

**\*\*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 in Council Chambers, second floor of City Hall, 220 N. 27th Street. 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](http://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](http://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](http://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](mailto: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](#)
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**Webinar ID: 868 4765 3120**

**Passcode: 627580**

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Please contact Denise Bohlman, City Clerk, at [bohlmand@billingsmt.gov](mailto:bohlmand@billingsmt.gov), or at 406.657.8205, with any questions.



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

**CITY COUNCIL  
REGULAR BUSINESS MEETING**

**AGENDA**

**COUNCIL CHAMBERS**

**MARCH 28, 2022**

**5:30 P.M.**

**CALL TO ORDER:** Mayor Cole

**PLEDGE OF ALLEGIANCE:** Mayor Cole

**INVOCATION:** Councilmember Joy

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

**MINUTES:** March 14, 2022

**COURTESIES:**

**PROCLAMATIONS:**

**COUNCIL REPORTS:**

**ADMINISTRATOR REPORTS - CHRIS KUKULSKI**

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

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

A. **Bid Awards:**

1. **W.O. 22-01: 2022 Water and Sewer Main Replacement.** (Opened 3/8/22) Recommend Schedules 1 and 2, Askin Construction; \$3,795,999 and Schedules 3 and 4, COP Construction, LLC; \$2,934,748.
2. **W.O. 22-02: Missing Sidewalk/Miscellaneous Project.** (Opened 3/8/22) Recommend rejecting bid.
3. **W.O. 22-05: Small Concrete Project.** (Opened 2/22/22) Recommend rejecting all bids.
4. **W.O. 22-10: Alkali Creek Water and Sewer Extension.** (Opened 2/8/22) Recommend Western Municipal Construction; \$3,875,064.
5. **W.O. 22-28: Grand Avenue and 32nd Street West Traffic Signal Improvements.** (Opened 3/8/22) Recommend Elcon Corporation; \$431,460.17.
6. **W.O. 22-33: Lead Service Replacements.** (Opened 2/22/22) Recommend rejecting bid.
7. **West Taxilane Utility Project.** (Opened 3/8/22) Recommend Hample Excavation, Inc.; \$500,054.

B. **Purchase of Advertising Benches** from Blair Unlimited, Inc.; \$240,000.

C. **Amendment No. 32, West Taxilane Extension Project,** Professional Engineering Services Contract, Morrison Maierle, Inc.; \$98,633.

- D. **Settlement Agreement** with County Water District of Billings Heights; \$2,936,251.80.
- E. **Non-Commercial Aviation Ground Lease** with Agri Systems, April 1, 2022 through March 31, 2032; revenue first year \$8,294.88; revenue subsequent years adjusted by CPI-U.
- F. **Two West End Hangar Ground Leases** with Beacon Air Group, LLC, April 1, 2022 through March 31, 2047; revenue first year \$11,223; revenue subsequent years adjusted by CPI-U.
- G. **Perpetual Right of Way Easement** from Development 55, LLC and Frontier Services for water and sanitary sewer main along Harnish Boulevard.
- H. **Utility Easement** with NorthWestern Energy to install new overhead electric cables in parkland along 36th Street West.
- I. **Final Plat** of Lenhardt Square Subdivision, First Filing. **\*Quasi-Judicial**
- J. **Bills for the Weeks of:**
  - 1. February 21, 2022
  - 2. February 28, 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 SPECIAL REVIEW 993:** a special review to allow a vehicle and service repair building on a 2.17 acre parcel generally located at the south intersection of Shiloh Road and Shiloh Crossing Boulevard. Central Holdings, LLC, owner; Donna Madson, agent. Zoning Commission recommends conditional approval and adoption of the findings of the 9 review criteria. (Action: approval or disapproval of Zoning Commission recommendation.) **\*Quasi-Judicial**
  - *Presented by: Karen Husman, Planner*

**Recommended Motion:** Having conducted a public hearing, considered written and spoken public testimony, and review of the Zoning Commission's recommendation for conditional approval and adoption of the findings of the 9 review criteria, I move to approve Special Review 993.
- 3. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending Billings, Montana City Code, Article 13-1100, Revolving Loan Program. 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 and amend Billings, Montana City Code, Article 13-1100, on first reading, as recommended by staff.
- 4. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1010:** a zone change for a 1.808 acre parcel located at 2204 Bench Boulevard. Michael Haaland, owner; Lucas Haaland, agent. 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 1010 and adopt the findings of the 10 review criteria, as recommended by the Zoning Commission.

5. BUFFALO CROSSING, LLC PROPERTY:

a. JOINT PUBLIC HEARING FOR ANNEXATION 22-03 AND ZONE CHANGE 1011:

- i. RESOLUTION FOR ANNEXATION 22-03: a parcel located south of Grand Avenue and 60th Street West. Buffalo Crossing, LLC, petitioner. 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 22-03, as recommended by staff.

- ii. FIRST READING ORDINANCE FOR ZONE CHANGE 1011: a zone change for a 33.64 acre parcel located south of Grand Avenue and 60th Street West. Buffalo Crossing, LLC, owner; WWC 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 1011 and adopt the findings of the 10 review criteria, as recommended by the Zoning Commission.

- b. DEVELOPMENT AGREEMENT with Buffalo Crossing, LLC for infrastructure improvements located along Grand Avenue near the intersection of 60th Street West. 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 Buffalo Crossing, LLC, as recommended by staff.

- c. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward IV to include recently annexed property in Annexation 22-03: a parcel located south of Grand Avenue and 60th Street West. Buffalo Crossing, LLC, petitioner. 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.

6. MONTANA FEDERATION OF PUBLIC EMPLOYEES (MFPE), BILLINGS POLICE OFFICERS' UNIT COLLECTIVE BARGAINING AGREEMENT. (7/1/2021-6/30/25). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

- Presented by: Karla Stanton, Human Resources Director

**Recommended Motion:** I move to approve an agreement for the renewal a labor contract between MFPE, Billings Police Officers' Unit and the City of Billings, 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](mailto:bohlmand@billingsmt.gov), 72 hours prior to the meeting date.*

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

**City Council Regular**

**Date:** 03/28/2022  
**Title:** W.O. 22-01, 2022 Water and Sewer Main Replacement, Bid Award  
**Presented by:** Travis Harris  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends that City Council award a contract for W.O. 22-01, 2022 Water and Sewer Main Replacement, Schedules 1 & 2--Water to Askin Construction in the amount of \$3,795,999 and Schedules 3 and 4--Sewer to COP Construction, LLC in the amount of \$2,934,748.

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

W.O. 22-01, 2022 Water and Sewer Main Replacement, will replace approximately 9,580 feet of existing water main and 10,700 feet of existing sanitary sewer. Water mains being replaced were selected based on several criteria including age, break history, lead joint pipe, lead services, and undersized water mains. This project will replace water mains that are between 58 and 106 years old, remove and replace approximately 141 lead services, upsize 4-inch diameter and 6-inch diameter water mains to 8-inch size, resulting in the reduction of maintenance costs from water main breaks. Upsizing to 8-inch diameter water main will also provide improved fire flows to adjacent properties. The sewer mains being replaced with this project were selected based on age, video inspection condition assessment, root intrusion history, and sewer back up history. This project will replace sanitary sewer mains that are between 100 and 120 years old made of clay tile. These sewer mains exhibit broken and cracked pipe and many sections need yearly root intrusion removal and maintenance.

The project was advertised on February 18, February 25, and March 4, 2022, in the *Yellowstone County News* and on the City's website. Bids were opened on March 8, 2022, and 3 bids were received. For Schedules 1 and 2, Askin Construction submitted the lowest, responsible bid. For Schedules 3 and 4, COP Construction, LLC. submitted the lowest, responsible bid.

**ALTERNATIVES**

City Council may:

- Award W.O. 22-01, 2022 Water and Sewer Main Replacement, to Askin Construction in the amount of \$3,795,999 for Schedules 1 and 2, and to COP Construction, LLC. in the amount of \$2,934,748 for Schedules 3 and 4; or,
- Do not award a contract and reject all bids. If the project is not awarded, the City's water mains and sanitary sewer collection systems in these areas will continue to be unreliable and will experience ongoing maintenance problems and expenses.

**FISCAL EFFECTS**

The following bids were received:

| Contractor                     | Schedules 1 & 2<br>Water<br>Bid Amount | Schedules 3 & 4<br>Sewer<br>Bid Amount |
|--------------------------------|----------------------------------------|----------------------------------------|
| Western Municipal Construction | \$4,495,685.00                         | \$3,090,888.00                         |
| COP Construction, LLC          | \$4,215,685.00                         | \$2,934,748.00                         |
| Askin Construction             | \$3,795,999.00                         | No Bid                                 |

The project was budgeted in FY22 using water and wastewater funds.

The water portion of the project was budgeted at \$2,987,565. A portion of the water budget shortfall will be supplemented with water funds from the 2022 Lead Service Replacement Project. This additional funding will go toward the portion of the project that has lead service replacements (all streets except 10th Avenue North). The remainder of the water budget shortfall will be supplemented with funds from an ARPA grant that the City has applied

for. It is anticipated that the ARPA grants will be announced in June 2022. If the City is not awarded the ARPA grant, the water main replacement for 10th Avenue North will be removed from this construction contract and will be replaced in one of the upcoming water replacement projects.

The sewer portion of the project is within the FY22 budgeted amount.

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**City Council Regular Business Meeting**

**Meeting Date:** 03/28/2022

**Title:** WO 22-02 Missing Sidewalk/Miscellaneous Project, Bid Award

**Presented by:** Debi Meling

**Department:** Public Works

**Division:** Engineering

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**RECOMMENDATION**

Staff recommends the City Council reject the only bid received for WO 22-02 Missing Sidewalk/Miscellaneous Project.

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

The Missing Sidewalk/Miscellaneous project is intended to concentrate on installing sidewalk in areas that are missing pedestrian facilities. As a priority, City staff identified areas that are along arterial streets, collector streets, school routes, or in high pedestrian areas for inclusion in this program. The streets identified as needing sidewalk are Virginia Lane from Rimrock Road to Poly Drive and Alkali Creek Road from Moon Beam Lane to North Moon Beam Lane. Along with the missing sidewalk, there is miscellaneous concrete work to address problems throughout the City, including ADA improvements, that are too large for the sidewalk tripper repair or replacement projects.

The project was advertised on February 18, February 25, and March 4, 2022, in the *Yellowstone County News* and on the City's website. Bids were opened on March 8, 2022, and one bid was received. Riverside Contracting, Inc. submitted the lowest, responsible bid. The bids were significantly higher than the engineer's estimate, and would result in excessively large property owner assessments, so staff is recommending that bid be rejected. Staff believes bidding the project in a more favorable bid environment will result in lower bids. In this case, a more favorable bid environment is one where contractors have the capacity to do the work. Staff intends to re-bid the project in winter 2022/2023.

**ALTERNATIVES**

City Council may:

- Reject all bids. This will allow Engineering to re-evaluate the project, possibly split the project, and bid at a more favorable time.

**FISCAL EFFECTS**

The following bid was received:

| Contractor                  | Bid Amount     |
|-----------------------------|----------------|
| Riverside Contracting, Inc. | \$1,062,067.60 |

The project was budgeted in FY22 using Gas Tax and Assessments in the amount of \$450,000.00. The bid was high because of an unfavorable bidding environment, mainly due to area contracting capacity.

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**City Council Regular**

**Date:** 03/28/2022  
**Title:** WO 22-05 Small Concrete Project, Bid Award  
**Presented by:** Debi Meling  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends the City Council reject the only bid for WO 22-05, Small Concrete Project.

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

The Small Concrete Project addresses miscellaneous concrete work throughout the City that are too large for the sidewalk tripper repair program.

The project was advertised on February 4, February 11, and February 18, 2022, in the *Yellowstone County News* and on the City's website. Bids were opened on February 22, 2022, and one bid was received. Knife River - Billings submitted the lowest, responsible bid.

The bids were approximately 63% higher than the engineer's estimate, so staff is recommending that bids be rejected. Awarding the project would result in significantly higher assessments to the property owners. Staff believes bidding the project in a more favorable bid environment will result in lower bids. In this case, a more favorable bid environment is one where contractors have the capacity to do the work. There are a number of trippers on this project. Separately, and after rejecting this bid, Engineering will be contracting to grind the trippers as a temporary repair during this construction season.

**ALTERNATIVES**

City Council may:

- Reject all bids. This will allow Engineering to re-evaluate the project and possibly split the project and bid at a more favorable time.

**FISCAL EFFECTS**

The following bid was received:

| Contractor             | Bid Amount   |
|------------------------|--------------|
| Knife River - Billings | \$190,425.00 |

The project was budgeted in FY22 using Gas Tax and Assessments. The bid was higher because of an unfavorable bidding environment.

**City Council Regular**

**Date:** 03/28/2022  
**Title:** W.O. 22-10, Alkali Creek Water and Sewer Extension, Bid Award  
**Presented by:** Debi Meling  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends that City Council award a contract for W.O. 22-10, Alkali Creek Water and Sewer Extension, to Western Municipal Construction in the amount of \$3,875,064.00.

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

W.O. 22-10, Alkali Creek Water and Sewer Extension, will extend a 12-inch diameter water main and a 21-inch diameter sanitary sewer main along Alkali Creek Road from the intersection of Strawberry Avenue and Alkali Creek Road to the northwest approximately 3,900 feet. The water and sewer extension will terminate at the property line of the proposed Timbers Subdivision, First Filing, which will allow the subdivision to connect to City services. This water and sewer extension will also be part of the "backbone" of the water and sewer infrastructure needed to serve the Inner Belt Loop Corridor. The water and sewer extensions are also recommended in the Water and Wastewater Master Plans.

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 bids were received. Western Municipal Construction submitted the lowest, responsible bid.

**ALTERNATIVES**

City Council may:

- Award W.O. 22-10, Alkali Creek Water and Sewer Extension, to Western Municipal Construction in the amount of \$3,875,064.00; or,
- Do not award a contract and reject all bids. If the project is not awarded, the Timbers Subdivision, First Filing, will not have City services and will have to develop in the County. Also, as the Inner Belt Loop develops, these mains will not be available for development along the corridor.

**FISCAL EFFECTS**

The following bids were received:

| Contractor                     | Bid Amount     |
|--------------------------------|----------------|
| COP Construction               | \$4,326,326.00 |
| Western Municipal Construction | \$3,875,064.00 |

The project was budgeted in FY 22 using water and wastewater funds. The water portion of the project is within budget.

The sewer portion of the project (\$2,885,515) was budgeted at \$2,000,000 and the shortfall of \$885,515 in wastewater funds will be used from cost savings from the fats, oils, and grease (FOG) receiving station project. The FOG project scope was reduced due to modifying the approach and it can be constructed with the remaining funds. Engineering staff reviewed the sewer bid tabulations and unit prices, and generally sanitary sewer items were slightly above budgeted estimates, except for construction dewatering. The construction dewatering bid cost noted in both bids was substantially more than estimated due to the wet, soft soils present at the site that are difficult to dewater combined with the 25-foot deep sewer installation.

**City Council Regular**

**Date:** 03/28/2022  
**Title:** W.O. 22-28 Grand Avenue & 32nd Street West Traffic Signal Improvements, Bid Award  
**Presented by:** Debi Meling  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends the City Council award a contract for W.O. 22-28 Grand Avenue & 32nd Street West Traffic Signal Improvements to Elcon Corporation in the amount of \$431,460.17.

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

W.O. 22-28 Grand Avenue & 32nd Street West Traffic Signal Improvements is intended to install a traffic signal and associated equipment at the referenced intersection. This traffic signal was identified as warranted to be constructed in the 2016 signal priority update, based on traffic warrants and accident severity. The improvements will also include pedestrian accessibility ramps, sidewalk, concrete curb and gutter, a raised median to the east of the intersection along Grand Avenue, and other traffic control improvements. The project was advertised on February 18, 25, and March 4, 2022 in the *Yellowstone County News* and on the City's website. Bids were opened on March 8, 2022, and three bids were received. Elcon Corporation submitted the lowest, responsible bid.

**ALTERNATIVES**

City Council may:

- Award W.O. 22-28 Grand Avenue & 32nd Street West Traffic Signal Improvements to Elcon Corporation in the amount of \$431,460.17; or,
- Not Award a contract and reject all bids. If the project is not awarded, the traffic signal will not be constructed.

**FISCAL EFFECTS**

The following bids were received:

| Contractor          | Base Bid     |
|---------------------|--------------|
| Elcon Corporation   | \$431,460.17 |
| Montana Lines, Inc. | \$448,653.00 |
| Ace Electric, Inc.  | \$595,796.35 |

The project was budgeted in FY22 using arterial funds and there are sufficient funds to award this project. The City anticipates some upcoming Developer contributions (reimbursement) to this intersection based on recent adjacent development activity in the Cardwell Ranch Subdivision. The timing and amount of these contributions are unknown at this time.

**City Council Regular**

**Date:** 03/28/2022  
**Title:** WO 22-33 Lead Service Replacements, Bid Award  
**Presented by:** Debi Meling  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends the City Council reject the only bid received for WO 22-33, Lead Service Replacements.

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

Prior to beginning the Lead Service Replacement program in 2019, the City of Billings had approximately 1,100 lead services in operation. There are approximately 299 known lead services remaining in operation. The City's goal is to remove the lead services (from the water main to curb valve) within the City of Billings by the Fall of 2024 prior to the implementation of the EPA's new Lead and Copper Rule. Staff anticipates achieving the City's goal even with the recommendation to reject the bid for WO 22-33: Lead Service Replacements.

Staff is recommending that the bid for WO 22-33: Lead Service Replacements be rejected as only one (1) bid was received, which came in at 198% of the historic average price per replaced lead service. Staff believes rebidding the project when more contractors are available to perform the work will result in receiving additional bids at a cost closer to the historic average. Furthermore, Staff will evaluate options to complete a portion of the lead service replacement work by the Public Works Department this construction season and to bid a project during the Fall of 2022 that allows more flexible construction timing to reduce bid pricing.

The project was advertised on February 4, 11, and 18, 2022 in the *Yellowstone County News* and on the City's website. Bids were opened February 22, 2022. One (1) bid was received. Western Municipal Construction, LLC submitted the lowest responsible total bid.

**ALTERNATIVES**

City Council may:

- Award a portion of WO 22-33: Lead Service Replacements to Western Municipal Construction, as the FY 2022 budget allows, which would include Schedule #1-Base Bid, Schedule #3-Additive, and Schedule #4-Additive totaling \$671,640.00. This alternative is not recommended as the cost is significantly above the cost that the work can likely be done for at a later time and it will reduce the number of services that can be replaced with the budget.
- Not award a contract and reject the bid. The City's goal of replacing lead services within the City (from main to curb valve) by fall of 2024 remains achievable.

**FISCAL EFFECTS**

The following bid was received and evaluated:

| Contractor                          | Schedule 1-Base Bid | Schedule 2-Additive | Schedule 3-Additive | Schedule 4-Additive | Total Bid    |
|-------------------------------------|---------------------|---------------------|---------------------|---------------------|--------------|
| Western Municipal Construction, LLC | \$480,160.00        | \$142,020.00        | \$96,500.00         | \$94,980.00         | \$813,660.00 |

The project was budgeted in FY 22 using water funds. The bid prices were significantly higher due to the unfavorable bidding environment.

**City Council Regular**

**Date:** 03/28/2022  
**Title:** Approval of the Low Bid with Hample Excavation, Inc. for the Airport's West Taxilane Utility Project  
**Presented by:** Shane Ketterling, Assistant Director of Aviation and Transit  
**Department:** Airport  
**Presentation:** No  
**Legal Review** Yes

**RECOMMENDATION**

Staff recommends that the City Council approve and award the Airport's West Taxilane Utility Project to Hample Excavation, Inc. for \$500,054.

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

Included in the Airport's Capital Improvement Program for Fiscal Year 2022 is the funding for the West Taxilane Utility Project. This project will develop a new area for the construction of larger aircraft hangars on the west end of the Airport. Land at the Airport for future growth and expansion is limited due to the existing buildings and infrastructure, the large airfield consisting of many runways and taxiways, cargo ramps, safety clearances for commercial aircraft required by the Federal Aviation Administration, and many other geographical issues such as elevation changes, the Rimrocks, etc. The few locations remaining that have room for development must be maximized and utilized to their full potential. The Airport regularly receives inquiries from businesses asking whether there are hangars for rent or land available to build on. Although the Airport does not currently own any hangars that are available for rent, a section of land on the west end is available for large commercial aircraft hangars. In 2016, the Airport constructed a taxilane and ramp for this future development, and the water, sewer, and storm water infrastructure for the hangars on the west side of the new taxilane. Recently, there has been a lot of interest from companies wanting to build larger 120' x 100' commercial hangars and the developed west side of the taxilane is now almost full. Subsequently, the Airport now needs to develop the east side of the taxilane for additional hangars. This project will require the contractor to install all necessary utilities including an 8-inch sanitary sewer extension, 12-inch water main extension, and 18-inch storm drain improvements. In addition to the utility work, the contractor will also perform dirt work, pavement removal and installation, construction of a new access road and other miscellaneous work. This utility project will take place as soon as the weather permits so that this new hangar development will be available this Summer for interested parties.

