use Trail*. A multi-use trail shall be constructed at the expense of the DEVELOPER. A 10-foot-wide trail shall be constructed along south side of Colton Boulevard along the frontage of the Developer Tracts. The trail shall be constructed at the time of lot development.

   DEVELOPER shall be responsible for the maintenance and replacement of the trail after construction.

9. *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.

10. *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, construction, reconstruction or maintenance of streets, curbs, gutter, concrete ribbons, sidewalks, multi-use trails, driveways, survey monuments, street name signs, street lights, street light energy and maintenance, parks and parks 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 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.

11. *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.

12. *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.

13. *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.

14. *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" Highlands ZHP Subdivision, 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 Highlands ZHP Subdivision, 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:_____

"DEVELOPER" L&L ZHP Subdivision, 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 L&L ZHP Subdivision, 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:_____

"DEVELOPER"

Ludwig Consulting, 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 Ludwig Consulting, 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, multi-use trails, driveways, survey monuments, street name signs, street lights, street light energy and maintenance, parks and parks 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:

Lot 1, Block 1, Lot 1, Block 2, and Lot 1, Block 3 of Zimmerman Home Place Subdivision 1st Filing, situated in the SW1/4 of Section 34, T 01N, R 25E, P.M.M., in the City of Billings, Yellowstone County.

"DEVELOPERS"

Highlands ZHP Subdivision, 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 Highlands ZHP Subdivision, 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:_____

"DEVELOPERS" L&L ZHP Subdivision, 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 L&L ZHP Subdivision, 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:_____

"DEVELOPERS" Ludwig Consulting, 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 Ludwig Consulting, LLC and who acknowledged to me that said DEVELOPER executed the same.

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

_____
Notary Public in and for the State of Montana
Printed name:_____
Residing at:_____
My commission expires:_____

City Council Regular

Date:	02/28/2022
Title:	Public Hearing - Ward Boundary Expansion Ordinance First Reading - Annexation 22-02
Presented by:	Monica Plecker
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

Staff recommends the City Council hold a public hearing and approve this ordinance on first reading, adding recently annexed property to Ward IV.

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

Highlands ZHP Subdivision LLC, L & L ZHP Subdivision LLC and Ludwig Consulting, LLC submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located in the Zimmerman Home Place Subdivision. The land being annexed is described as Tracts of Land situated in the SW 1/4 of Section 34, T.1N., R.25E, P.M.M., Yellowstone County, Montana, more particularly described as: Being Lot 1, Block 1, Lot 1, Block 2 and Lot 1, Block 3 of Zimmerman Home Place Subdivision, First Filing, recorded April 17, 2017, under Document No. 3811344; Also including all adjacent Right-Of-Way of Colton Boulevard, Avenue D, Avenue E and Green Valley Drive. Said annexation containing 54.684 gross and 48.788 net acres.

Upon Council approval, this annexation requires a change in the boundaries of Ward IV. Two readings are required for this action. The first reading and public hearing is scheduled for February 28. Upon approval the second reading will occur on March 14, 2022.

ALTERNATIVES

City Council may:

- Approve adding the subject property to the recommended City Ward, or;
- Disapprove adding the subject property to the recommended City Ward. Disapproval will not modify the ward boundary and will create a problem where property inside the City Limits is not within a City Ward.

FISCAL EFFECTS

This application has no impact on the Planning Division Budget.

Attachments

Ward Boundary Ordinance

ORDINANCE NO. 22-_____

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD IV PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward IV the following described real property:

   Tracts of Land situated in the SW 1/4 of Section 34, T.1N., R.25E, P.M.M., Yellowstone County, Montana, more particularly described as:

   Being Lot 1, Block 1, Lot 1, Block 2 and Lot 1, Block 3 of Zimmerman Home Place Subdivision, First Filing, recorded April 17, 2017, under Document No. 3811344;

   Also including all adjacent Right-Of-Way of Colton Boulevard, Avenue D, Avenue E and Green Valley Drive.

   Said annexation containing 54.684 gross and 48.788 net acres.

   (# 22-02) See Exhibit "A" Attached

2. EFFECTIVE DATE. This ordinance shall be effective either thirty (30) days after second reading and final adoption as provided by law, or upon the effective date of Resolution No. 22-_____ approving the annexation of the above territory, whichever date is later.

3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

4. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the

election administrator not more than ten (10) days after the effective date of this ordinance.

PASSED by the City Council on the first reading this 28th day of February 2022.

PASSED by the City Council on the second reading this 14th day of March, 2022.