This project was advertised in the *Yellowstone County News* on February 18, 25, and March 4, 2022, and posted on the City and Airport's Websites. On March 8, 2022, the following bids were received:

| CONTRACTOR              | BID       |
|-------------------------|-----------|
| Hample Excavation, Inc. | \$500,054 |
| COP Construction        | \$690,234 |
| Western Municipal, Inc. | \$907,462 |

**ALTERNATIVES**

City Council may:

- Approve the award of the West Taxilane Utility Project to Hample Excavation, Inc. for \$500,054; or
- Decline to approve the award, reject all bids, and delay the project.

**FISCAL EFFECTS**

The low bid for this project is \$500,054. Funding for this project is available in the Airport's Capital Account. The Airport anticipates that once all lots are leased, it will take approximately 12 years to recoup its investment. Thereafter, the combined revenues for the next 20 years will exceed \$2,000,000 (using a CPI-U of 3.5%) providing a rate of return over the 32 years of nearly 5%.

**Attachments**

Draft Contract

## Section 1.5 Contract

THIS CONTRACT, made as of \_\_\_\_\_ by and between the City of Billings, hereinafter called the OWNER, and Hample Excavation, Inc. hereinafter called the CONTRACTOR.

WITNESSETH THAT, whereas the OWNER intends to construct improvements at Billings Logan International Airport consisting of:

### **2022 WEST TAXILANE UTILITIES** **Schedule 1 – Utility Improvements**

hereinafter called the PROJECT, in accordance with Drawings, Specifications and other Contract Documents prepared by **Morrison-Maierle**, hereinafter called the ENGINEER, and as such designated by the parties hereto as an agent for the OWNER to protect the interests of the OWNER and to insure that the CONTRACTOR's work is done in full compliance with the terms of this CONTRACT.

NOW, THEREFORE, the OWNER and the CONTRACTOR, for the considerations herein set forth, agree as follows:

THE CONTRACTOR AGREES to furnish all the necessary labor, materials, equipment, tools and services necessary to perform and complete, in a workmanlike manner, all work required for the construction of the Project included in the following units and items of the Proposal in strict compliance with the Contract Documents herein mentioned, which are hereby made a part of the Contract:

A. **CONTRACT TIME**: Work under this Contract shall be commenced upon written Notice To Proceed and shall be completed within the specified calendar days of the commencement of the Contract Time as specified in the Special Provisions.

B. **LIQUIDATED DAMAGES AND ACTUAL DAMAGES**: Subject to the provisions of the General and Special Provisions, the OWNER shall be entitled to be paid by the Contractor for liquidated damages, actual damages and damages for additional engineering services as specified in the Special Provisions and as referenced in the "Bid Proposal Packet". (See attached "Acknowledgement of Liquidated Damages" form.)

C. **LOBBY DISCLOSURE**: As a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code, the Contractor agrees to provide Certification of Disclosure of Lobbying activities and shall require that the language of this certification be included in the award of documents for all sub-awards at all tiers and that all sub-recipients shall certify and disclose accordingly. (See attached "Disclosure of Lobbying Activities" form.)

D. **SUBCONTRACTORS**: The CONTRACTOR agrees to bind every subcontractor by the terms of the Contract Documents. The Contract Documents shall not be construed as creating any contractual relation between subcontractor and the OWNER.

E. CONTRACT PRICE: THE OWNER AGREES to pay, and the CONTRACTOR agrees to accept, in full payment for the performance of this Contract, the Contract amount of five hundred thousand fifty-four and 00/100 Dollars (\$500,054.00) based on the prices stipulated in the Proposal and in accordance with the provisions of the Contract Documents.

F. PAYMENT PROCEDURES: Progress payments will be made in accordance with the General Conditions and Special Provisions.

G. CONTRACT DOCUMENTS: The term "CONTRACT DOCUMENTS" as used herein shall mean and include the "GENERAL CONDITIONS" hereto attached, all of which are by this reference incorporated into and made a part of this Contract. In the event any provision of one Contract Document conflicts with the provision of another Contract Document, the provision in that Contract Document first listed below shall govern, except as otherwise specifically stated:

- a. Contract (This Instrument)
- b. Performance and Payment Bonds
- c. Addenda to Contract Documents (List): One
- d. Legal and Procedural Documents:
  - 1. Proposal
  - 2. Proposal Guaranty
  - 3. Instructions to Bidders
  - 4. Invitation to Bid
- e. Special Provisions
- f. Drawings (List Sheet Numbers): 15
- g. Technical Provisions
- h. General Conditions

H. AUTHORITY AND RESPONSIBILITY OF THE ENGINEER: The ENGINEER shall decide any and all questions which may arise as to the quality and acceptability of materials furnished, work performed, rate of progress of work, interpretation of drawings and specification, and all questions as to the acceptable fulfillment of the Contract on the part of the CONTRACTOR. In acting in this capacity under this Contract, the ENGINEER is acting as an agent for the OWNER to protect the interest of the OWNER. ENGINEER will endeavor for the benefit of the OWNER to determine, in general, if the work is proceeding in accordance with the contract documents. ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. ENGINEER'S efforts will be directed toward providing for owner a greater degree of confidence that the completed work will conform generally to the contract documents. This service does not include direction or supervision of the CONTRACTOR's employees, agents or subcontractors, or the inspection of any of the equipment, installations, temporary shoring, or any other of the CONTRACTOR's operations or those of his subcontractor, to safeguard their agents or public employees or the general public, or to prevent damage to public or private property, these being the sole responsibility of the CONTRACTOR.

I. SAFETY PROVISIONS: It is a condition of the Contract, and shall be made a condition of each subcontract entered into pursuant to this Contract, that the CONTRACTOR and any subcontractor shall not require any laborer or mechanic employed in performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety, as determined under construction safety and health standards. Title 29 Code of Federal Regulations, Part 1518, 36 F.R., 7340, promulgated by the United States Secretary of Labor in accordance with Section 107 of the Contract Work Hours and Safety Standards Act, 82 Stat. 96.

J. LABOR PROVISIONS: The labor provisions of Section 1.8 A10 Davis Bacon Requirements are hereby made a part of this contract.

K. SUCCESSORS AND ASSIGNS: This contract and all of the covenants hereof shall insure to the benefit of, be binding upon the OWNER and the CONTRACTOR respectively, and his partners, successors, assigns, and legal representatives. Neither the OWNER nor the CONTRACTOR shall have the right to assign or transfer his interests or obligations hereunder without written consent of the other party.

L. ATTORNEY'S FEES: In the event either party engages the services of an attorney to enforce any provisions hereof or to secure payments, the prevailing party shall receive from the other party all costs, charges and expenses, including reasonable attorney's fees.

M. EQUAL EMPLOYMENT OPPORTUNITY CLAUSE: (Applies to all Construction Contracts in excess of \$10,000): During the performance of this contract, the contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. 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, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment 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 to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other

sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

N. AFFIDAVIT OF AMOUNTS PAID DBE PARTICIPANTS: Upon completion of the project, the Bidder agrees to complete the attached "Affidavit of Amounts Paid DBE Participants" indicating actual DBE firms used, a description of utilization, and the amount paid each DBE firm. (See Forms Appendix, make copies as needed, complete and provide to project engineer.) IN WITNESS WHEREOF, the parties have made and executed this Contract this day and year first above written.

CITY OF BILLINGS, MONTANA  
OWNER

Hample Excavation, Inc.  
CONTRACTOR

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

P.O. Box 1178  
Business Address

5219 US Hwy 312  
Business Address

Billings MT 59103  
City State Zip

Billings MT 59105  
City State Zip

The foregoing Contract, including all Contract Documents which are a part thereof, is in due form according to the law and is hereby approved.

APPROVED AS TO FORM

\_\_\_\_\_  
City Attorney's Office

ATTEST

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

See attached forms:

- A. CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS (Requires Signature)
- B. DISCLOSURE OF LOBBYING ACTIVITIES (Requires Disclosure)
- C. ACKNOWLEDGEMENT OF LIQUIDATED DAMAGES (Requires Signature)

**Attachment "A"**  
**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS,  
AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signed: \_\_\_\_\_  
Contractor's Authorized Representative

Dated: \_\_\_\_\_



**DISCLOSURE OF LOBBYING ACTIVITIES  
CONTINUATION SHEET**

Reporting Entity: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_

**Attachment "C"**  
**ACKNOWLEDGEMENT OF LIQUIDATED DAMAGES**

This acknowledgment dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by wherein Hample Excavation, Inc. acknowledges and agrees that the public improvement contract contains a liquidated damages clause. Hample Excavation, Inc. acknowledges and agrees that because the project involves the construction of public improvements said liquidated damages clause is necessary. Hample Excavation, Inc. acknowledges and agrees that the City of Billings is damaged in the amount of \$ 300.00 (Three Hundred and no/100 Dollars) for each day past the contract's completion date that this project is not completed.

Hample Excavation, Inc. acknowledges and agrees that because this is a public improvement project, it is extremely difficult to calculate the City of Billings' actual damages for delay in completing the project but that this mutually agreed upon figure for liquidated damages of \$ 300.00 (Three Hundred and no/100 Dollars) is the best approximation possible, is reasonable and is not a penalty. This mutually agreed upon liquidated damages amount has been specifically taken into account in arriving at the dollar amount of Hample Excavation, Inc.'s submitted bid. This liquidated damages amount shall be included in the public improvement project contract and Hample Excavation, Inc. acknowledges and agrees to be bound by this amount should Hample Excavation, Inc. be awarded the public improvement contract.

This mutually agreed upon amount may be deducted from money due or to become due Hample Excavation, Inc. should Hample Excavation, Inc. be awarded the public improvement contract and should Hample Excavation, Inc. fail to complete the work within the time specified in the contract.

By: \_\_\_\_\_  
(Contractor)

Its: \_\_\_\_\_  
(Title)

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**City Council Regular**

**Date:** 03/28/2022  
**Title:** MET Transit Purchase of Concessionaire Bench Inventory  
**Presented by:** Rusty Logan  
**Department:** Transit  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends City Council approve the purchase of MET's Advertising Concessionaire's bench inventory to ensure a seamless transition of advertising service during the transition to an in-house operated advertising program at MET.

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

MET Transit has historically offered advertising opportunities to the community with its on vehicle advertising as well as on street advertising displayed on bus benches. This opportunity has traditionally been executed via a concession agreement with an outside entity to manage and sell the advertising space; the current concession expires March 31, 2022. Due to increases in Federal funding authorized by the Bipartisan Infrastructure Act recently passed at the Federal level, MET Transit has realized an increased need for additional local match dollars to ensure the agency can adequately provide required local funding to take advantage of the additional Federal funds. To accomplish this, the Aviation and Transit Department is in the process of internalizing the advertising program within the MET Transit Division to increase the level of revenue generated and available for use as matching grant funds. The traditional structure for the concession agreement has consisted of a revenue share model with the contracted concessionaire, providing MET with only 40% of the annual revenue generated by the advertising agreements. For the period of FY18 through FY21, the amount received by MET averaged \$117,959 annually. Based upon this figure, overall annual revenue generated by the advertising program averaged \$294,897. By bringing this entire revenue amount in house, MET will increase its ability to generate local revenue for providing not only required Federal match amounts, but also be able to leverage the increased revenue in support of continued operation of MET Transit services. To ensure a smooth transition for current advertising customers and to not interrupt the revenue stream, the Aviation and Transit Department has negotiated a purchase price for all existing, on street and spare bench inventory from the current concessionaire, Blair Unlimited, Inc, at the end of the agreement for a total amount of \$240,000. This negotiated price is reasonably in line with quoted prices received by the Department for the purchase of new benches with replacement advertising. The advantage of purchasing the existing inventory will allow MET to immediately realize increased direct revenue from the already existing contracts due to the uninterrupted advertising time span. By purchasing already in place benches, City personnel will not be required to spend time and resources purchasing replacement benches and developing replacement advertising for in place contracts. Further, personnel will not be required to spend time physically moving and replacing the 250+ benches that are already placed throughout the community. Should the City be required to purchase new benches with replacement advertising, the Department estimates it may take six months or more to directly replace all on street bench inventory depending on supply availability. Further, direct replacement would serve to delay existing advertising agreements, potentially comprising current and future contracts with the existing customer base and result in a reduced revenue stream. MET received quotes from three other vendors for new benches and all quotes were the same price or higher for new benches. MET also asked the City Purchasing Agent to review and approve this transaction to ensure it was appropriate prior to Council's approval. Going forward MET will utilize the Department's new Marketing and Advertising Coordinator to manage the MET's advertising program including the sale of advertising for these bus benches.

**ALTERNATIVES**

City Council may:

- Approve the purchase agreement with Blair Unlimited Inc; or
- Not Approve the purchase and advise staff on how to proceed.

**FISCAL EFFECTS**

The proposed cost of purchasing all existing bench inventory, including spares has been negotiated at \$240,000. This includes an inventory of 260 currently deployed benches and approximately 58 spare benches and parts including equipment to manufacture additional replacement benches. Based upon average revenue historically generated by the advertising program, MET expects this purchase to pay for itself within one and one half years from just the additional

anticipated concession revenues. Funding is available in MET Transit's capital reserves for this purchase.

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**Attachments**

Bus Bench Purchases Agreement 2022.doc



## **PURCHASE AGREEMENT**

**THIS AGREEMENT** is made and entered into \_\_\_\_\_, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as "**CITY**," and, **BLAIR UNLIMITED**, hereinafter referred to as "**SELLER**."

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **PRODUCT PURCHASED:** **SELLER** agrees to sell and **CITY** agrees to purchase the goods ("Product") as described below and, if applicable, per written **CITY'S** specifications and **SELLER'S** proposal attached hereto as Exhibit "A," which are incorporated into this **AGREEMENT** by this reference. The Product being purchased consists of **ESTABLISHED ON STREET ADVERTISING BENCHES, SPARE BENCHES WITH PARTS, AND RELATED EQUIPMENT.**

2. **PRICE:** The **CITY** agrees to pay **TWO-HUNDRED AND FORTY THOUSAND DOLLARS (\$240,000)** as the purchase price. All prices are inclusive of any applicable local, state or federal taxes that may be applied to the product to be purchased. The purchase price is free on board at the place of delivery and **SELLER** may not impose any additional, shipping, delivery or storage charges.

The prices established in this **AGREEMENT** may be extended to other political subdivisions within the State of Montana solely at the **SELLER'S** discretion.

3. **DELIVERY AND PAYMENT:** **SELLER** agrees to deliver the above-described goods or product to **CITY** within 30 days of receipt of **CITY'S** order unless otherwise provided in this **AGREEMENT**. Delivery will occur at 1705 Monad Rd, Billings, MT for spare benches, parts and equipment; on street benches will remain at their established locations. Upon delivery, **CITY** may inspect the goods or product to ensure that it meets **CITY** specifications, and **SELLER** may obtain specifications from **CITY** upon request. If the Product meets **CITY** specifications, **CITY** shall tender the purchase price stated above to **SELLER** through the **CITY'S** normal claim process.

4. **SPECIFICATIONS:** **SELLER** agrees that this Product complies with the **CITY'S** specifications provided to **SELLER** and with the **SELLER'S** proposal thereto as accepted by the **CITY**. Unless otherwise agreed to by the **CITY**, the **CITY'S** specifications govern and control in the event of inconsistencies with the **SELLER'S** response to the same.

5. **NONDISCRIMINATION:**

- A. **SELLER** shall, in performance of work under this **AGREEMENT**, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. **SELLER** is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subletting or subcontracting by **SELLER** subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016. **SELLER** agrees that the hiring of persons to perform this Contract 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**.
- B. The **SELLER** shall state, in all solicitations or advertisements for employees to work on 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.

The **SELLER** 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.

The **SELLER** and any subcontractor shall abide by the requirements of 41 CFR 60-1.4, which states employees or applicants may not be discharged 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 **SELLER'S** legal duty to furnish information.

- C. The **SELLER** shall comply with any and all reporting requirements that may apply to it that the **CITY** may establish by regulation.
- D. The **SELLER** shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.
- E. The **SELLER** shall include the provisions of Subsections A through D of this Section in every subcontract or purchase order under this **AGREEMENT**, so as to be binding upon every such subcontractor or vendor of the **SELLER** under this **AGREEMENT**.
- F. The **SELLER** agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

**6. DEFAULT AND TERMINATION:** If **SELLER** fails to deliver the goods or product as set forth in Paragraphs 2 and 3 above, or violates any provision of this **AGREEMENT**, or if the goods or product fails to meet **CITY'S** specifications, **CITY** may, at its option, declare the **SELLER** in default and immediately cancel and rescind this **AGREEMENT**. Thereafter, **CITY** may procure substitute goods or product to replace the goods or product described herein. In such event, **SELLER** is liable to **CITY** for the difference between the price set forth herein and the price paid by **CITY** for replacement goods or product. Additionally, the **CITY** may pursue any other remedy it has at law or in equity.

**7. WARRANTY:** Unless superseded or supplemented by an express warranty, **SELLER** represents and warrants that the Product(s) are covered by implied warranties for merchantability and fitness for the particular purpose for which they have been purchased.

**8. ASSIGNMENT:** **SELLER** may not assign this **AGREEMENT** or any of its rights hereunder without the express written consent of **CITY**.

**9. ENTIRE AGREEMENT:** This **AGREEMENT**, including its appendices, if any, is the entire understanding between the parties relating to the subject matter contained herein. No agent or representative of either party has authority to make any representations, statements, warranties or agreements not herein expressed and all modifications or amendments of this **AGREEMENT**, including the appendices, must be in writing and signed by an authorized representative of each of the parties hereto.

**10. GOVERNING LAW AND VENUE:** This **AGREEMENT** shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this **AGREEMENT** shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County. Terms of this agreement of are



subject to the required federal clauses outlined in Exhibit B.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument the day and year first above written.

**CITY OF BILLINGS, MONTANA**

**BLAIR UNLIMITED**  
**(PRINT BUSINESS NAME ABOVE)**

\_\_\_\_\_  
**WILLIAM COLE, MAYOR**

\_\_\_\_\_  
**SIGNATURE**

**APPROVED AS TO FORM**

\_\_\_\_\_  
**PRINT NAME**

\_\_\_\_\_  
**CITY ATTORNEY'S OFFICE**

\_\_\_\_\_  
**PRINT TITLE**

\_\_\_\_\_  
**(Write Phone Number for Orders Above)**

**ATTEST:**

\_\_\_\_\_  
**DENISE BOHLMAN, CITY CLERK**



## EXHIBIT A

In accordance with the offer made by the **SELLER**, **SELLER** agrees to provide the following items:

| <u>ITEM</u>                                 | <u>QUANTITY</u> |
|---------------------------------------------|-----------------|
| EXISTING ON STREET BENCHES WITH ADVERTISING | 260             |
| ANTI-THEFT REMOVAL TOOL FOR ADVERTISING     | 2               |
| SPARE BENCH LEGS                            | 115             |
| SPARE BENCH SEAT BOARDS                     | 100             |
| STEEL BENCH LEG CONCRETE FORMS              | 10              |
| CEMENT MIXER ON AXEL                        | 1               |
| CONCRETE SHAKER                             | 1               |
| DRILL PRESS SETUP FOR BENCH MAINTENANCE     | 1               |
| SEAT BOARD RACKS                            | 2               |
| SIGN RACKS                                  | 1               |

**SELLER** also agrees to provide information regarding "best practices" regarding creation and maintenance of bench inventory as well as remain available within one year of the sales date for reference and assistance indicated in **SELLER'S** offer letter.

**SELLER** agrees to provide all financial and business records as requested by the **CITY** regarding existing contracts and past contracts in accordance with the previously executed concession agreements.



## **EXHIBIT B**

### FTA Required Contract Clauses and Other Certifications

#### A. Contract Clauses Required for Federal Transit Administration (FTA) Funded Contracts

##### **1. No Federal Government Obligation to Third Parties**

The City of Billings, Aviation/Transit Department - MET Transit Division and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Governments in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the City, contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

##### **2. Program Fraud and False or Fraudulent Statements and Related Acts**

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.



The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

### **3. Access to Records**

**Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.

**Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. §200.333. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case the Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

**Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required. The Contractor also agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

**Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

FTA does not require the inclusion of these requirements in subcontracts.

### **4. Federal Changes**

49 CFR Part 18 - The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the City and the FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.



## **5. Civil Rights Laws and Regulations**

1) **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:

- a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
- b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

2) **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

3) **Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

4) **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

### **Civil Rights and Equal Opportunity**

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from



inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1) **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2) **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3) **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any Implementing requirements FTA may issue.



4) **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5) **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

## **6. Safe Operation of Motor Vehicles**

### **Seat Belt Use**

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or the City.

### **Distracted Driving**

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

## **7. Incorporation of Federal Transit Administration (FTA) Terms**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City requests which would cause the City to be in violation of the FTA terms and conditions.



## **8. Energy Conservation**

The Contactor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

## **9. Disadvantaged Business Enterprises**

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

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the City makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the City's written consent; and that, unless the City's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of the City and the United States Department of Transportation ("DOT") that

Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

## **11. Procurement of Recovered Materials**

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 42 CFR Part 247, and Executive Order 12873, as they apply to the procures of the items designated in Subpart B of 40 CFR Part 247. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site,



<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

#### **14. Notification to FTA**

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the City, which will then notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the City is located. The Contractor is required to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. § 180.220 and 1200.220.

- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- (3) The City must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the City is located, if the City has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the City and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the City. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the City.

#### **15. Debarment and Suspension**

This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.



The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## **16. Violation and Breach of Contract**

### Rights and Remedies of the City

The City shall have the following rights in the event that the City deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as the City for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

For purposes of this Contract, breach shall include:

### Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the City, the Contractor expressly agrees that no default, act or omission of the City shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the City directs Contractor to do so) or to suspend or abandon performance.

### Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, the City will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Contract by the Contractor before the City takes action contemplated herein, the City will provide the Contractor with sixty (60) days written notice that the City considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.



### Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by an authorized representative of The City. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City's authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City's authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the City's direction or decisions made thereof.

### Performance during Dispute

Unless otherwise directed by The City, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

### Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

### Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City and the Contractor arising out of or relating to this Contract or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City is located.

### Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or



failure to act by the City or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

#### **17. Byrd Anti-Lobbying Amendment**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the City.

#### **18. Clean Air Act & Federal Water Pollution Control Act**

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

##### Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the City, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

##### Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the City, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract



exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

### **19. Buy America**

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661 and 2 CFR 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. 5323(u) and 49 C.F.R. 661.11.

A bidder or offeror must submit to the City the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

### **26. Veterans Hiring Preference**

Veterans Employment - Recipients of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.



## **49 CFR PART 20--CERTIFICATION REGARDING LOBBYING**

### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]



The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date



## **DEBARMENT AND SUSPENSION CERTIFICATION**

The prospective lower tier participant (Bidder/Proposer) certifies by submission of this Offer, that neither it nor its principals, as defined at 2 CFR § 180.995, or affiliates, as defined at 2 CFR 180.905, are excluded (defined at 2 CFR § 180.940) or disqualified as defined at 2 CFR §180.935.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

- 1) It will comply and facilitate compliance with the requirements of 2 CFR § 180, subpart C and 2 CFR § 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.
- 2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
  - a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently: debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or disqualified.
  - b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
    - i. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
    - ii. Violation of any Federal or State antitrust statute, or
    - iii. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
  - c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
  - d. It has not had one or more public transactions (Federal, State or local) terminated for cause or default within a three-year period preceding this Certification,
  - e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,



- f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 180 if it:
    - i. Equals or exceeds \$25,000
    - ii. Is for audit services, or
    - iii. Requires the consent of a Federal official, and
  - g. It will require that each covered lower tier contractor and subcontractor:
    - i. Comply and facilitate compliance with the Federal requirements of 2 CFR part 180 and 3000, and
    - ii. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
      - (a) Debarred, suspended, proposed for debarment, declared ineligible to participate, voluntarily excluded from participation or disqualified from participation in its federally funded project, and
- 3) It will provide a written explanation as indicated on a page attached in FTA's TEAM-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

The certification in this clause is a material representation of fact relied upon by the City of Billings, Aviation/Transit Department - MET Transit. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City of Billings, Aviation/Transit Department - MET Transit, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

\_\_\_\_\_  
**Signature of Bidder or Proposer's  
Authorized Official**

\_\_\_\_\_  
**Name and Title of Bidder or Proposer's  
Authorized Official**

\_\_\_\_\_  
**Date**



**BUY AMERICA CERTIFICATION**

(STEEL OR MANUFACTURED PRODUCTS)

[61 FR 6302, Feb. 16, 1996, as amended at 74 FR 30239, June 25, 2009]

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General Requirement (as stated in 49 CFR 661.5)

- (a) Except as provided in 49 CFR 661.7 and 49 CFR 661.11, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.
- (b) All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.
- (c) The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in infrastructure projects such as, transit or maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock, or to bimetallic power rail incorporating steel or iron components.
- (d) For a manufactured product to be considered produced in the United States:
  - 1) All of the manufacturing processes for the product must take place in the United States; and
  - 2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

If steel, iron, or manufactured products (as defined in 49 CFR 661.3 and 661.5) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in 49 CFR 661.13(b).

Certificate of **Compliance** with Buy America Requirements.

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

Company \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

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Certificate of **Non-Compliance** with Buy America Steel or Manufactured Products Requirements.

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. 661.7.

Company\_\_\_\_\_

Name\_\_\_\_\_ Title\_\_\_\_\_

Signature\_\_\_\_\_ Date\_\_\_\_\_

**Date:** 03/28/2022  
**Title:** Approval of Amendment 32 with Morrison-Maierle Inc, for Engineering Services for the West Taxilane Extension Project  
**Presented by:** Shane Ketterling, Assistant Director of Aviation and Transit  
**Department:** Airport  
**Presentation:** No  
**Legal Review** Yes

## RECOMMENDATION

Staff recommends that the City Council approve Amendment 32 with Morrison-Maierle, Inc. for the engineering services associated with the design, survey, and construction administration of the Airport's West End Taxilane Extension Project for the amount of \$98,633.

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

On April 10, 2017, the City Council approved a five-year contract with Morrison-Maierle, Inc. (M-M) to provide all of the project design, construction administration, survey work, construction inspection and oversight, and project closeout for the Aviation and Transit Department for all civil engineering work required during the five-year term. This base contract with M-M is amended each time a new project is undertaken, and Amendment 32 for \$98,633 includes all of the services listed above.

In 2016, the Airport's staff started developing a future hangar site on the west end of the Airport to accommodate larger corporate style hangars, which the Airport lacked space for. The Airport invested in this plan and constructed a new 550 foot taxilane and developed the east side of that taxilane by installing 33,000 square feet of aircraft parking ramp, 1,400 feet of access roads, and 600 feet of water main lines. Due to a number of economic factors, including the COVID pandemic, the site has sat dormant for the past five years. Recently, there has been a lot of interest from companies wanting to build larger 120' x 100' commercial hangars in this area. The existing 550 foot taxilane that was constructed in 2016 will only serve the three new large hangars that are scheduled to be built this coming Summer. In order to accommodate additional hangar sites, approximately 325 feet of new pavement, drainage and culverts will need to be added onto the existing taxilane to the south, which will allow the Airport to provide room for another six large hangars. Developable land at the Airport is becoming less available and with the increased building activity for large aircraft hangars, this taxilane extension is needed for future growth and development; subsequently, M-M would assist the Airport with this project. Amendment 32 will have M-M design a scope of work to pave the new taxilane extension to Federal Aviation Administration standards, provide drawings, site survey and layout, advertise and bid the project, review submittals, coordinate meetings, prepare record drawings, and provide an on-site representative (observer) to oversee the contractor. The estimated construction cost for this Federally eligible construction project is \$750,000 and once the design work is completed, the project will be bid out this Spring with construction occurring later this Summer, after the utility work in this area has been completed. The scope of work and associated engineering fees have been negotiated by staff and are acceptable for this engineering work.

## ALTERNATIVES

City Council may:

- Approve Amendment 32 for the engineering services with M-M; or
- Decline to approve Amendment 32 with M-M and advise staff on how to proceed.

## FISCAL EFFECTS

The total cost of the engineering services in Amendment 32 is \$98,633. These fees will be funded 90% with Federal Aviation Administration (FAA) Airport Improvement Program (AIP) entitlement grant funds and 10% with local match funds. The FAA's grant funding will be \$88,769.70 and the City's local match will be \$9,863.30. The local match funds are budgeted and available in the Airport's Capital Account.

## Attachments

Amendment 32

**AMENDMENT NO. 32  
TO  
AGREEMENT FOR ENGINEERING SERVICES  
CITY OF BILLINGS AVIATION AND TRANSIT DEPARTMENT**

**DATED April 10, 2017**

This AMENDMENT, made and entered into on \_\_\_\_\_ by and between the following:

City of Billings, Montana, a Municipal Corporation, PO Box 1178  
Billings, Montana 59103, hereinafter designated the OWNER

and

Morrison-Maierle, Inc., 315 N. 25<sup>th</sup> Street, Suite 102, Billings, Montana 59101,  
a private Montana Corporation, hereinafter designated as the ENGINEER

**WITNESSETH:**

WHEREAS, the OWNER and the ENGINEER have entered into an Agreement for Professional Airport Engineering service contract dated April 10, 2017, and;

WHEREAS, the OWNER has a need for additional engineering services, and;

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

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated herein, the parties hereto agree to amend the April 10, 2017 Agreement, corresponding amendments to this Agreement, and all related exhibits as follows:

**ARTICLE I – SCOPE OF SERVICES**

The following items of work listed below are added and amended by Amendment Thirty-Two (32) for the Westend Taxilane Extension project.

The general scope of work is to prepare plans and specifications, provide bidding assistance, and construction observation to extend the taxilane approximately 325 feet for hangar development.

**Phase I – Design**

Phase I services to be provided will include:

- Coordinate with Geotechnical firm contracted directly with the Airport for the geotechnical investigations and report for the extension. The existing information we have on file for the existing taxilane does not meet the current FAA standards. We need 2-3 cores south of the existing pavement to get an accurate design. This will be coordinated by Morrison Maierle and paid for directly by the Airport to the Geotechnical firm hired.
- Use the new/current FAA design report, specification, and pavement design AC.
- 100% design documents including drawings, specifications, and cost estimate.
- Submit final plans and specifications to the FAA for approval prior to bidding.
- Submit all the documents to FAA as the project moves along for future grant reimbursement.
- AGIS construction survey – FAA requirement for AIP projects. We will submit final information (drainage, elevations of TL) into the system.

## **Phase II – Bidding and Construction**

Phase II services to be provided will include:

### **Bidding**

- Prepare Bidding Documents.
- Manage the overall bidding process, including bid advertisement, coordination with contractors, conduct a pre-bid conference, and answer bidding questions in a formal addendum.
- Attend bid opening, evaluate bids, and prepare an award recommendation.
- Prepare and coordinate construction contract and supply one hard copy to the Owner.

### **Construction**

- Manage the construction contract, including incorporating any changes from bidding into the documents, conduct a pre-construction conference, and coordination with Prime contractor.
- Conduct construction Survey – drainage, subgrade, base course, and asphalt lifts.
- Coordination with Owner and Contractor, including conducting and documenting a pre-construction conference and progress meetings (anticipated to be weekly).
- Review Shop Drawings.
- Review/process Change Orders.
- Review/process Pay Requests.
- Conduct substantial and final completion walkthroughs.
- Prepare record drawings and FAA certifications.

### **Resident Project Representative (RPR)**

- On-site observation is based on 45 calendar day construction schedule, 6 hours/day, 5 days/week.

## **ARTICLE II - ENGINEERING FEES**

The items discussed above are finalized items of work that the Owner will fund.

### **Phase I – Design**

The services identified for Phase I of Amendment 32 will be accomplished for a lump sum fee of **\$39,170** per the Method A - Fee Determination as outlined in the original Agreement dated **April 10, 2017**. See Table 1A for Engineering Budget.

### **Phase II – Bidding and Construction**

The services identified for Phase II of Amendment 32 will be accomplished at a cost-plus fixed fee with a ceiling price not to exceed **\$59,463** as per Method B - Fee Determination as outlined in the original Agreement dated **April 10, 2017**. See Table 2A for Engineering Budget.

**COST SUMMARY OF  
AIP Funded - Future**

| Description                            |          | Labor & Expenses | Fixed Fee | Total Phase I | Total Phase II  |
|----------------------------------------|----------|------------------|-----------|---------------|-----------------|
| <b><u>West Taxilane Extension</u></b>  |          |                  |           |               |                 |
| Phase I - Design                       | Table 1A | \$39,170         |           | \$39,170      |                 |
| Phase II - Construction Administration | Table 2A | \$52,555         | \$6,908   |               | \$59,463        |
| Subtotal Item 1                        |          |                  |           | \$39,170      | \$59,463        |
| <b>Total This Amendment</b>            |          |                  |           |               | <b>\$98,633</b> |

TABLE 1A

**Amendment 32  
ENGINEERING BUDGET  
PHASE I - Design Phase**

| Engineering Services<br>PHASE I - Design Phase | Total<br>Man-hours | Labor Rate         | Total    |
|------------------------------------------------|--------------------|--------------------|----------|
| Professional Services for                      | 303                | \$112.03           | \$33,999 |
| <b>Expenses</b>                                |                    |                    |          |
| Vehicle (Company)                              |                    | \$17               |          |
| Vehicle (Rental)                               |                    | \$0                |          |
| Air Travel (Commercial)                        |                    | \$0                |          |
| Air Travel (Charter)                           |                    | \$0                |          |
| Meals                                          |                    | \$0                |          |
| Lodging                                        |                    | \$0                |          |
| Survey Supplies                                |                    | \$0                |          |
| Survey Equipment                               |                    | \$0                |          |
| Printing                                       |                    | \$45               |          |
| Full Size ALP Printing +<br>Postage            |                    | \$0                |          |
| <b>Total Expenses</b>                          |                    | <b>\$62</b>        |          |
| Professional Charges                           |                    | \$0 subconsultants |          |

|                                        |                 |
|----------------------------------------|-----------------|
| Total MU Labor                         | \$33,999        |
| Total Direct Expenses                  | \$62            |
| Total Fixed Fee                        | \$5,109         |
| Total MU Labor & Expenses & Fixed Fee  | \$39,170        |
| Professional Expenses                  | \$0             |
| <b>Total Lump Sum for Design Phase</b> | <b>\$39,170</b> |

TABLE 2A

**Amendment 32  
ENGINEERING BUDGET  
PHASE II - Construction Administration**

| <b>Engineering Services</b>                   | Total     |            |          |
|-----------------------------------------------|-----------|------------|----------|
| <b>PHASE II - Construction Administration</b> | Man-hours | Labor Rate | Total    |
| Professional Services                         | 332       | \$135.33   | \$44,928 |

**Expenses**

|                                     |                         |
|-------------------------------------|-------------------------|
| Vehicle (Company)                   | \$168                   |
| Vehicle (Rental)                    | \$0                     |
| Air Travel (Commercial)             | \$0                     |
| Air Travel (Charter)                | \$0                     |
| Meals                               | \$0                     |
| Lodging                             | \$0                     |
| Survey Supplies                     | \$0                     |
| Survey Equipment                    | \$960                   |
| Printing                            | \$0                     |
| Full Size ALP Printing +<br>Postage | \$0                     |
| <b>Total Expenses</b>               | <b>\$1,128</b>          |
| <br>Professional Charges            | <br>\$6,500 consultants |

|                                                         |                        |
|---------------------------------------------------------|------------------------|
| Total MU Labor                                          | \$44,928               |
| Total Direct Expenses                                   | \$1,128                |
| Total MU Labor & Expenses                               | <u>\$46,055</u>        |
| Fixed Fee                                               | \$6,908                |
| Professional Expenses                                   | \$6,500                |
| <b>Total Cost Plus Fixed Fee for Construction Phase</b> | <b><u>\$59,463</u></b> |

IN WITNESS WHEREOF, the parties hereto have made and executed the Amendment No. 32 on

\_\_\_\_\_.

CONSULTANT

**Morrison-Maierle, Inc.**

BY: *Jill A. Cook*

DATE: 2/22/2022

OWNER

**City of Billings**

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

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

ATTEST:

BY: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
City Attorney

| <b>Summary of Agreements for Professional Engineering Services</b> |          |                             |                  |                  |
|--------------------------------------------------------------------|----------|-----------------------------|------------------|------------------|
| <b>Description</b>                                                 |          | <b>Labor &amp; Expenses</b> | <b>Fixed Fee</b> | <b>Total</b>     |
| <b>Amendment No. 1</b> Curb and Sidewalk Construction              |          |                             |                  |                  |
| PHASE 1 - DESIGN - ITEM 1                                          | TABLE 1a | \$14,391                    | \$0              | \$14,391         |
| PHASE II - CONSTRUCTION - ITEM 1                                   | TABLE 2a | \$10,979                    | \$1,504          | \$12,483         |
| <b>TOTAL Amendment No. 1</b>                                       |          | <b>\$25,370</b>             | <b>\$1,504</b>   | <b>\$26,874</b>  |
| <b>Amendment No. 2</b> Gate 33/BFS Access Road                     |          |                             |                  |                  |
| PHASE 1 - DESIGN - ITEM 1                                          | TABLE 1a | \$6,992                     | \$0              | \$6,992          |
| PHASE II - CONSTRUCTION - ITEM 1                                   | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 2</b>                                       |          | <b>\$6,992</b>              | <b>\$0</b>       | <b>\$6,992</b>   |
| <b>Amendment No. 3</b> IP 8 Building and Site Plan                 |          |                             |                  |                  |
| PHASE 1 - DESIGN - ITEM 1                                          | TABLE 1a | \$62,104                    | \$0              | \$62,104         |
| PHASE II - CONSTRUCTION - ITEM 1                                   | TABLE 2a | \$25,561                    | \$3,642          | \$29,203         |
| <b>TOTAL Amendment No. 3</b>                                       |          | <b>\$87,665</b>             | <b>\$3,642</b>   | <b>\$91,307</b>  |
| <b>Amendment No. 4</b> AIP 057-2018 ARFF Ramp Rehabilitation       |          |                             |                  |                  |
| PHASE 1 - DESIGN - ITEM 1                                          | TABLE 1a | \$68,521                    | \$0              | \$68,521         |
| PHASE II - CONSTRUCTION - ITEM 1                                   | TABLE 2a | \$59,694                    | \$8,541          | \$68,235         |
| <b>TOTAL Amendment No. 4</b>                                       |          | <b>\$128,215</b>            | <b>\$8,541</b>   | <b>\$136,756</b> |
| <b>Amendment No. 5</b> Airline Support Facility and Site Plan      |          |                             |                  |                  |
| PHASE 1 - DESIGN - ITEM 1                                          | TABLE 1a | \$21,566                    | \$0              | \$21,566         |
| PHASE II - CONSTRUCTION - ITEM 1                                   | TABLE 2a | \$9,920                     | \$1,409          | \$11,329         |
| <b>TOTAL Amendment No. 5</b>                                       |          | <b>\$31,486</b>             | <b>\$1,409</b>   | <b>\$32,895</b>  |
| <b>Amendment No.6</b> PFC Snow Removal Equipment                   |          |                             |                  |                  |
| PHASE 1 - DESIGN - SNOW CUPPING BLADE                              | TABLE 1a | \$4,835                     | \$0              | \$4,835          |
| PHASE 1 - DESIGN - SNOW REMOVAL EQUIPMENT                          | TABLE 1a | \$4,834                     | \$0              | \$4,834          |
| <b>TOTAL Amendment No.6</b>                                        |          | <b>\$9,669</b>              | <b>\$0</b>       | <b>\$9,669</b>   |
| <b>Amendment No. 7</b> Executive Hangar Access Road                |          |                             |                  |                  |
| PHASE 1 - DESIGN - ITEM 1                                          | TABLE 1a | \$5,986                     | \$0              | \$5,986          |
| PHASE II - CONSTRUCTION - ITEM 1                                   | TABLE 2a | \$3,980                     | \$576            | \$4,556          |
| <b>TOTAL Amendment No. 7</b>                                       |          | <b>\$9,966</b>              | <b>\$576</b>     | <b>\$10,542</b>  |
| <b>Amendment No. 8</b> Pavement Condition Index Survey             |          |                             |                  |                  |
| PHASE 1 - DESIGN - ITEM 1                                          | TABLE 1a | \$67,714                    | \$0              | \$67,714         |
| PHASE II - CONSTRUCTION - ITEM 1                                   | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 8</b>                                       |          | <b>\$67,714</b>             | <b>\$0</b>       | <b>\$67,714</b>  |
| <b>Amendment No. 9</b> 2016 Land Acquisition-Project Management    |          |                             |                  |                  |
| PHASE 1 - DESIGN - ITEM 1                                          | TABLE 1a | \$12,837                    | \$0              | \$12,837         |
| PHASE II - CONSTRUCTION - ITEM 1                                   | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 9</b>                                       |          | <b>\$12,837</b>             | <b>\$0</b>       | <b>\$12,837</b>  |