THE CITY OF BILLINGS:

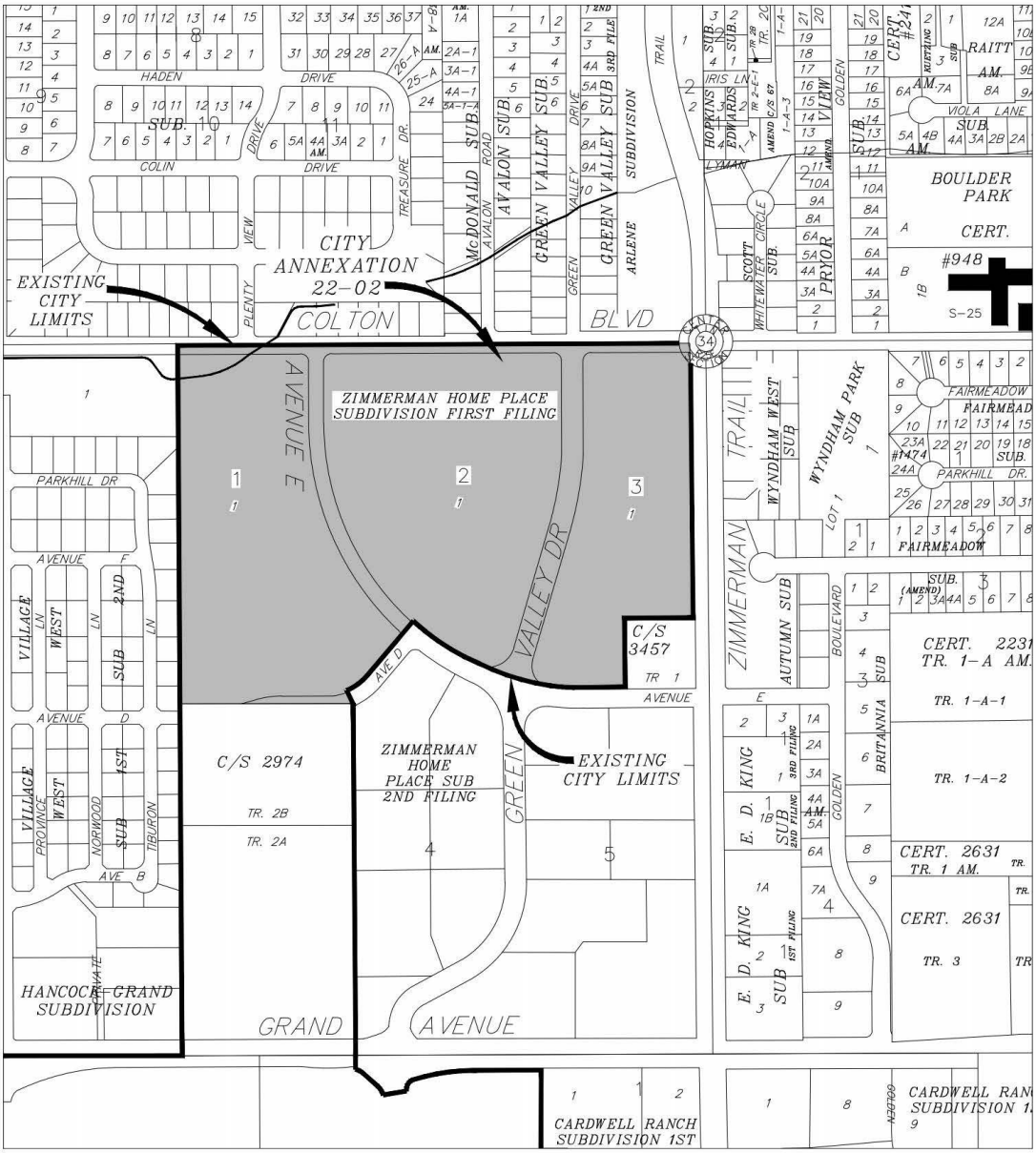
_____
William A. Cole, MAYOR

ATTEST:

BY: _____
Denise Bohlman, CITY CLERK

(#22-02)

EXHIBIT "A"


CITY ANNEXATION 22-02
EXISTING CITY LIMITS
COLTON BLVD
ZIMMERMAN HOME PLACE SUBDIVISION FIRST FILING
AVENUE E
VALLEY DR
GREEN
C/S 3457
TR 1
C/S 2974
TR. 2B
TR. 2A
ZIMMERMAN HOME PLACE SUB 2ND FILING
EXISTING CITY LIMITS
HANCOCK-GRAND SUBDIVISION
GRAND AVENUE
CARDWELL RANCH SUBDIVISION 1ST
PARKHILL DR
AVENUE F
AVENUE D
AVENUE B
TRAIL
ZIMMERMAN
AUTUMN SUB
WYNDHAM PARK SUB
WYNDHAM WEST SUB
FAIRMEADOW
BOULEVARD
BRITANNIA
GOLDEN
E. D. KING SUB 1ST FILING
E. D. KING SUB 2ND FILING
CERT. 2631 TR. 1 AM.
CERT. 2631 TR. 3
CERT. 2231 TR. 1-A AM.
TR. 1-A-1
TR. 1-A-2
BOULDER PARK
CERT. #948
RAITT AM.
VIOLA LANE SUB
IRIS LN
HOPKINS EDWARDS SUB
LYMAN
SCOTT WHITEWATER CIRCLE
PRYOR
ARLENE
GREEN VALLEY SUB
AVALON SUB
McDONALD SUB
TREASURE DR.
HADEN DRIVE
COLIN DRIVE
SUB. 10
SUB. 11
VILLAGE WEST LN
2ND SUB
1ST SUB
NORWOOD
TIBURON
PROVINCE