| <b>Summary of Agreements for Professional Engineering Services (Cont.)</b> |          |                             |                  |                  |
|----------------------------------------------------------------------------|----------|-----------------------------|------------------|------------------|
| <b>Description</b>                                                         |          | <b>Labor &amp; Expenses</b> | <b>Fixed Fee</b> | <b>Total</b>     |
| <b>Amendment No. 10</b> 2018 Chiller Replacement                           |          |                             |                  |                  |
| PHASE I - DESIGN - ITEM 1                                                  | TABLE 1a | \$35,994                    | \$0              | \$35,994         |
| PHASE II - CONSTRUCTION - ITEM 1                                           | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 10</b>                                              |          | <b>\$35,994</b>             | <b>\$0</b>       | <b>\$35,994</b>  |
| <b>Amendment No. 11</b> 2018 Long Term Parking Lot Improvements            |          |                             |                  |                  |
| PHASE I - DESIGN - ITEM 1                                                  | TABLE 1a | \$25,254                    | \$0              | \$25,254         |
| PHASE II - CONSTRUCTION - ITEM 1                                           | TABLE 2a | \$28,243                    | \$4,028          | \$32,271         |
| <b>TOTAL Amendment No. 11</b>                                              |          | <b>\$53,497</b>             | <b>\$4,028</b>   | <b>\$57,525</b>  |
| <b>Amendment No. 12</b> AIP Commercial Concrete Apron                      |          |                             |                  |                  |
| PHASE I - DESIGN - ITEM 1                                                  | TABLE 1a | \$214,628                   | \$0              | \$214,628        |
| PHASE II - CONSTRUCTION - ITEM 1                                           | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 12</b>                                              |          | <b>\$214,628</b>            | <b>\$0</b>       | <b>\$214,628</b> |
| <b>Amendment No. 13</b> Makeup Air Unit Replacement                        |          |                             |                  |                  |
| PHASE I - DESIGN - ITEM 1                                                  | TABLE 1a | \$20,973                    | \$0              | \$20,973         |
| PHASE II - CONSTRUCTION - ITEM 1                                           | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 13</b>                                              |          | <b>\$20,973</b>             | <b>\$0</b>       | <b>\$20,973</b>  |
| <b>Amendment No. 13</b> On Call Contract 2019                              |          |                             |                  |                  |
| PHASE I - DESIGN - ITEM 1                                                  | TABLE 1a | \$20,000                    | \$0              | \$20,000         |
| PHASE II - CONSTRUCTION - ITEM 1                                           | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 13</b>                                              |          | <b>\$20,000</b>             | <b>\$0</b>       | <b>\$20,000</b>  |
| <b>Amendment No. 14</b> ARFF and SCBA Gear                                 |          |                             |                  |                  |
| PHASE I - DESIGN - ITEM 1                                                  | TABLE 1a | \$21,557                    | \$0              | \$21,557         |
| PHASE II - CONSTRUCTION - ITEM 1                                           | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 14</b>                                              |          | <b>\$21,557</b>             | <b>\$0</b>       | <b>\$21,557</b>  |
| <b>Amendment No. 15</b> QTA Camera Replacement                             |          |                             |                  |                  |
| PHASE I - DESIGN - ITEM 1                                                  | TABLE 1a | \$14,123                    | \$0              | \$14,123         |
| PHASE II - CONSTRUCTION - ITEM 1                                           | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 15</b>                                              |          | <b>\$14,123</b>             | <b>\$0</b>       | <b>\$14,123</b>  |
| <b>Amendment No. 16</b> Transit On Call Contract 2020                      |          |                             |                  |                  |
| PHASE I - DESIGN - ITEM 1                                                  | TABLE 1a | \$24,999                    | \$0              | \$24,999         |
| PHASE II - CONSTRUCTION - ITEM 1                                           | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 16</b>                                              |          | <b>\$24,999</b>             | <b>\$0</b>       | <b>\$24,999</b>  |
| <b>Amendment No. 17</b> Steam Boiler Replacement                           |          |                             |                  |                  |
| PHASE I - DESIGN - ITEM 1                                                  | TABLE 1a | \$10,000                    | \$0              | \$10,000         |
| PHASE II - CONSTRUCTION - ITEM 1                                           | TABLE 2a | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 17</b>                                              |          | <b>\$10,000</b>             | <b>\$0</b>       | <b>\$10,000</b>  |

| <b>Summary of Agreements for Professional Engineering Services (Cont.)</b> |          |                             |                  |                  |
|----------------------------------------------------------------------------|----------|-----------------------------|------------------|------------------|
| <b>Description</b>                                                         |          | <b>Labor &amp; Expenses</b> | <b>Fixed Fee</b> | <b>Total</b>     |
| <b>Amendment No. 18</b> AIP 060-2019 Concrete Apron Construction           |          |                             |                  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$136,902                   | \$0              | \$136,902        |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$295,116                   | \$36,169         | \$331,285        |
| <b>TOTAL Amendment No. 18</b>                                              |          | <b>\$432,018</b>            | <b>\$36,169</b>  | <b>\$468,187</b> |
| <b>Amendment No. 19</b> On Call Aviation Contract 2020                     |          |                             |                  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$24,999                    | \$0              | \$24,999         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 19</b>                                              |          | <b>\$24,999</b>             | <b>\$0</b>       | <b>\$24,999</b>  |
| <b>Amendment No. 20</b> RWY 7/25 Preliminary Design                        |          |                             |                  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$281,289                   | \$0              | \$281,289        |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 20</b>                                              |          | <b>\$281,289</b>            | <b>\$0</b>       | <b>\$281,289</b> |
| <b>Amendment No. 21</b> Rimtop Road Overlay                                |          |                             |                  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$9,902                     | \$0              | \$9,902          |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$4,071                     | \$600            | \$4,671          |
| <b>TOTAL Amendment No. 21</b>                                              |          | <b>\$13,973</b>             | <b>\$600</b>     | <b>\$14,573</b>  |
| <b>Amendment No. 22</b> On Call Aviation Contract 2021                     |          |                             |                  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$24,999                    | \$0              | \$24,999         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 22</b>                                              |          | <b>\$24,999</b>             | <b>\$0</b>       | <b>\$24,999</b>  |
| <b>Amendment No. 23</b> Transit On Call Contract 2021                      |          |                             |                  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$24,999                    | \$0              | \$24,999         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 23</b>                                              |          | <b>\$24,999</b>             | <b>\$0</b>       | <b>\$24,999</b>  |
| <b>Amendment No. 24</b> Fiber Installation                                 |          |                             |                  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$13,835                    | \$0              | \$13,835         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$7,910                     | \$1,187          | \$9,097          |
| <b>TOTAL Amendment No. 24</b>                                              |          | <b>\$21,745</b>             | <b>\$1,187</b>   | <b>\$22,932</b>  |
| <b>Amendment No. 25</b> Electric Car Charging Stations                     |          |                             |                  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$10,500                    | \$0              | \$10,500         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$0                         | \$0              | \$0              |
| <b>TOTAL Amendment No. 25</b>                                              |          | <b>\$10,500</b>             | <b>\$0</b>       | <b>\$10,500</b>  |
| <b>Amendment No. 26</b> Apron Construction Schedule 3                      |          |                             |                  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$81,593                    | \$0              | \$81,593         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$149,717                   | \$19,458         | \$169,175        |
| <b>TOTAL Amendment No. 26</b>                                              |          | <b>\$231,310</b>            | <b>\$19,458</b>  | <b>\$250,768</b> |

| <b>Summary of Agreements for Professional Engineering Services (Cont.)</b> |          |                                          |                 |  |                  |
|----------------------------------------------------------------------------|----------|------------------------------------------|-----------------|--|------------------|
| <b>Amendment No. 27</b>                                                    |          | West Hangar Utilities & Road Development |                 |  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$44,101                                 | \$0             |  | \$44,101         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$66,994                                 | \$10,049        |  | \$77,043         |
| <b>TOTAL Amendment No. 27</b>                                              |          | <b>\$111,095</b>                         | <b>\$10,049</b> |  | <b>\$121,144</b> |
| <b>Amendment No. 28</b>                                                    |          | On Call Aviation Contract 2022           |                 |  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$24,999                                 |                 |  | \$24,999         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$0                                      | \$0             |  | \$0              |
| <b>TOTAL Amendment No. 28</b>                                              |          | <b>\$24,999</b>                          | <b>\$0</b>      |  | <b>\$24,999</b>  |
| <b>Amendment No. 29</b>                                                    |          | MET - Training Lot Rehabilitation        |                 |  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$69,397                                 |                 |  | \$69,397         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$71,261                                 | \$10,689        |  | \$81,950         |
| <b>TOTAL Amendment No. 29</b>                                              |          | <b>\$140,658</b>                         | <b>\$10,689</b> |  | <b>\$151,347</b> |
| <b>Amendment No. 30</b>                                                    |          | Pavement Condition Index Study           |                 |  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$56,536                                 |                 |  | \$56,536         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A |                                          |                 |  |                  |
| <b>TOTAL Amendment No. 30</b>                                              |          | <b>\$56,536</b>                          | <b>\$0</b>      |  | <b>\$56,536</b>  |
| <b>Amendment No. 31</b>                                                    |          | 2022 Logan Tower Painting                |                 |  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$35,494                                 |                 |  | \$35,494         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$16,862                                 | \$2,529         |  | \$19,391         |
| <b>TOTAL Amendment No. 31</b>                                              |          | <b>\$52,356</b>                          | <b>\$2,529</b>  |  | <b>\$54,885</b>  |
| <b>Amendment No. 32</b>                                                    |          | AIP Funded TL West Extension             |                 |  |                  |
| PHASE I - DESIGN                                                           | TABLE 1A | \$39,170                                 |                 |  | \$39,170         |
| PHASE II - CONSTRUCTION                                                    | TABLE 2A | \$52,555                                 | \$6,908         |  | \$59,463         |
| <b>TOTAL Amendment No. 32</b>                                              |          | <b>\$91,725</b>                          | <b>\$6,908</b>  |  | <b>\$98,633</b>  |

**City Council Regular**

**Date:** 03/28/2022  
**Title:** Settlement Agreement - County Water District of Billings Heights billing dispute  
**Presented by:** Gina Dahl  
**Department:** Legal  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends Council approve the Settlement Agreement with the County Water District of Billings Heights (CWDBH).

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

The City converted to a new utility billing software in January 2015. In 2017, the City performed an in-depth review of water bills and found a significant discrepancy between the volume of water produced at the water treatment plant and customer bills. It discovered the actual production was higher than what was being billed. Typically, this is caused by an undiscovered leak in the water distribution system. After spending several months trying to find leaks in the system, it was determined that the missing water was accounted for and caused by an incorrect conversion factor within the new billing software for the specific type of water meter used only by the CWDBH; no other customers were affected by the software conversion billing error. As a result, CWDBH was underbilled by \$2,970,599.35 since the software conversion took place from February 27, 2015, until December 15, 2017. With interest, the total amount owed as of October 2020 was approximately \$3,965,327.49.

There is no dispute on how much water was provided to the CWDBH, only how much CWDBH should pay for water they sold to their customers. The District was underbilled for consumption by approximately 40%; however, they continued to bill their customers for the full consumption utilized. Once the error was corrected, CWDBH began paying the full amount but refused to pay for the undercharged amounts.

Since the fall of 2018, the City and CWDBH attempted to resolve this dispute informally and then again through formal mediation in November 2020 but were unable to reach an agreement. In December 2020, the City filed a Complaint against the CWDBH asserting a breach of contract for unpaid amounts due under the contract plus interest.

Because the City and CWDBH are long term partners and not competitors serving Billings citizens, negotiations resumed after new board members were seated on the CWDBH board. Representatives of the City and the CWDBH met several times between October 2021 and February 2022 to discuss the dispute and finally reached an agreement in February. The agreement provides for the parties to stipulate to the dismissal of 1) the City's claim for breach of contract for the underbilled amount; 2) CWDBH's counterclaims for negligence and declaratory relief related to the underbilled amount; and 3) CWDBH's counterclaim related to franchise fees. The agreement requires CWDBH to pay \$2,936,251.80 within 30 days of the agreement to the City for the water that was underbilled from 2015 to 2017. Since CWDBH has agreed to pay the amount owed in full rather than over a two-year period, the original amount was reduced by \$34,347.55 to reflect the interest CWDBH would have earned if it had made payments over a two-year period.

**STAKEHOLDERS**

City of Billings residents  
 County Water District of Billings Heights water customers

**ALTERNATIVES**

City Council may:

- Approve the Settlement Agreement to resolve the ongoing lawsuit; or,
- Not Approve the Settlement Agreement. If Council does not approve the settlement agreement, then the litigation will continue which will result in additional costs and attorney fees.

**FISCAL EFFECTS**

This agreement provides that CWDBH to pay \$2,936,251.80 to the City of Billings within 30 days after the approval of the Settlement Agreement.

**SUMMARY**

CWDBH board will consider this agreement for approval on their March 16 agenda. It is expected to be approved. Staff recommends Council approve this agreement to end this litigation. The City and CWDBH are long term partners, and it is in the best interests of Billings residents to finally dispose of this matter.

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**Attachments**

Settlement Agreement

# SETTLEMENT AGREEMENT

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between

THE CITY OF BILLINGS (the “City”)

and

THE COUNTY WATER DISTRICT OF  
BILLINGS HEIGHTS (the “District”)

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Dated March \_\_\_\_, 2022.

## RELEASE AND SETTLEMENT AGREEMENT

**RELEASOR:** The City of Billings, a Montana municipal corporation.

**RELEASEE:** County Water District of Billings Heights, a Montana local government unit.

**DESCRIPTION OF CLAIMS:** (1) Breach of Contract/Collection for amounts due under the Water Supply and Purchase Agreement dated December 14, 1998 between the City and the Water District for amounts owed by the District to the City for water purchased by the District between February 27, 2015 and December 15, 2017; and

(2) counterclaims for Negligence (Count I), Collection and Declaratory Judgment (Count II).

**SETTLEMENT AMOUNT:** **\$2,936,251.80** (Two Million, Nine Hundred Thirty-Six Thousand, Two Hundred Fifty-One Dollars and 80 cents).

**CIVIL CAUSE:** The City of Billings v. County Water District of Billings Heights, before the Thirteenth Judicial District Court, in and for the State of Montana, Cause No. DV 20-1653.

### 1. Releases

Releasor releases the Releasee Water District of and from all amounts that Releasee owes to the City under and pursuant to the Water Supply and Purchase Agreement dated December 14, 1998 for water purchased by the District between February 27, 2015 and December 15, 2017. The City agrees to accept the Settlement Amount stated above in full satisfaction of all amounts owed by the Water District to the City under the Water Supply and Purchase Agreement for the time period of February 27, 2015 and December 15, 2017. The Releasor City is expressly reserving and is not releasing its claims: (a) that the Water District is selling water outside of its Service Area in violation of § 27-201 - 207, Billings Montana City Code; and (b) that the Water Supply and Purchase Agreement dated December 14, 1998 is a contract for an indefinite term under the Uniform Commercial Code and may be terminated at any time, pursuant to Montana Code Annotated § 30-2-309.

The Releasee Water District releases the Releasor City of and from the Releasee's claims for: (a) negligence (Count I) in connection with the City's billing practices under

the Water Supply and Purchase Agreement dated December 14, 1998; and (b) for collection and declaratory relief (Count II) with respect to the Water District's claims arising from or related to any franchise fees paid by the Water District to the City. The Releasee Water District expressly reserves and does not release any claims that it may have against the City arising from any service fees that the City may have unlawfully billed to the Water District.

## **2. No Admission of Liability**

It is understood that the above-mentioned sum is accepted as the sole consideration for full satisfaction and accord to compromise a disputed claim, and that neither the payment of the sum by Releasee nor the negotiations for settlement shall be considered as an admission of liability by either Party. The claims reserved and not released remain disputed and not admitted by the opposing party.

## **3. Stipulation for Dismissal.**

The Parties enter into this Settlement Agreement in order to settle and resolve the above-described civil litigation. Towards that end:

- A. The Releasor's complaint against the Releasee with respect to amounts owed to the Releasor for water purchased by the Releasee between February 27, 2015 and December 15, 2017, shall be dismissed, with prejudice;
- B. Releasee's counterclaim against Releasor for negligence and declaratory relief shall be dismissed with prejudice;
- C. Releasee's counterclaim against Releasor arising from or related to any franchise fees paid by Releasee shall be dismissed, with prejudice; and
- D. Releasor's claims and Releasee's counterclaim against each other as may be alleged in the pleadings but not subject to the prayer of their Complaint and Counterclaim shall be dismissed without prejudice and shall not be subject to the mutual release of all claims.
- E. Each party shall pay their respective costs and attorneys' fees.

## **4. Approval of Settlement**

The Releasor warrants and represents that this Settlement Agreement has been approved by the Billings City Council and that the Mayor of the City of Billings has the power and authority to execute and deliver this Settlement Agreement.

The Releasee warrants and represents that this Settlement Agreement has been approved by the Board of Directors of the County Water District of Billings Heights and

that the undersigned has the power and authority to execute and deliver this Settlement Agreement.

## **5. Payment**

Within thirty (30) days after the approval of this Settlement Agreement and Release by the later of the City of Billings City Council and the Board of Directors of the County Water District of Billings Heights, Releasee shall pay to Releasor the sum of Two Million, Nine Hundred Thirty-Six Thousand, Two Hundred Fifty-One Dollars and 80 cents (**\$2,936,251.80**).

Upon receipt of payment of the Settlement Amount, counsel for the Parties shall cause a Stipulation for Dismissal of the pending Civil Action to be filed in the District Court. The Stipulation for Dismissal shall be substantially in the form that is attached as Exhibit "A".

## **6. New Water Purchase Agreement**

The Parties through their respective representatives, shall meet to begin addressing issues with the existing Water Purchase Agreement with a goal of drafting a new Water Purchase Agreement that may be acceptable to both the City of Billings and the County Water District of Billings. The Parties acknowledge that many of the customers of the County Water District of Billings Heights are also citizens of the City of Billings. Therefore, it may be in the interest of both Parties to negotiate and finalize a new agreement for the future. However, nothing in this Paragraph 6 shall impose any legal duty upon either party.

## **7. Taxation**

Neither Party makes any representation about the taxability of any portion of this Settlement. Each Party warrants and represents to the Other Party that it has consulted such accountants, attorneys, and advisors as it deemed appropriate regarding this settlement and that it is not relying upon any statement from the Other Party or its attorneys

## **8. Severability**

Should any provision of this Agreement be determined to be unenforceable, all remaining terms and clauses shall remain in force and shall be fully severable.

## **9. Choice of Law**

The laws of the State of Montana shall apply to the interpretation of this Agreement.

## **10. Final Agreement**

This written Agreement constitutes the final agreement between the parties and shall supersede any oral agreements to the contrary.

**CITY OF BILLINGS, MONTANA**

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

**COUNTY WATER DISTRICT OF  
BILLINGS HEIGHTS**

By: \_\_\_\_\_  
Ming Cabrera, President

STATE OF MONTANA            )  
                                          : ss.  
County of Yellowstone        )

This instrument was acknowledged before me on this \_\_\_\_ day of March, 2022, by **William A. Cole**, Mayor of the City of Billings.

\_\_\_\_\_  
Notary Public for the State of Montana

STATE OF MONTANA            )  
                                          : ss.  
County of Yellowstone        )

This instrument was acknowledged before me on this \_\_\_\_ day of March, 2022, by **Ming Cabrera**, President of the County Water District of Billings Heights.

\_\_\_\_\_  
Notary Public for the State of Montana

**City Council Regular**

**Date:** 03/28/2022  
**Title:** Non-Commercial Aviation Ground Lease with Agri Systems  
**Presented by:** Kevin Ploehn, Director of Aviation and Transit  
**Department:** Airport  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends that City Council approve the Non-Commercial Aviation Ground Lease with Agri Systems beginning April 1, 2022, and ending March 31, 2032.

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

Agri Systems has been leasing a 27,650 square foot parcel since 2002 and constructed a hangar on the parcel shortly after inception of the lease. The current Non-Commercial Aviation Ground Lease will expire on March 31, 2022. Agri Systems desires to continue leasing this parcel and to renew its lease. Staff has worked with Agri Systems on a new Lease for this parcel, for a ten-year term beginning April 1, 2022, and terminating on March 31, 2032.

**ALTERNATIVES**

City Council may:

- Approve the Non-Commercial Aviation Ground Lease with Agri Systems; or
- Not Approve the Non-Commercial Aviation Ground Lease with Agri Systems.

**FISCAL EFFECTS**

The Lease will generate \$8,294.88 in its first year. Lease rentals in subsequent years will be adjusted on an annual basis on the anniversary date, using the average of the monthly percentage increases for the previous calendar year, as determined by the Department of Labor Consumer Price Index for All Urban Consumers (CPI-U), published by the Bureau of Labor Statistics.

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**Attachments**

Non-Commercial Aviation Ground Lease

1 NON-COMMERCIAL AVIATION GROUND LEASE

2  
3 THIS LEASE, made and entered into on \_\_\_\_\_, by and between  
4 the following:

5 CITY OF BILLINGS, MONTANA, hereinafter  
6 designated "Lessor"

7 and

8 AGRI SYSTEMS, hereinafter  
9 designated "Lessee"

10 WITNESSETH

11 RECITALS

12 1) Lessor owns and operates BILLINGS LOGAN INTERNATIONAL AIRPORT  
13 (hereinafter called the Airport) situated in the City of Billings, Montana, and

14 2) Lessor deems it advantageous to itself and the operation of the Airport to lease  
15 to the Lessee a certain parcel of land hereinafter described together with certain privileges, rights, uses,  
16 and interests, and

17 3) Lessee wishes to engage in certain non-commercial aviation activities, and  
18 proposes to lease on a net basis from Lessor said parcel of land and to avail itself of the same  
19 privileges, rights, uses, and interests contemplated herein, and

20 4) Lessee has indicated a willingness and ability to properly keep, maintain, and  
21 improve said land in accordance with standards established by Lessor.

22 NOW THEREFORE, the parties hereto covenant and agree as follows:  
23  
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1 ARTICLE I

2 PREMISES AND PRIVILEGES

3 A. Description of the Premises. Lessor hereby leases to Lessee and Lessee hereby  
4 leases from Lessor that certain parcel of real property, together with improvements (hereinafter called  
5 the premises), for its exclusive use, specifically described as follows:

6 Main Parcel – 2400 Overlook Drive

7 Commencing at the South East Corner of Section 25, T. 1 N., R. 25 E.,  
8 P.M.M. Yellowstone County, Montana; thence N 01°35'55" E a distance of  
9 1,587.84 feet to the Point of Beginning; thence N 00°50'57" W a distance of  
10 130.00 feet; thence N 89°09'11" E a distance of 212.69 feet; thence  
11 S 00°50'57" E a distance of 130.00 feet; thence S 89°09'11" W a distance of  
12 212.69 feet.

13 Said parcel containing 27,649.70 square feet.

14 Premises is further depicted on attached Exhibit A, and by said reference made  
15 a part of this Lease.

16 B. General Privileges, Uses, and Rights. Lessor hereby grants to Lessee the  
17 following general privileges, uses, and rights, all of which shall be subject to the terms, conditions and  
18 covenants herein set forth. Said rights shall be subject to such Federal, State, or Local ordinances,  
19 rules and regulations as now or may hereafter have application at the Airport.

20 1) The general unrestricted use of all public airport facilities and  
21 improvements, which are now or may hereafter be connected with or appurtenant to  
22 said Airport, except as hereinafter provided, to be used by Lessee and its sublessees for  
23 non-commercial aviation activity as herein defined. For the purpose of this Lease,  
24 public airport facilities shall include all necessary landing area appurtenances  
including, but not limited to, approach areas, runways, taxiways, aprons, aircraft and

1 automobile parking areas, roadways, sidewalks, navigational aids, lighting facilities,  
2 Terminal facilities, or other public facilities appurtenant to said Airport.

3 2) The right of ingress to and egress from the premises over and across  
4 public roadways serving the Airport for Lessee, Lessee's agents, employees, patrons  
5 and invitees, suppliers of service and furnishers of material.

6 C. Specific Privileges, Uses, and Rights. In addition to the general privileges,  
7 uses, and rights described above and without limiting the generality thereof, Lessor hereby grants to  
8 Lessee and sublessees the right to engage in non-commercial aviation activity on the premises as  
9 defined in subparagraphs 1 through 5 below, subject to the conditions and covenants hereafter set out:

10 1) The maintenance, storing, and servicing of aircraft, which shall include  
11 minor repairs, inspection, and licensing of same, and the purchase of parts, equipment,  
12 and accessories therefore.

13 2) The right to use vehicles necessary for the servicing of aircraft.

14 3) The storage of non-commercial aircraft not owned by the Lessee.

15 4) The maintenance of an office on the premises necessary for the conduct  
16 of the activities defined herein.

17 5) The aforementioned rights shall apply to the persons, firms, or  
18 corporations having actual possession and occupancy of the hangars described herein,  
19 and the agents, employees, and invitees of such persons, firms, or corporations.

20 D. Concessions, Services, and Uses Excluded. The following concessions,  
21 services, uses, and the establishment thereof shall be specifically excluded from this Lease:

22 1) Ground and air transportation for hire.

23 2) Vehicle or equipment rental services.  
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3) Food sales (except the sale of tobacco, confections, and refreshments through coin-operated vending machines).

4) News and sundry sales.

5) Barber, valet, and personal services.

6) Fuel sales (aircraft or vehicle).

7) On site fuel storage and fuel storage facilities.

8) The buying and selling of aircraft, parts and accessories, and aviation equipment of all descriptions either for retail, wholesale, or as a dealer, except for use in Lessee's own aircraft or operations.

9) Flight schools and flight instruction, except that Lessee or Lessee's Chief Pilot shall have the right to give private instructions to employees of the Lessee.

10) Aircraft repair and servicing, except on Lessee's or sublessee's own aircraft.

11) Storage of vehicles, campers, boats, trailers, motor homes, or other recreational vehicles, or parts for such.

12) The maintenance, repairing, or restoring of motorized vehicles.

13) Storage of any household items.

14) Use of the premises in a residential capacity of any nature, whether temporary or otherwise.

15) Improper storage of any chemicals, solutions, solvents, or any potentially hazardous, explosive, or flammable materials or substances.

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- 16) Off-premise parking.
  - 17) Storage of any items outside of the hangar structure.
  - 18) Any non-aviation or non-aeronautical activity.

E. Reservation of Right-of-Way. Lessor hereby reserves a right-of-way easement for access purposes over the above described leasehold together with other necessary rights-of-way over said leasehold for access purposes. Said reserved rights-of-way may be used by Lessor and all of Lessor's representatives, agents, employees, tenants, employees of said tenants, and persons or entities serving said tenants.

F. Access/Inspection by Lessor. The Lessor or any person designated by the Lessor, shall at all times have reasonable access to the premises, and in the event of any emergency, the Lessor or its representatives shall have the right to take such action at the premises as they deem necessary for the protection of persons or property.

## ARTICLE II

### TERM OF LEASE

A. Term. The term of this Lease shall be for a period of ten (10) years, commencing on the 1st day of April 2022, and terminating on the 31st day of March 2032.

B. First Right of Refusal. At the end of the term hereof, the Lessee shall have the first right to accept a new lease of the premises at the same rates and charges that the premises may be offered to any other person or entity. Provided, that the Lessor shall have the sole discretion as to the use of said premises and whether or not it will be relet at the end of said term. Provided further, that sixty (60) days prior to the end of the term, Lessee shall give notice in writing to Lessor of intent to

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2 exercise the first right of refusal. Lessor, upon election to relet said premises, shall give Lessee notice  
3 in writing of its decision and the proposed terms. Lessee shall have thirty (30) days in which to give  
4 Lessor notice in writing of acceptance.

5 C. National Emergency. In the event the rights and privileges hereunder are  
6 suspended by reason of war or other national emergency, the term of this Lease shall be extended by  
7 the amount of the period of such suspension.

8 ARTICLE III

9 RENTAL AND FEES

10 A. Ground Rental. For the land described in Article I, Paragraph A., Lessee shall  
11 pay to Lessor \$0.30 per square foot per annum for all ground included in this Lease for an initial  
12 annual rental of \$8,294.88. Said rental shall be payable monthly in advance, without billing, on the  
13 first day of each month in an amount equal to one-twelfth of the annual rental, or \$691.24 per month.  
14

15 B. Interest Penalty. Without waiving any other right or action available to the  
16 Lessor, in the event of default in the payment of Lease rentals herein, or any other rentals, fees, or  
17 charges owed Lessor, the amount due shall accrue interest at the rate of one and one-half percent  
18 (1.5%) per month from the date such rentals, fees, or charges were due and payable, until paid in full.  
19 Said interest shall not apply with respect to items being contested in good faith by Lessee and which  
20 are resolved in Lessee's favor.

21 C. Annual Readjustment of Ground Rental. During the term of the Lease, the  
22 rental rate will be adjusted annually on the anniversary date of the Lease using the average of the  
23 monthly percentage increases of the previous calendar year, as determined by the Department of Labor  
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2 Consumer Price Index for All Urban Consumers (CPI-U), published by the Bureau of Labor Statistics.  
3 In no case shall the rates be less than the previous year. For the purposes of this Lease, the anniversary  
4 date shall be April 1 of each year during the term of the Lease. The Lessor shall send Lessee a notice  
5 of the annual rental rate adjustment prior to each anniversary date of the Lease denoting the adjusted  
6 rental rates.

7 D. Rental Adjustments to Market Value. On the fifth anniversary of the Lease, the  
8 Lessor may conduct an analysis of the then current lease rental rates for other on-Airport properties to  
9 determine the current market value of the property. Should the analysis identify that the then current  
10 Lease rental rate is below market value for other on-Airport properties, the Lessor will notify Lessee of  
11 an impending Lease rental rate increase.

#### 12 ARTICLE IV

#### 13 OBLIGATIONS OF LESSOR

14 A. Lessor Warranties. Lessor warrants all things have happened and have been  
15 done to make its granting of said Lease effective and that Lessee shall have peaceful possession and  
16 quiet enjoyment of the leased premises during the term hereof, upon performance of Lessee's  
17 covenants herein.

18 B. Operation as Public Airport. Lessor shall during the term hereof, operate and  
19 maintain the Airport and its public facilities, as defined hereinabove, as a public airport consistent with  
20 and pursuant to the sponsor's assurances given by Lessor to the United States Government under the  
21 Federal Airport Act.  
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2 C. Condition and Maintenance of Premises. Lessor shall assume no responsibility  
3 for the condition of the demised premises after delivery of premises to Lessee. Lessor shall maintain  
4 all existing roads on the Airport giving access to the leased premises. Lessor shall remove snow from  
5 the access roads as Lessor's resources permit.

6 ARTICLE V

7 OBLIGATIONS OF LESSEE

8 A. Condition of Premises. It shall be the sole responsibility of the Lessee to  
9 develop, keep, maintain, and operate the entirety of the premises and all improvements and facilities  
10 placed thereon at Lessee's sole cost and expense. This Lease in every sense shall be without cost or  
11 expense to the Lessor. Lessee accepts the premises in its present condition and will repair and  
12 maintain any installations thereon, except as provided in Article IV, Paragraphs B. - C., and will  
13 remove or cause to be removed any debris to the extent required for its continuing use thereof.

14 B. Improvements. Lessee shall have the right to and shall provide for the  
15 construction, alteration, expansion, and maintenance of its own improvements, in any lawful manner,  
16 upon or in the premises, for the purpose of carrying out any of the activities provided for herein, but  
17 shall obtain the written approval of Lessor prior to beginning any such construction, alteration, or  
18 expansion.

19 C. Maintenance. Lessee shall, at its sole cost and expense, maintain the premises,  
20 improvements, and appurtenances thereto in a presentable condition free of refuse and debris  
21 consistent with good business practice, and acceptable to Lessor. Lessee's maintenance  
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2 responsibilities shall include snow removal on the premises, and maintenance of all ramps and access  
3 to the hangar.

4           D.     Utilities. Lessee shall assume and pay for all costs or charges for utility services  
5 furnished to Lessee during the term thereof; provided, however, that Lessee shall have the right to  
6 connect to any available storm and sanitary sewers, water, electrical, or other utilities at Lessee's own  
7 cost and expense; and Lessee shall pay for any and all service charges incurred therefore. Lessee shall  
8 also provide an external water meter reading device in an external location of the leasehold structure;  
9 said meter reading device type shall be specified by Lessor. All utility services shall be installed  
10 underground. In the event Lessee wishes to wash aircraft inside the leasehold structure, Lessee shall  
11 provide and maintain a separate water collection system for the wash water and shall not discharge any  
12 wash water into any available storm and sanitary sewers.

13           E.     Trash, Garbage, Etc. Lessee shall provide, at Lessee's expense, a complete and  
14 proper arrangement for the adequate sanitary handling and disposal of all trash, garbage and other  
15 refuse occurring as a result of Lessee's occupancy of the premises. Lessee shall provide and use  
16 Lessor approved receptacles for all garbage, trash and other refuse and shall place them on the  
17 premises in a location acceptable to the Lessor for their removal. Piling of boxes, cartons, barrels,  
18 pallets, crates, or other similar items in an unsightly or unsafe manner, or open storage of materials,  
19 personal property, salvage, unused or surplus equipment, junk, or refuse on or about the premises, is  
20 forbidden. All disposal costs will be paid by the Lessee.  
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2 F. Signs. Lessee shall not maintain any billboards or advertising signs on the  
3 premises; provided, however, that Lessee may maintain on the outside of its buildings its name(s) or  
4 signs, the size, location, and design of which shall be subject to prior written approval of Lessor.

5 G. Federal, State, and Local Regulations. Lessee acknowledges that the right to  
6 use said Airport facilities in common with others authorized to do so shall be exercised subject to and  
7 in accordance with the laws, rules, regulations, and ordinances of the United States of America, the  
8 State of Montana, and the City of Billings now in force or hereafter prescribed or promulgated by  
9 authority or by law and shall be closely observed during the full term of this Lease.

10 H. Hazardous Substances. Lessee assumes full responsibility for the proper and  
11 legal use, handling, storage, and disposal of any hazardous substances used or consumed in Lessee's  
12 occupancy or the conduct of its business. "Hazardous substance" shall be interpreted broadly to mean  
13 any substance or toxic material, fuel or petroleum-based products, hazardous or toxic or radioactive  
14 substance, or other similar term by any Federal, State, or Local environmental law, regulation or rule  
15 presently in effect or promulgated in the future, as such laws, regulations or rules may be amended  
16 from time to time; and it shall be interpreted to include, but not be limited to, any substance which  
17 after release into the environment will or may reasonably be anticipated to cause sickness, death or  
18 disease. Lessee shall hold Lessor harmless from and indemnify Lessor against and from any damage,  
19 loss, expenses or liability resulting from any breach of these representations and warranty including all  
20 attorneys' fees and costs incurred as a result thereof.

21  
22 I. Taxiways/Taxilanes. Lessee shall ensure that Lessee's and/or sublessee's  
23 aircraft, vehicles, or other equipment do not block the public use taxiway/taxilane that passes the front  
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2 of the Lessee's premises. Ramp area included in the premises shall not be used for the tiedown of  
3 aircraft for any extended period of time.

4 ARTICLE VI

5 INSURANCE AND INDEMNIFICATION

6 A. Indemnification. Lessor and Lessor's officers, directors, agents, representatives,  
7 and employees shall stand indemnified by Lessee as herein provided. It is expressly understood and  
8 agreed that Lessee is and shall be deemed an independent contractor and operator responsible to all  
9 parties for its respective acts or omissions and that Lessor shall in no way be responsible therefore. It  
10 is further agreed that in the use of the Airport, in the construction, alteration, or maintenance of any  
11 improvements thereon, and in the exercise or enjoyment of the privileges herein granted, Lessee shall  
12 indemnify, save harmless, and defend the Lessor and Lessor's officers, directors, agents,  
13 representatives, and employees from any and all losses that may result to the Lessor and Lessor's  
14 officers, directors, agents, representatives, and employees because of any negligence, act, or omission  
15 on the part of the Lessee or Lessee's agents, representatives, and employees and shall indemnify Lessor  
16 against any and all mechanic's and materialmen's liens or any other types of liens imposed upon the  
17 premises.

18  
19 Lessee expressly agrees that Lessor shall not be liable to Lessee, for personal  
20 injury, bodily injury, or for any loss or damage to real or personal property occasioned by flood, fire,  
21 earthquake, lightning, windstorm, hail, explosion, riot, strike, civil disobedience or commotion,  
22 aircraft, smoke, vandalism, malicious mischief, or acts of civil authority, unless caused by the fault or  
23 negligence of Lessor, its officers, directors, agents, representatives, or employees.

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2           B.     Insurance. Lessee shall provide and keep in force for the term of this Lease a  
3 commercial general liability policy (occurrence form only), providing coverage for personal injury,  
4 bodily injury, death, and property damage, in amounts not less than \$1,500,000 per occurrence.

5                     The commercial general liability policy shall be endorsed to name the City of  
6 Billings as a **PRIMARY ADDITIONAL INSURED**. The City of Billings' general liability policy  
7 will be excess and noncontributory. At the time of execution of this Lease, and annually thereafter  
8 prior to the policy expiration, Lessee shall furnish a Certificate of Insurance and all associated policy  
9 endorsements showing that required insurance is in force. Lessee shall provide notice to City of any  
10 changes to insurance or cancellation of any or all insurance at least thirty (30) calendar days in advance  
11 of such change or cancellation. Insurance coverage shall be maintained with insurance underwriters  
12 authorized to do business in the State of Montana, and that are satisfactory to the Lessor. The  
13 continuous maintenance by Lessee of all types of required insurance under this Lease is mandatory.  
14 Failure of the Lessee to maintain such insurance and provide evidence thereof to Lessor is a material  
15 breach of this Lease, and does not amend this Lease, nor release the Lessee from any other obligations  
16 in this Lease.

17  
18                     If, in the Lessor's opinion, the minimum limits of the insurance coverage herein  
19 required become inadequate during the term of this Lease, Lessee agrees that it will increase such  
20 minimum limits by reasonable amounts on request of the Lessor.

## 21                                     ARTICLE VII

### 22                     TERMINATION OF LEASE, CANCELLATION, AND TRANSFER

23           A.     Termination. This Lease shall terminate at the end of the full term hereof  
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2 without any notice by either party, except as indicated in Article II, Paragraphs B. - C. A holding over  
3 by the Lessee, its assigns or sublessees beyond the expiration of the term shall not be permitted  
4 without the written consent of the Director of Aviation and Transit and then only on a month-to-month  
5 basis.

6                   Upon termination, Lessee shall have the right to remove all moveable furniture,  
7 fixtures, machinery and equipment, and all other personal property owned or installed by Lessee on the  
8 premises. All expenses connected with such removal shall be borne by the Lessee. Said property shall  
9 be removed within thirty (30) days after termination of Lease.

10                   In addition, Lessee has the right to remove, at Lessee's expense, all buildings  
11 and other structures owned by Lessee located upon the premises within thirty (30) days upon the  
12 termination of this Lease. Lessee shall remove from the premises all debris resulting from the removal  
13 of the building or structures, and Lessee shall generally leave the premises in a clean and orderly  
14 condition acceptable to the Lessor.

15                   This right to remove personal property, buildings and structures does not extend  
16 to pavement, water lines, sewer lines, electrical lines, utility poles, fencing, exterior light poles, which  
17 improvements shall remain the property of the Lessor and shall not be removed.

18                   In the event the Lessee elects not to remove the buildings and other structures,  
19 personal property, fixtures, machinery and equipment, and other improvements upon termination of  
20 the Lease, the disposition of the buildings and structures, personal property, fixtures, machinery and  
21 equipment, and other improvements will be left to the sole discretion of the Lessor. If Lessor elects to  
22 remove the buildings and structures, personal property, fixtures, machinery and equipment, and other  
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2 improvements because of failure of Lessee to do so, the cost of removal, demolition, and other related  
3 actions shall be at Lessee's expense.

4 B. Cancellation by Lessee. This Lease shall be subject to cancellation by Lessee  
5 after the happening of one or more of the following events:

6 1) The permanent abandonment of the Airport as an Air Terminal.

7 2) The lawful assumption of the United States Government or any other  
8 authorized agency thereof, of the operation, control or use of the Airport, or any  
9 substantial part or parts thereof, in such a manner that substantially restricts Lessee for  
10 a period of at least ninety (90) days from operating in a normal manner.

11 3) Issuance by any court of competent jurisdiction of an injunction in any  
12 way preventing or restraining the use of the Airport, and the remaining in force of such  
13 injunction for a period of at least ninety (90) days.

14 4) The default by Lessor in the performance of any covenant or agreement  
15 herein required to be performed by Lessor and the failure of Lessor to remedy such  
16 default for a period of ninety (90) days after receipt from Lessee or written notice to  
17 remedy same.

18  
19 Lessee may exercise such right of termination by written notice to Lessor at any  
20 time after the lapse of the above applicable periods of time and this Lease shall terminate as of that  
21 date. Rental due hereunder shall be payable only to the date of the happening of the event which  
22 results in said termination. Upon termination under the provisions of this Paragraph, Lessee shall have  
23 the same rights as described in Article VII, Paragraph A. herein.

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C. Cancellation by Lessor.

1) This Lease shall be subject to cancellation by Lessor in the event Lessee shall:

a) Be in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of fifteen (15) days after payment is due.

b) File a voluntary petition of bankruptcy.

c) Make a general assignment for the benefit of creditors.

d) Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Lessee, and such default continues for a period of thirty (30) days after written notice from Lessor of said default.

2) In the event of termination because of the happening of any of the aforesaid events, Lessor may take immediate possession of the premises and remove Lessee's effects, without being deemed guilty of trespassing. Upon said entry, this Lease shall terminate.

3) It is agreed that failure of Lessor to declare this Lease terminated or to reenter and take possession upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of Lessor to declare this Lease null and void by reason of any subsequent violation of the terms of this Lease.

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2 D. Suspension of Lease. During the time of war or declared national emergency,  
3 Lessor shall have the right to lease the landing area or any part thereof to the United States  
4 Government for military use. If any such lease is executed, any provisions of this instrument that are  
5 inconsistent with the provisions of the lease to the Government shall be suspended, provided that the  
6 term of the Lease shall be automatically extended by the amount of the period of suspension.  
7

8 E. Subleasing, Assigning, and Transferring. The Lessee shall have the right to  
9 sublease, assign, or transfer all or any part of Lessee's leasehold interest in the premises for the same  
10 purpose established in Article I, Paragraph D., provided written approval of the Lessor is obtained  
11 prior to any sublease, assignment, or transfer. As a condition of said approval, Lessor reserves the  
12 right to alter this Lease in any manner deemed necessary by Lessor. Any sublease, assignment, or  
13 transfer shall be subject to the same conditions, obligations, and terms as set forth herein and as may  
14 be subsequently amended, and Lessee shall be responsible for the observance by its tenants and  
15 sublessees for the terms and covenants of this Lease, and any subsequent lease amendments. Lessee  
16 shall provide Lessor with a copy of any sublease.

17 ARTICLE VIII

18 NONDISCRIMINATION

19 A. General. In the use and occupation of the Airport, Lessee shall not discriminate  
20 against any person or class of persons by reason of race, color, religion, sex, national origin or  
21 ancestry, age, or disability. Additionally, for the services provided during the use and occupation of  
22 the Airport, Lessee shall furnish said services on a reasonable and not unjustly discriminatory basis to  
23 all users thereof and charge reasonable and not unjustly discriminatory prices for each unit of service,  
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2 provided that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates,  
3 or other similar types of price reductions to volume purchasers.

4           B.     Civil/Human Rights Laws. In the operation and use of the Airport, Lessee shall  
5 not, on the grounds of race, color, religion, sex, national origin or ancestry, age, or disability,  
6 discriminate or permit discrimination against any person or group of persons in any manner prohibited  
7 by Part 21 of Title 49, Code of Federal Regulations, the Civil Rights Act of 1964, as amended, the  
8 Equal Pay Act of 1963, the Rehabilitation Act of 1973, and such other Federal, State, or Local laws as  
9 may be applicable.

10                     Without limiting the generality of the foregoing, Lessee agrees to not  
11 discriminate against any employee or applicant for employment because of race, color, religion, sex,  
12 national origin or ancestry, age, or disability. Lessee agrees to take affirmative action to ensure that  
13 applicants are employed, and that employees are treated during employment, without regard to their  
14 race, color, religion, sex, national origin or ancestry, age, or disability. Such action shall include, but  
15 not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment  
16 advertising; layoff or termination; rates of pay or other forms of compensation; selection for training;  
17 and disciplinary actions and grievances. Lessee agrees to post, in conspicuous places available to  
18 employees and applicants for employment, notices to be provided setting forth the provisions of this  
19 nondiscrimination clause.

20  
21           C.     Lessee, for itself, its heirs, personal representatives, successors in interest, and  
22 assignees, as part of the consideration of this Lease, does hereby covenant and agree as a covenant  
23 running with the land that, in the event improvements are constructed, maintained, or otherwise  
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2 operated on the Airport for a purpose for which a United States Department of Transportation program  
3 or activity is extended or for another purpose involving the provision of similar services or benefits,  
4 Lessee shall maintain and operate such improvements and services in compliance with all other  
5 requirements imposed pursuant to 49 CFR Part 21 (Nondiscrimination in Federally Assisted Programs  
6 of the Department of Transportation), as said regulations may be amended.  
7

8 D. Lessee, for itself, its heirs, personal representatives, successors in interest, and  
9 assignees, as a part of the consideration of this Lease, does hereby covenant and agree as a covenant  
10 running with the land that:

11 1) No person on the grounds of race, color, religion, sex, national origin or  
12 ancestry, age, or disability shall be excluded from participation in, denied the benefits  
13 of, or otherwise be subjected to discrimination in the use of said improvements.

14 2) No person on the grounds of race, color, religion, sex, national origin or  
15 ancestry, age, or disability shall be excluded from participation in, denied the benefits  
16 of, or otherwise be subjected to discrimination in the construction of any  
17 improvements on, over, or under such land and the furnishing of services thereon.

18 3) Lessee shall use the facilities in compliance with all other requirements  
19 imposed by, or pursuant to 49 CFR Part 21 (Nondiscrimination in Federally Assisted  
20 Programs of the Department of Transportation), as said regulations may be amended.

21 Lessee assures that it will undertake an affirmative action program as required  
22 by 14 CFR Part 152, Subpart E, to ensure that no person on the grounds of race, color, religion, sex,  
23 national origin or ancestry, age, or disability shall be excluded from participating in any employment  
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2 activities covered in 14 CFR Part 152, Subpart E, or such employment activities covered in any  
3 applicable State or Local law. Lessee assures that no person shall be excluded on these grounds from  
4 participating in or receiving the services or benefits of any program or activity covered by this  
5 Article VIII.

6 E. During the performance of this Lease, the Lessee, for itself, its assignees, and  
7 successors in interest, agrees to comply with the following nondiscrimination statutes and authorities,  
8 including, but not limited to:

- 9 1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78  
10 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 11 2) 49 CFR Part 21 (Nondiscrimination in Federally Assisted Programs of  
12 the Department of Transportation – Effectuation of Title VI of The Civil Rights Act of  
13 1964);
- 14 3) The Uniform Relocation Assistance and Real Property Acquisition  
15 Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons  
16 displaced or whose property has been acquired because of Federal or Federal aid  
17 programs and projects);
- 18 4) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*),  
19 as amended (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- 20 5) The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et*  
21 *seq.*) (prohibits discrimination on the basis of age);  
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6) Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, § 47123) as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

7) The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and § 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);

8) Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;

9) The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

10) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and

1  
2 activities with disproportionately high and adverse human health or environmental  
3 effects on minority and low income populations;

4 11) Executive Order 13166, Improving Access to Services for Persons with  
5 Limited English Proficiency (LEP), and resulting agency guidance, national origin  
6 discrimination includes discrimination because of LEP. To ensure compliance with  
7 Title VI, you must take reasonable steps to ensure that LEP persons have meaningful  
8 access to your programs (70 Federal Regulations at 74087 – 74100);

9 12) Title IX of the Education Amendments of 1972, as amended, which  
10 prohibits you from discriminating because of sex in education programs or activities  
11 (20 U.S.C. 1681 *et seq.*).

12 ARTICLE IX

13 GENERAL PROVISIONS

14 A. Attorney's Fees. Should either party employ an attorney or attorneys or utilize  
15 the services of in-house attorneys to enforce any of the provisions hereof or to protect its interest in  
16 any manner arising under this Lease, the nonprevailing party in any action pursued in a court of  
17 competent jurisdiction agrees to pay to the prevailing party all reasonable costs, damages, expenses,  
18 and attorney's fees, including fees for in-house attorneys, expended or incurred in connection  
19 therewith.

20 B. Governing Law. This Lease and all disputes arising hereunder shall be  
21 construed and enforced by the laws of the State of Montana. Venue in any proceedings held hereunder  
22 shall be in the State of Montana Thirteenth Judicial District Court, Yellowstone County, Montana.  
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2 C. Taxes. Lessee shall pay any taxes or assessments that may be lawfully levied  
3 against Lessee's occupancy or use of the premises or any improvements placed thereon as a result of  
4 Lessee's occupancy, but Lessee as independent contractor reserves the right to contest the levy of any  
5 tax or assessment that it feels is unjust.

6 D. Subordination of Lease.

7 1) This Lease shall be subordinate to the provisions of any existing or  
8 future agreements between Lessor and the United States relative to the administration,  
9 operation, or maintenance of the Airport, the execution of which has been or may be  
10 required as a condition precedent to the expenditure of Federal funds for the  
11 development of the Airport.

12 2) Notwithstanding any other prohibition or limitation of Lessee's right to  
13 sublease or assign its interest under this Lease, Lessor acknowledges and agrees that  
14 Lessee shall have the right to grant a security interest in its rights and interest under  
15 this Lease, with Lessor's prior written consent. Any mortgagee or beneficiary shall  
16 have the right to cure any default on the part of Lessee in the payment of rent  
17 hereunder and, in the event of default, to assume the Lessee's position under this Lease.  
18 Lessor, in no event, shall be liable for the payment of the sum secured by such  
19 mortgage or trust indenture, nor for any expenses in connection with the same.  
20 Furthermore, such mortgage or trust indenture shall expressly provide that the  
21 mortgagor or beneficiary will seek no monetary judgment against Lessor. The  
22 mortgage or trust indenture shall also contain provisions requiring the holder of the  
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2 indebtedness secured by such mortgage or trust indenture to mail to Lessor by certified  
3 mail a copy of each notice of indebtedness, any breach of covenant, default, or  
4 foreclosure given by the holder or the trustee to Lessee under such mortgage or deed of  
5 trust, and a copy of a release of any mortgage or deed of trust.

6 E. Modification and Amendments. Changes or modifications to this Lease shall be  
7 done in the form of a lease amendment prepared by the Lessor, and to be agreed upon and signed by  
8 both Lessee and Lessor.

9 F. Paragraph Headings. The paragraph headings contained herein are for  
10 convenience in reference and are not intended to define or limit the scope of any provisions of this  
11 Lease or the particular paragraphs.

12 G Effect of Invalid Provision. If any term or provision of this Lease or the  
13 application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the  
14 remainder of this Lease, or the application of such terms or provisions to persons or circumstances  
15 other than those to which it is invalid or unenforceable, shall not be affected hereby, and each term and  
16 provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

17 H. Notices. Notices to Lessor provided for herein shall be sufficient if sent by  
18 certified mail, postage prepaid, addressed to:

19  
20 Director of Aviation and Transit  
21 Billings Logan International Airport  
22 1901 Terminal Circle, Room 216  
23 Billings, MT 59105  
24

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2 and notices to Lessee, if sent by certified mail, postage prepaid, addressed to:

3 Robert Hamlin  
4 Agri Systems  
5 1300 Minnesota Avenue  
6 Billings, MT 59101  
7 Office: (406) 245-6231  
8 Cell: (406) 670-9879  
9 Fax: (406) 245-6236  
10 E-mail: rhamlin@asi-industrial.com

11 or to such other addresses as the parties may designate to each other in writing from time to time.

12 I. Successors and Assigns. All of the terms, covenants, and agreements herein  
13 contained, or as subsequently amended from time to time, shall be binding upon and shall inure to the  
14 benefit of successors, assignees, and sublessees of the respective parties hereto.

15 IN WITNESS WHEREOF, this document has been duly executed by or on behalf of  
16 the parties hereto as of the date indicated below.

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

18 ATTEST:

CITY OF BILLINGS

19 BY \_\_\_\_\_  
CITY CLERK

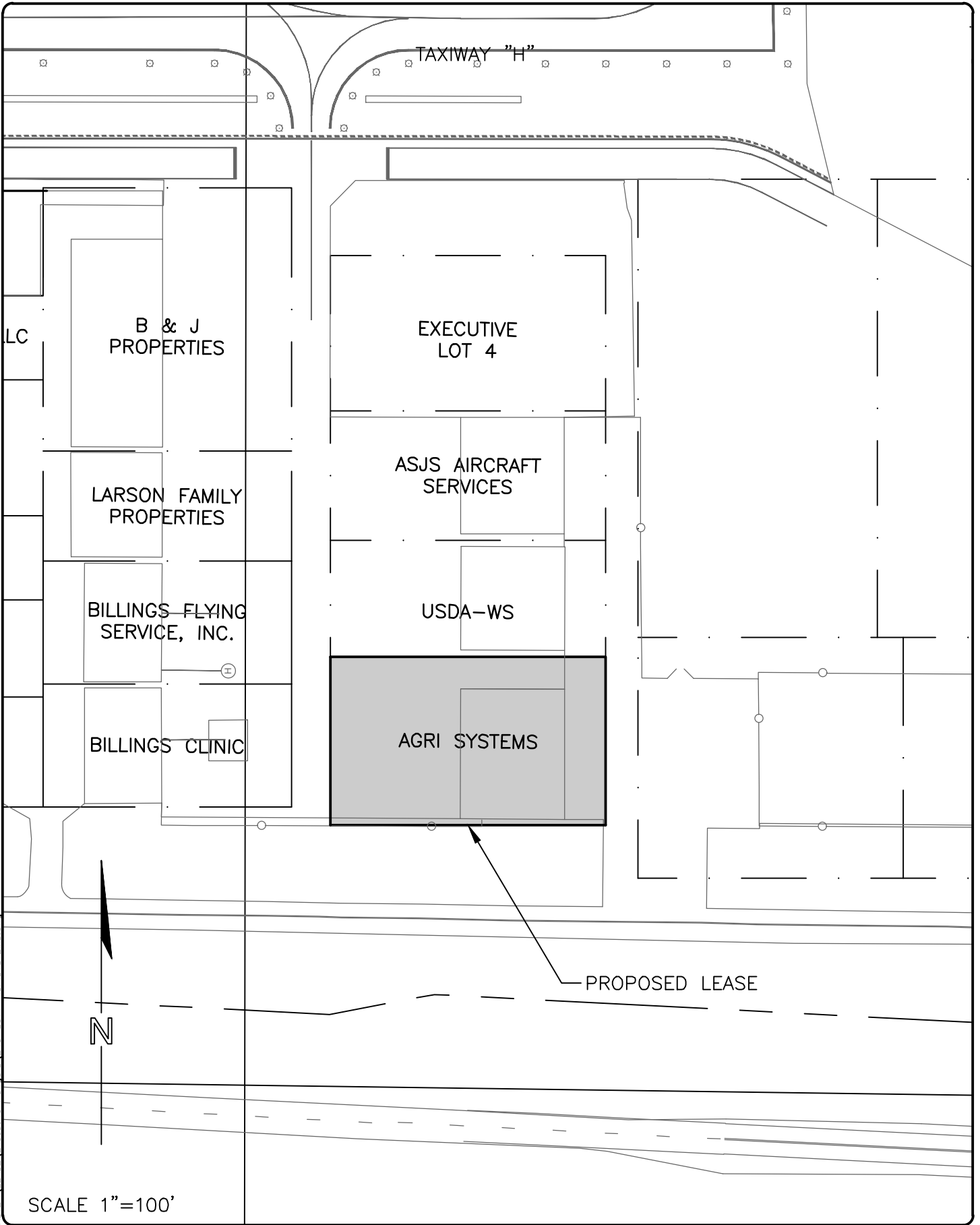
BY \_\_\_\_\_  
MAYOR

20 APPROVED AS TO FORM

AGRI SYSTEMS

21 BY \_\_\_\_\_  
CITY ATTORNEY

22 BY \_\_\_\_\_  
ROBERT HAMLIN



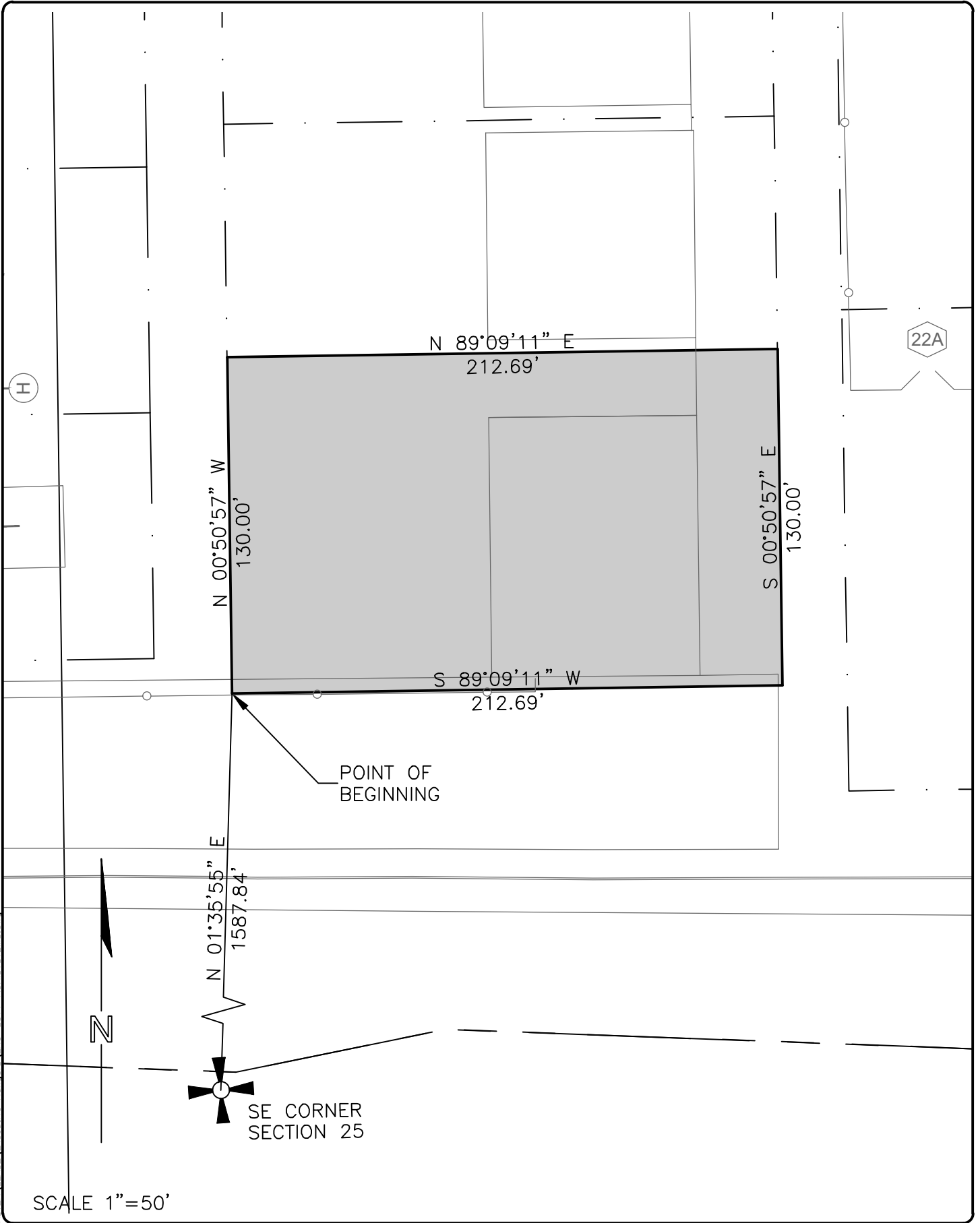
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**LOT 1 – AGRI SYSTEMS**  
 AVIATION AND TRANSIT DEPARTMENT–CITY OF BILLINGS

**EXHIBIT A**    1 of 3

|                                                                                       |                                                                                                 |
|---------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
|  | 315 N. 25th Street, Suite 102<br>Billings, MT 59101<br>Phone: 406.696.6000<br>Fax: 406.237.1201 |
| ISSUE DATE: MARCH 2022                                                                |                                                                                                 |

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SCALE 1"=50'

# LOT 1 - AGRI SYSTEMS

AVIATION AND TRANSIT DEPARTMENT-CITY OF BILLINGS

EXHIBIT A 2 of 3



315 N. 25th Street, Suite 102  
 Billings, MT 59101  
 Phone: 406.695.6000  
 Fax: 406.237.1201

ISSUE DATE: MARCH 2022

# DESCRIPTION

## Main Parcel

Commencing at the South East Corner Section 25, T. 1 N., R. 25 E., P.M.M., Yellowstone County, Montana; thence N 01°35'55" E a distance of 1587.84 feet to the Point of Beginning; thence N 00°50'57" W a distance of 130.00 feet; thence N 89°09'11" E a distance of 212.69 feet; thence S 00°50'57" E a distance of 130.00 feet; thence S 89°09'11" W a distance of 212.69 feet.

Said Parcel containing 27,649.7 Square Feet.

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LOT 1 – AGRI SYSTEMS

AVIATION AND TRANSIT DEPARTMENT—CITY OF BILLINGS

EXHIBIT A 3 of 3



315 N. 25th Street, Suite 102  
Billings, MT 59101  
Phone: 406.656.6000  
Fax: 406.237.1201

ISSUE DATE: MARCH 2022

**City Council Regular**

**Date:** 03/28/2022  
**Title:** Two West End Hangar Ground Leases with Beacon Air Group, LLC  
**Presented by:** Kevin Ploehn, Director of Aviation and Transit  
**Department:** Airport  
**Presentation:** No  
**Legal Review** Yes

**RECOMMENDATION**

Staff recommends that City Council approve the two West End Hangar Ground Leases with Beacon Air Group, LLC for 25-year terms commencing April 1, 2022, and ending March 31, 2047.

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

On February 14, 2022, City Council approved a West End Hangar Ground Lease with Beacon Air Group, LLC (Beacon) to construct the first hangar in the new West End Large Hangar Area. The Airport created this area for space to construct large hangars to accommodate large corporate and private aircraft. Kevin Button of Beacon desires to construct two additional new 100 ft. x 120 ft. hangars in this West End Large Hangar Area. This newly created area has spaces available to accommodate Beacon's request. Staff has worked with Beacon on two new twenty-five year West End Hangar Ground Leases that commence April 1, 2022, and terminate March 31, 2047. The proposed leased premises include two 38,700 square foot parcels on the newly named street Altimeter Drive. These Beacon hangars will be the second and third hangars constructed in the new West End Large Hangar Area. As a principal owner in both Beacon and BAG Billings, LLC, Beacon intends to coordinate the construction of these two hangars with the first hangar on the Lease approved February 14, 2022, and with the construction of the FBO hangars and office building that will be constructed by BAG Billings, LLC under a separate, previously approved twenty-five year Commercial Aviation Ground Lease.

**ALTERNATIVES**

City Council may:

- Approve the West End Hangar Ground Leases with Beacon; or
- Not Approve the West End Hangar Ground Leases with Beacon.

**FISCAL EFFECTS**

The initial annual rental for these two Leases will be \$11,223 for each Lease, for a total of \$22,446 of additional lease revenue for the Airport. Lease rentals in subsequent years will be adjusted on an annual basis on the anniversary dates, using the average of the monthly percentage increases for the previous calendar year, as determined by the Department of Labor Consumer Price Index for All Urban Consumers (CPI-U), published by the Bureau of Labor Statistics.

**Attachments**

West End Hangar Ground Lease

1 WEST END HANGAR GROUND LEASE

2  
3 THIS LEASE, made and entered into on \_\_\_\_\_, by and between  
4 the following:

5 CITY OF BILLINGS, MONTANA, hereinafter designated  
6 "Lessor"

7 and

8 BEACON AIR GROUP, LLC, hereinafter designated  
9 "Lessee"

10 WITNESSETH

11 RECITALS

12 1) Lessor owns and operates BILLINGS LOGAN INTERNATIONAL AIRPORT  
(hereinafter called the Airport) situated in the City of Billings, Montana, and

13 2) Lessor deems it advantageous to itself and the operation of the Airport to lease  
14 to the Lessee a certain parcel of land hereinafter described together with certain privileges, rights, uses,  
15 and interests, and

16 3) Lessee wishes to engage in certain non-commercial aviation activities, and  
17 proposes to lease on a net basis from Lessor said parcel of land, and to avail itself of the same  
18 privileges, rights, uses, and interests contemplated herein, and

19 4) Lessee has indicated a willingness and ability to properly keep, maintain, and  
20 improve said land in accordance with standards established by Lessor.

21 NOW THEREFORE, the parties hereto covenant and agree as follows:  
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1 ARTICLE I

2 PREMISES AND PRIVILEGES

3 A. Description of the Premises: Lessor hereby leases to Lessee and Lessee hereby  
4 leases from Lessor that certain parcel of real property, together with improvements (hereinafter called  
5 the premises) for its exclusive use, specifically described as follows:

6 Main Parcel – 2533 Altimeter Drive

7 Commencing at the S.E. Corner of Section 25 (Iron Pipe), T. 1 N., R. 25 E.,  
8 P.M.M., Yellowstone County, Montana; thence from said point, N  
9 30°31'59" W a distance of 2,431.02 feet to the Point of Beginning; thence N  
10 20°59'27" E a distance of 180.00 feet; thence N 69°00'33" W a distance of  
11 215.00 feet; thence S 20°59'27" W a distance of 180.00 feet; thence S  
12 69°00'33" E a distance of 215.00 feet to the Point of Beginning.

11 Said parcel containing 38,700 square feet.

12 Premises is further depicted on attached "Exhibit A," and by said reference  
13 made a part hereof.

14 B. Construction of Improvements. Lessee may construct a 100' x 120' hangar  
15 building on the aforementioned parcel of land pursuant to the submitted and approved plan, and by  
16 reference specifically made a part of this Lease as "Exhibit B." Necessary ramps, parking, and hangar  
17 entrance taxiways will be constructed by Lessee. The construction of the facilities shown on the  
18 "Exhibit B" building plans will be substantially started within twelve (12) months and completed  
19 within twenty-four (24) months of the signing of this Lease. Failure to complete the structure during  
20 said period shall constitute a default. If this default occurs, the Lease is canceled immediately and  
21 control of the property reverts to the Lessor.

22 C. General Privileges, Uses, and Rights. Lessor hereby grants to Lessee the  
23 following general privileges, uses, and rights, all of which shall be subject to the terms, conditions and  
24

1 covenants herein set forth. Said rights shall be subject to such Federal, State, or Local ordinances,  
2 rules and regulations as now or may hereafter have application at the Airport.

3 1) The general unrestricted use of all public Airport facilities and  
4 improvements which are now or may hereafter be connected with or appurtenant to  
5 said Airport, except as hereinafter provided, to be used by Lessee and its sublessees for  
6 non-commercial aviation activity as herein defined. For the purpose of this Lease,  
7 public airport facilities shall include all necessary landing area appurtenances  
8 including, but not limited to, approach areas, runways, taxiways, aprons, aircraft and  
9 automobile parking areas, roadways, and navigational aids.

10 2) The right of ingress to and egress from the premises over and across  
11 public roadways serving the Airport for Lessee, Lessee's agents, employees, patrons  
12 and invitees, suppliers of service and furnishers of material.

13 D. Specific Privileges, Uses, and Rights. In addition to the general privileges,  
14 uses, and rights described above and without limiting the generality thereof, Lessor hereby grants to  
15 Lessee and sublessees the right to engage in non-commercial aviation activity on the premises as  
16 defined in subparagraphs 1 through 7 below, subject to the conditions and covenants hereafter set out:

17 1) The maintenance, storing and servicing of aircraft, which shall include  
18 minor repairs, inspection, and licensing of same, and the purchase of parts, equipment,  
19 and accessories therefore.

20 2) The right to use vehicles necessary for the servicing of aircraft.

21 3) The storage of aircraft not owned by the Lessee.

22 4) The storage of supplies, materials, and records.

23 5) The loading and unloading of aircraft in any lawful activity as incidental  
24

1 to the conduct of any services or operations outlined in this paragraph.

2 6) The maintenance of an office on the premises necessary for the conduct  
3 of the activities defined above.

4 7) The aforementioned rights shall apply to the persons, firms, or  
5 corporations having actual possession, occupancy, and use of the leasehold structures  
6 described herein, and the agents, employees, and invitees of such persons, firms, or  
7 corporations.

8 E. Concessions, Services, Activities, and Uses Excluded. The following  
9 concessions, services, activities, uses, and the establishment thereof shall be specifically excluded  
10 from this Lease:

- 11 1) Ground and air transportation for hire.
- 12 2) Vehicle or equipment rental services.
- 13 3) Food sales (except the sale of tobacco, confections, and refreshments  
14 through coin-operated vending machines).
- 15 4) News and sundry sales.
- 16 5) Barber, valet, and personal services.
- 17 6) Fuel sales (aircraft or vehicle).
- 18 7) On site fuel storage and fuel storage facilities, including fueling vehicle  
19 parking.
- 20 8) The buying and selling of aircraft, parts, and accessories therefore, and  
21 aviation equipment of all descriptions either for retail, wholesale, or as a dealer, except  
22 for use in Lessee's own aircraft or operations.
- 23 9) Flight schools and flight instruction, except that Lessee or Lessee's  
24

1 Chief Pilot shall have the right to give private instructions to Lessee's employees.

2 10) Aircraft repair and servicing except on Lessee's or sublessee's own  
3 aircraft.

4 11) Storage of personal vehicles, campers, boats, trailers, motor homes,  
5 other recreational vehicles, or parts and accessories for such.

6 12) The maintenance, repairing, or restoring of motorized vehicles.

7 13) Storage of any household items.

8 14) Use of the premises in a residential capacity of any nature, whether  
9 temporary or otherwise.

10 15) Improper storage of any chemicals, solutions, solvents, or any  
11 potentially hazardous, explosive, or flammable materials or substances.

12 16) Off premise parking.

13 17) Storage of any items outside of the hangar structure.

14 18) Any non-aviation or non-aeronautical activity.

15 F. Reservation of Right-of-Way. Lessor hereby reserves a right-of-way easement  
16 for access purposes over/on the above described leasehold, together with other necessary rights-of-way  
17 over said leasehold for access purposes. Said reserved right-of-way may be used by Lessor and all of  
18 Lessor's representatives, agents, employees, tenants, employees of said tenants, and persons or entities  
19 serving said tenants.

20 G. Access/Inspection by Lessor. The Lessor or any person designated by the  
21 Lessor, shall at all times have reasonable access to the premises, and in the event of any emergency,  
22 the Lessor or its representatives shall have the right to take such action at the premises as they deem  
23 necessary for the protection of persons or property.  
24

1 ARTICLE II

2 TERM OF LEASE

3 A. Term. The term of this Lease shall be for a period of twenty-five (25) years,  
4 commencing on the 1st day of April 2022, and terminating on the 31st day of March 2047.

5 B. First Right of Refusal. At the end of the term hereof the Lessee shall have the  
6 first right to accept a new lease of the premises at the same rates and charges that the premises may be  
7 offered to any other person or entity. Provided that the Lessor shall have the sole discretion as to the  
8 use of said premises and whether or not it will be relet at end of said term. Provided further, that sixty  
9 (60) calendar days prior to the end of the term, Lessee shall give notice in writing to Lessor of intent to  
10 exercise the first right of refusal. Lessor, upon election to relet said premises, shall give Lessee notice  
11 in writing of its decision and the proposed terms. Lessee shall have thirty (30) calendar days in which  
12 to give Lessor notice in writing of acceptance.

13 C. National Emergency. In the event the rights and privileges hereunder are  
14 suspended by reason of war or other national emergency, the term of this Lease shall be extended by  
15 the amount of the period of such suspension.

16 ARTICLE III

17 RENTAL AND FEES

18 A. Ground Rental. For the land described in Article I, Paragraph A., Lessee shall  
19 pay to Lessor \$0.29 per square foot per annum for all ground included in this Lease, for an annual  
20 rental of \$11,223.00. Said initial rental shall be payable either annually in advance or monthly in  
21 advance, without billing, on the first day of each month in an amount equal to one-twelfth of the  
22 annual rental, or \$935.25 each month.

23 B. Interest Penalty. Without waiving any other right or action available to the  
24

1 Lessor, in the event of default in the payment of Lease rentals herein, or any other rentals, fees, or  
2 charges owed Lessor, the amount due shall accrue interest at the rate of one and one-half percent  
3 (1.5%) per month from the date such rentals, fees, or charges were due and payable, until paid in full.  
4 Said interest shall not apply with respect to items being contested in good faith by Lessee and which  
5 are resolved in Lessee's favor.

6 C. Annual Readjustment of Ground Rental. During the term of the Lease, the  
7 rental rate will be adjusted annually on the anniversary date of the Lease using the average of the  
8 monthly percentage increases of the previous calendar year, as determined by the Department of Labor  
9 Consumer Price Index for All Urban Consumers (CPI-U), published by the Bureau of Labor Statistics.  
10 In no case shall the rates be less than the previous year. For the purposes of this Lease, the anniversary  
11 date shall be October 1 of each year during the term of the Lease. The Lessor shall send Lessee a  
12 notice of the annual rental rate adjustment prior to each anniversary date of the Lease denoting the  
13 adjusted rental rates.

14 D. Rental Adjustments to Market Value. Beginning on the fifth anniversary, then  
15 on each successive five-year anniversary of the Lease, the Lessor may conduct an analysis of the then  
16 current lease rental rates for other on-Airport properties to determine the current market value of the  
17 property. Should the analysis identify that the then current Lease rental rate is below market value for  
18 other on-Airport properties, the Lessor will notify Lessee six (6) months in advance of an impending  
19 Lease rental rate increase.

#### ARTICLE IV

#### OBLIGATIONS OF LESSOR

22 A. Lessor Warranties. Lessor warrants all things have happened and have been  
23 done to make its granting of said Lease effective and that Lessee shall have peaceful possession and  
24

1 quiet enjoyment of the leased premises during the term hereof, upon performance of Lessee's  
2 covenants herein.

3 B. Operation as Public Airport. Lessor shall during the term hereof, operate and  
4 maintain the Airport and its public facilities, as defined hereinabove, as a public airport consistent with  
5 and pursuant to the sponsor's assurances given by Lessor to the United States Government under the  
6 Federal Airport Act.

7 C. Condition and Maintenance of Premises. Lessor shall assume no responsibility  
8 for the condition of the demised premises after delivery of premises to Lessee. Lessor shall maintain  
9 all existing roads on the Airport giving access to the leased premises and Lessor shall remove snow  
10 from the access roads as Lessor's resources permit.

11 ARTICLE V

12 OBLIGATIONS OF LESSEE

13 A. Condition of Premises. It shall be the sole responsibility of the Lessee to  
14 develop, keep, maintain, and operate the entirety of the premises and all improvements and facilities  
15 placed thereon at Lessee's sole cost and expense. This Lease in every sense shall be without cost or  
16 expense to the Lessor. Lessee accepts the premises in its present condition and will repair and  
17 maintain any installations thereon, except as provided in Article IV, Paragraphs B.-C., and will remove  
18 or cause to be removed any debris to the extent required for its continuing use thereof.

19 B. Improvements. Lessee shall have the right to and shall provide for the  
20 construction, alteration, expansion, and maintenance of its own improvements, in any lawful manner,  
21 upon or in the premises, for the purpose of carrying out any of the activities provided for herein, but  
22 shall obtain the written approval of Lessor prior to beginning any such construction, alteration, or  
23 expansion.  
24

1 C. Maintenance. Lessee shall, at its sole cost and expense, maintain the premises,  
2 improvements, and appurtenances thereto in a presentable condition free of refuse and debris  
3 consistent with good business practice, and acceptable to the Lessor. Repairs identified and required  
4 by the Lessor, and sent to Lessee via a written notice, shall be completed within a reasonable time as  
5 agreed to by both parties. Lessee's maintenance responsibilities shall include snow removal on the  
6 premises, maintenance of any separate water collection system on the premises utilized to collect wash  
7 water from aircraft, and maintenance of the ramp/apron and access/entrance to the hangar structure.

8 D. Utilities. Lessee shall assume and pay for all costs or charges for utility services  
9 furnished to Lessee during the term thereof; provided, however, that Lessee shall have the right to  
10 connect to any available storm and sanitary sewers, water, electrical, or other utilities at Lessee's own  
11 cost and expense; and Lessee shall pay for any/all service charges incurred therefore. Lessee shall also  
12 provide an external meter reading device in an external location of the leasehold structure; said meter  
13 reading device type shall be specified by the Lessor. In the event Lessee wishes to wash aircraft inside  
14 the leasehold structure, Lessee shall provide and maintain a separate water collection system for the  
15 wash water and shall not discharge the wash water into any available storm and sanitary sewers.

16 E. Trash, Garbage, Etc. Lessee shall provide, at Lessee's expense, a complete and  
17 proper arrangement for the adequate sanitary handling and disposal of all trash, garbage and other  
18 refuse occurring as a result of Lessee's occupancy and use of the premises. Lessee shall provide and  
19 use Lessor approved receptacles for all garbage, trash, and other refuse and shall place them on the  
20 premises in a location acceptable to the Lessor for their removal. Piling of boxes, cartons, barrels,  
21 pallets, crates, or other similar items in an unsightly or unsafe manner on or about the premises, is  
22 forbidden. All disposal costs shall be paid by the Lessee.

23 F. Signs. Lessee shall not maintain any billboards or advertising signs on the  
24

1 premises; provided, however, that Lessee may maintain on the outside of its building its name(s) or  
2 signs, the size, location, and design of which shall be subject to prior written approval of Lessor.

3 G. Federal, State, and Local Regulations. Lessee acknowledges that the right to  
4 use said Airport facilities in common with others authorized to do so shall be exercised subject to and  
5 in accordance with the laws, rules, regulations, and ordinances of the United States of America, the  
6 State of Montana, and the City of Billings, now in force or hereafter prescribed or promulgated by  
7 authority or by law and shall be closely observed during the full term of this Lease.

8 H. Taxiways/Taxilanes. Lessee shall ensure that Lessee's and/or sublessee's  
9 aircraft, vehicles, or other equipment do not block the public use taxiway/taxilane that passes the front  
10 of Lessee's leasehold. Ramp area included in the premises shall not be used for the tie down of aircraft  
11 for any extended period of time.

12 I. Hazardous Substances. Lessee assumes full responsibility for the proper and  
13 legal use, handling, storage, and disposal of any hazardous substances used or consumed in the  
14 Lessee's occupancy, use, or conduct of its business. "Hazardous substance" shall be interpreted  
15 broadly to mean any substance or toxic material, fuel or petroleum-based products, hazardous or toxic  
16 or radioactive substance, or other similar term by any Federal, State, or Local environmental law,  
17 regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules  
18 may be amended from time to time; and it shall be interpreted to include, but not be limited to, any  
19 substance which after release into the environment will or may reasonably be anticipated to cause  
20 sickness, death or disease. Lessee will hold Lessor harmless from and indemnify Lessor against and  
21 from any damage, loss, expenses, or liability resulting from any breach of these representations and  
22 warranty including all attorneys' fees and costs incurred as a result thereof.  
23  
24

1 ARTICLE VI

2 INSURANCE AND INDEMNIFICATION

3 A. Indemnification. Lessor and Lessor's officers, directors, agents, representatives,  
4 and employees shall stand indemnified by Lessee as herein provided. It is expressly understood and  
5 agreed that Lessee is and shall be deemed an independent contractor and operator responsible to all  
6 parties for its respective acts or omissions and that Lessor shall in no way be responsible therefore. It  
7 is further agreed that in the use of the Airport, in the construction, alteration, or maintenance of any  
8 improvements thereon, and in the exercise or enjoyment of the privileges herein granted, Lessee shall  
9 indemnify, save harmless, and defend the Lessor and Lessor's officers, directors, agents,  
10 representatives, and employees from any and all losses that may result to the Lessor and Lessor's  
11 officers, directors, agents, representatives, and employees because of any negligence, act, or omission  
12 on the part of the Lessee or Lessee's agents, representatives, and employees and shall indemnify Lessor  
13 against any and all mechanic's and materialmen's liens or any other types of liens imposed upon the  
14 premises.

15 Lessee expressly agrees that Lessor shall not be liable to Lessee, for personal  
16 injury, bodily injury, or for any loss or damage to real or personal property occasioned by flood, fire,  
17 earthquake, lightning, windstorm, hail, explosion, riot, strike, civil disobedience or commotion,  
18 aircraft, smoke, vandalism, malicious mischief, or acts of civil authority, unless caused by the fault or  
19 negligence of Lessor, its officers, directors, agents, representatives, or employees.

20 B. Insurance. Lessee shall provide and keep in force for the term of this Lease a  
21 commercial general liability policy (occurrence form only), providing coverage for personal injury,  
22 bodily injury, death, and property damage, in amounts not less than \$1,500,000 per occurrence.

23 The commercial general liability policy shall be endorsed to name the City of  
24

1 Billings as a **PRIMARY ADDITIONAL INSURED**. The City of Billings' general liability policy  
2 will be excess and noncontributory. At the time of execution of this Lease, and annually thereafter and  
3 prior to policy expiration, Lessee shall furnish a Certificate of Insurance and associated policy  
4 endorsements showing that required insurance is in force. Lessee shall provide notice to City of any  
5 changes to insurance or cancellation of any or all insurance at least thirty (30) calendar days in advance  
6 of such change or cancellation. Insurance coverage shall be maintained with insurance underwriters  
7 authorized to do business in the State of Montana, and that are satisfactory to the Lessor. The  
8 continuous maintenance by Lessee of all types of required insurance under this Lease is mandatory.  
9 Failure of the Lessee to maintain such insurance and provide evidence thereof, is a material breach of  
10 this Lease, and does not amend this Lease, nor release the Lessee from any other obligations in this  
11 Lease.

12                   If, in the Lessor's opinion, the minimum limits of the insurance coverage herein  
13 required become inadequate during the term of this Lease, Lessee agrees that it will increase such  
14 minimum limits by reasonable amounts on request of the Lessor.

## 15                   ARTICLE VII

### 16                   TERMINATION OF LEASE, CANCELLATION, AND TRANSFER

17           A.   Termination. This Lease shall terminate at the end of the full term hereof  
18 without any notice by either party, except as indicated in Article II, Paragraph A. A holding over by  
19 the Lessee, its assigns or sublessees beyond the expiration of the term shall not be permitted without  
20 the written consent of the Director of Aviation and Transit and then only on a month-to-month basis.

21                   Lessee shall have the right to remove all moveable furniture, fixtures,  
22 machinery and equipment and all other personal property owned or installed by Lessee on the  
23 premises, and all expenses connected with such removal shall be borne by the Lessee. Said property  
24

1 shall be removed within thirty (30) calendar days after termination of Lease.

2 In addition, Lessee has the right to remove, at Lessee's expense, all buildings  
3 and other structures owned by Lessee located upon the premises within thirty (30) calendar days upon  
4 the termination of this Lease. Lessee shall remove from the premises all debris resulting from the  
5 removal of the building or structures, and Lessee shall generally leave the premises in a clean and  
6 orderly condition, acceptable to Lessor.

7 This right to remove personal property, buildings and structures does not extend  
8 to pavement, water lines, sewer lines, electrical lines, utility poles, fencing, exterior light poles, which  
9 improvements shall remain the property of the Lessor and shall not be removed.

10 In the event the Lessee elects not to remove the buildings and other structures,  
11 personal property, fixtures, machinery and equipment, and other improvements upon termination of  
12 the Lease, the disposition of the buildings and structures, personal property, fixtures, machinery and  
13 equipment, and other improvements will be left to the sole discretion of the Lessor. If Lessor elects to  
14 remove the buildings and structures, personal property, fixtures, machinery and equipment, and other  
15 improvements because of failure of Lessee to do so, the cost of removal, demolition, and other related  
16 actions shall be at Lessee's expense.

17 B. Cancellation by Lessee. This Lease shall be subject to cancellation by Lessee  
18 after the happening of one or more of the following events:

- 19 1) The permanent abandonment of the Airport as an Air Terminal.
- 20 2) The lawful assumption of the United States Government or any other  
21 authorized agency thereof, of the operation, control or use of the Airport, or any  
22 substantial part or parts thereof, in such a manner that substantially restricts Lessee for  
23 a period of at least ninety (90) calendar days from operating in a normal manner.  
24

1                   3)     Issuance by any court of competent jurisdiction of an injunction in any  
2 way preventing or restraining the use of the Airport, and the remaining in force of such  
3 injunction for a period of at least ninety (90) calendar days.

4                   4)     The default by Lessor in the performance of any covenant or agreement  
5 herein required to be performed by Lessor and the failure of Lessor to remedy such  
6 default for a period of ninety (90) calendar days after receipt from Lessee or written  
7 notice to remedy same.

8                   Lessee may exercise such right of termination by written notice to Lessor at any  
9 time after the lapse of the above applicable periods of time and this Lease shall terminate as of that  
10 date. Rental due hereunder shall be payable only to the date of the happening of the event which  
11 results in said termination. Upon termination under the provisions of this Paragraph, Lessee shall have  
12 the same rights as described in Article VII, Paragraph A. herein.

13                   C.     Cancellation by Lessor.

14                   1)     This Lease shall be subject to cancellation by Lessor in the event Lessee  
15 shall:

16                             a)     Be in arrears in the payment of the whole or any part of the  
17 amounts agreed upon hereunder for a period of fifteen (15) calendar days after  
18 payment is due.

19                             b)     File a voluntary petition of bankruptcy.

20                             c)     Make a general assignment for the benefit of creditors.

21                             d)     Default in the performance of any of the covenants and  
22 conditions required herein (except rental payments) to be kept and performed  
23 by Lessee, and such default continues for a period of thirty (30) calendar days  
24

1 after written notice from Lessor of said default.

2 2) In the event of termination because of the happening of any of the  
3 previously mentioned events, Lessor may take immediate possession of the premises  
4 and remove Lessee's effects, without being deemed guilty of trespassing. Upon said  
5 entry, this Lease shall terminate.

6 3) It is agreed that failure of Lessor to declare this Lease terminated or to  
7 reenter and take possession upon the default of Lessee for any of the reasons set out  
8 shall not operate to bar or destroy the right of Lessor to declare this Lease null and void  
9 by reason of any subsequent violation of the terms of this Lease.

10 D. Suspension of Lease. During the time of war or declared national emergency,  
11 Lessor shall have the right to lease the landing area or any part thereof to the United States  
12 Government for military use. If any such lease is executed, any provisions of this instrument, which  
13 are inconsistent with the provisions of the lease to the Government shall be suspended, provided that  
14 the term of the Lease shall be automatically extended by the amount of the period of suspension.

15 E. Subleasing, Assigning, and Transferring. The Lessee shall have the right to  
16 sublease, assign, or transfer all or any part of Lessee's leasehold interest in the premises for the same  
17 purpose established in Article I, Paragraph D., provided that written approval of the Lessor is obtained  
18 prior to any sublease, assignment, or transfer. As a condition of said approval, Lessor reserves the  
19 right to alter this Lease in any manner deemed necessary by Lessor. Any sublease, assignment, or  
20 transfer shall be subject to the same conditions, obligations and terms as set forth herein and as may be  
21 subsequently amended, and Lessee shall be responsible for the observance by its tenants and  
22 sublessees for the terms and covenants of this Lease and any subsequent lease amendments. Lessee  
23 shall provide Lessor with a copy of any sublease it has on the Lessee's leasehold.  
24

1 ARTICLE VIII

2 NONDISCRIMINATION

3 A. General. In the use and occupation of the Airport, Lessee shall not discriminate  
4 against any person or class of persons by reason of race, color, religion, sex, national origin or  
5 ancestry, age, or disability. Additionally, for the services provided during the use and occupation of  
6 the Airport, Lessee shall furnish said services on a reasonable and not unjustly discriminatory basis to  
7 all users thereof and charge reasonable and not unjustly discriminatory prices for each unit of service,  
8 provided that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates,  
9 or other similar types of price reductions to volume purchasers.

10 B. Civil/Human Rights Laws. In the operation and use of the Airport, Lessee shall  
11 not, on the grounds of race, color, religion, sex, national origin or ancestry, age, or disability,  
12 discriminate or permit discrimination against any person or group of persons in any manner prohibited  
13 by Part 21 of Title 49, Code of Federal Regulations, the Civil Rights Act of 1964, as amended, the  
14 Equal Pay Act of 1963, the Rehabilitation Act of 1973, and such other Federal, State, or Local laws as  
15 may be applicable.

16 Without limiting the generality of the foregoing, Lessee agrees to not  
17 discriminate against any employee or applicant for employment because of race, color, religion, sex,  
18 national origin or ancestry, age, or disability. Lessee agrees to take affirmative action to ensure that  
19 applicants are employed, and that employees are treated during employment, without regard to their  
20 race, color, religion, sex, national origin or ancestry, age, or disability. Such action shall include, but  
21 not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment  
22 advertising; layoff or termination; rates of pay or other forms of compensation; selection for training;  
23 and disciplinary actions and grievances. Lessee agrees to post, in conspicuous places available to  
24

1 employees and applicants for employment, notices to be provided setting forth the provisions of this  
2 nondiscrimination clause.

3 C. Lessee, for itself, its heirs, personal representatives, successors in interest, and  
4 assignees, as part of the consideration of this Lease, does hereby covenant and agree as a covenant  
5 running with the land that, in the event improvements are constructed, maintained, or otherwise  
6 operated on the Airport for a purpose for which a United States Department of Transportation program  
7 or activity is extended or for another purpose involving the provision of similar services or benefits,  
8 Lessee shall maintain and operate such improvements and services in compliance with all other  
9 requirements imposed pursuant to 49 CFR Part 21 (Nondiscrimination in Federally Assisted Programs  
10 of the Department of Transportation), as said regulations may be amended.

11 D. Lessee, for itself, its heirs, personal representatives, successors in interest, and  
12 assignees, as a part of the consideration of this Lease, does hereby covenant and agree as a covenant  
13 running with the land that:

14 1) No person on the grounds of race, color, religion, sex, national origin or  
15 ancestry, age, or disability shall be excluded from participation in, denied the benefits  
16 of, or otherwise be subjected to discrimination in the use of said improvements.

17 2) No person on the grounds of race, color, religion, sex, national origin or  
18 ancestry, age, or disability shall be excluded from participation in, denied the benefits  
19 of, or otherwise be subjected to discrimination in the construction of any  
20 improvements on, over, or under such land and the furnishing of services thereon.

21 3) Lessee shall use the facilities in compliance with all other requirements  
22 imposed by, or pursuant to 49 CFR Part 21 (Nondiscrimination in Federally Assisted  
23 Programs of the Department of Transportation), as said regulations may be amended.  
24

1 Lessee assures that it will undertake an affirmative action program as required  
2 by 14 CFR Part 152, Subpart E, to ensure that no person on the grounds of race, color, religion, sex,  
3 national origin or ancestry, age, or disability shall be excluded from participating in any employment  
4 activities covered in 14 CFR Part 152, Subpart E, or such employment activities covered in any  
5 applicable State or Local law. Lessee assures that no person shall be excluded on these grounds from  
6 participating in or receiving the services or benefits of any program or activity covered by this  
7 Article VIII.

8 E. During the performance of this Lease, the Lessee, for itself, its assignees, and  
9 successors in interest, agrees to comply with the following nondiscrimination statutes and authorities,  
10 including, but not limited to:

- 11 1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78  
12 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 13 2) 49 CFR Part 21 (Nondiscrimination in Federally Assisted Programs of  
14 the Department of Transportation – Effectuation of Title VI of The Civil Rights Act of  
15 1964);
- 16 3) The Uniform Relocation Assistance and Real Property Acquisition  
17 Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons  
18 displaced or whose property has been acquired because of Federal or Federal aid  
19 programs and projects);
- 20 4) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*),  
21 as amended (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- 22 5) The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et*  
23 *seq.*) (prohibits discrimination on the basis of age);  
24

1                   6)     Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471,  
2                   § 47123) as amended (prohibits discrimination based on race, creed, color, national  
3                   origin, or sex);

4                   7)     The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the  
5                   scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age  
6                   Discrimination Act of 1975, and § 504 of the Rehabilitation Act of 1973, by expanding  
7                   the definition of the terms "programs or activities" to include all of the programs or  
8                   activities of the Federal aid recipients, sub-recipients, and contractors, whether such  
9                   programs or activities are Federally funded or not);

10                  8)     Titles II and III of the Americans with Disabilities Act of 1990, which  
11                  prohibit discrimination on the basis of disability in the operation of public entities,  
12                  public and private transportation systems, places of public accommodation, and certain  
13                  testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of  
14                  Transportation regulations at 49 CFR Parts 37 and 38;

15                  9)     The Federal Aviation Administration's Nondiscrimination statute  
16                  (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national  
17                  origin, and sex);

18                  10)    Executive Order 12898, Federal Actions to Address Environmental  
19                  Justice in Minority Populations and Low Income Populations, which ensures  
20                  discrimination against minority populations by discouraging programs, policies, and  
21                  activities with disproportionately high and adverse human health or environmental  
22                  effects on minority and low income populations;

23                  11)    Executive Order 13166, Improving Access to Services for Persons with  
24

1 Limited English Proficiency (LEP), and resulting agency guidance, national origin  
2 discrimination includes discrimination because of LEP. To ensure compliance with  
3 Title VI, you must take reasonable steps to ensure that LEP persons have meaningful  
4 access to your programs (70 Federal Regulations at 74087 – 74100);

5 12) Title IX of the Education Amendments of 1972, as amended, which  
6 prohibits you from discriminating because of sex in education programs or activities  
7 (20 U.S.C. 1681 *et seq.*).

8 ARTICLE IX

9 GENERAL PROVISIONS

10 A. Attorney's Fees. Should either party employ an attorney or attorneys or utilize  
11 the services of in-house attorneys to enforce any of the provisions hereof or to protect its interest in  
12 any manner arising under this Lease, the nonprevailing party in any action pursued in a court of  
13 competent jurisdiction agrees to pay to the prevailing party all reasonable costs, damages, expenses,  
14 and attorney's fees, including fees for in-house attorneys, expended or incurred in connection  
15 therewith.

16 B. Governing Law. This Lease and all disputes arising hereunder shall be  
17 construed and enforced by the laws of the State of Montana. Venue in any proceedings held hereunder  
18 shall be in the State of Montana Thirteenth Judicial District Court, Yellowstone County, Montana.

19 C. Taxes. Lessee shall pay any taxes or assessments which may be lawfully levied  
20 against Lessee's occupancy or use of the premises or any improvements placed thereon as a result of  
21 Lessee's occupancy or use, but Lessee as independent contractor reserves the right to contest the levy  
22 of any tax or assessment that it feels is unjust.  
23  
24

1           D.     Subordination of Lease.

2                     1)     This Lease shall be subordinate to the provisions of any existing or  
3                     future agreements between Lessor and the United States relative to the operation or  
4                     maintenance of the Airport, the execution of which has been or may be required as a  
5                     condition precedent to the expenditure of Federal funds for the development of the  
6                     Airport.

7                     2)     Notwithstanding any other prohibition or limitation of Lessee's right to  
8                     sublease or assign its interest under this Lease, Lessor acknowledges and agrees that  
9                     Lessee shall have the right to grant a security interest in its rights and interest under  
10                    this Lease, with Lessor's prior written consent. Any mortgagee or beneficiary shall  
11                    have the right to cure any default on the part of Lessee in the payment of rent  
12                    hereunder and, in the event of default, to assume the Lessee's position under this Lease.

13                    Lessor in no event shall be liable for the payment of the sum secured by such  
14                    mortgage or trust indenture, nor for any expenses in connection with the same.  
15                    Furthermore, such mortgage or trust indenture shall expressly provide that the  
16                    mortgagor or beneficiary will seek no monetary judgment against Lessor. The  
17                    mortgage or trust indenture shall also contain provisions requiring the holder of the  
18                    indebtedness secured by such mortgage or trust indenture to mail to Lessor by certified  
19                    mail a copy of each notice of indebtedness, any breach of covenant, default, or  
20                    foreclosure given by the holder or the trustee under such mortgage or deed of trust, and  
21                    a copy of a release of any mortgage or deed of trust.

22                    E.     Modification and Amendments. Changes or modifications to this Lease shall be  
23                    done in the form of a lease amendment to be agreed upon and signed by both Lessee and Lessor.  
24

1 F. Paragraph Headings. The paragraph headings contained herein are for  
2 convenience in reference and are not intended to define or limit the scope of any provisions of this  
3 Lease or the particular paragraphs.

4 G. Effect of Invalid Provision. If any term or provision of this Lease or the  
5 application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the  
6 remainder of this Lease, or the application of such terms or provisions to persons or circumstances  
7 other than those to which it is invalid or unenforceable, shall not be affected hereby, and each term and  
8 provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

9 H. Notices. Notices to Lessor provided for herein shall be sufficient if sent by  
10 certified mail, postage prepaid, addressed to:

11 Director of Aviation and Transit  
12 Billings Logan International Airport  
13 1901 Terminal Circle, Room 216  
Billings, MT 59105

14 and notices to Lessee, if sent by certified mail, postage prepaid, addressed to:

15 Joel Simmons and Kevin Button  
16 Beacon Air Group, LLC  
17 P.O. Box 1381  
18 Dillon, MT 59725  
Telephone: (307) 272-3224  
E-mail: joel@beaconairgroup.com  
E-mail: kevin@beaconairgroup.com

19 or to such other addresses as the parties may designate to each other in writing from time to time.

20 I. Successors and Assigns. All of the terms, covenants, and agreements herein  
21 contained, or subsequently amended from time to time, shall be binding upon and shall inure to the  
22 benefit of successors, assigns and sublessees of the respective parties hereto.

1                   IN WITNESS WHEREOF, this document has been duly executed by or on behalf of  
2 the parties hereto as of the date indicated below.

3  
4 DATE: \_\_\_\_\_

5  
6 ATTEST:

CITY OF BILLINGS

7 BY \_\_\_\_\_  
8                   CITY CLERK

BY \_\_\_\_\_  
                                  MAYOR

9 APPROVED AS TO FORM

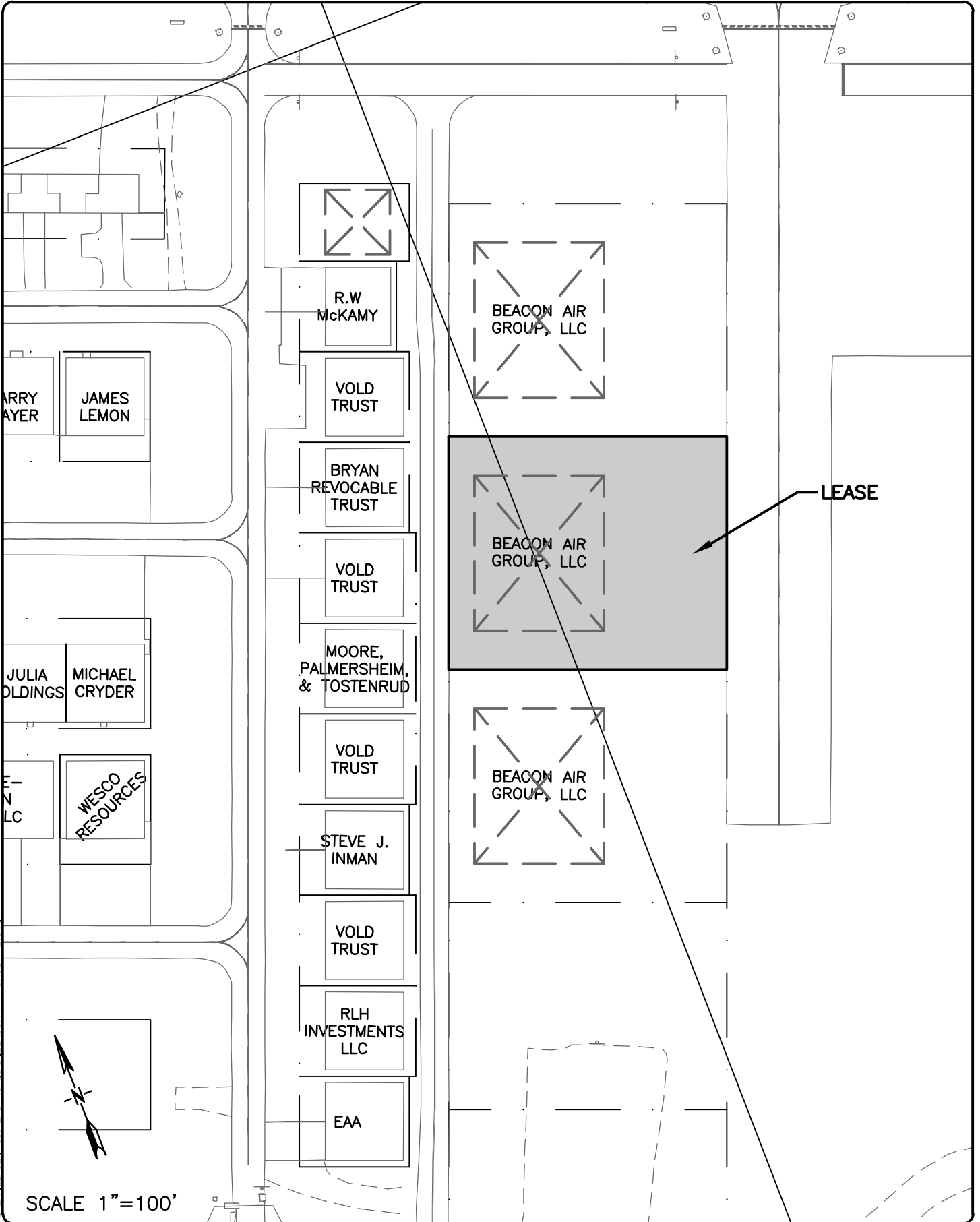
BEACON AIR GROUP, LLC

10  
11 BY \_\_\_\_\_  
12                   CITY ATTORNEY

BY \_\_\_\_\_  
                                  JOEL SIMMONS

13 BY \_\_\_\_\_  
14                   KEVIN BUTTON

V:\2447\000-MASTER LEASE\West End Hangars\BEACON AIR GROUP-2.dwg



SCALE 1"=100'

# BEACON AIR GROUP, LLC

AVIATION AND TRANSIT DEPARTMENT-CITY OF BILLINGS

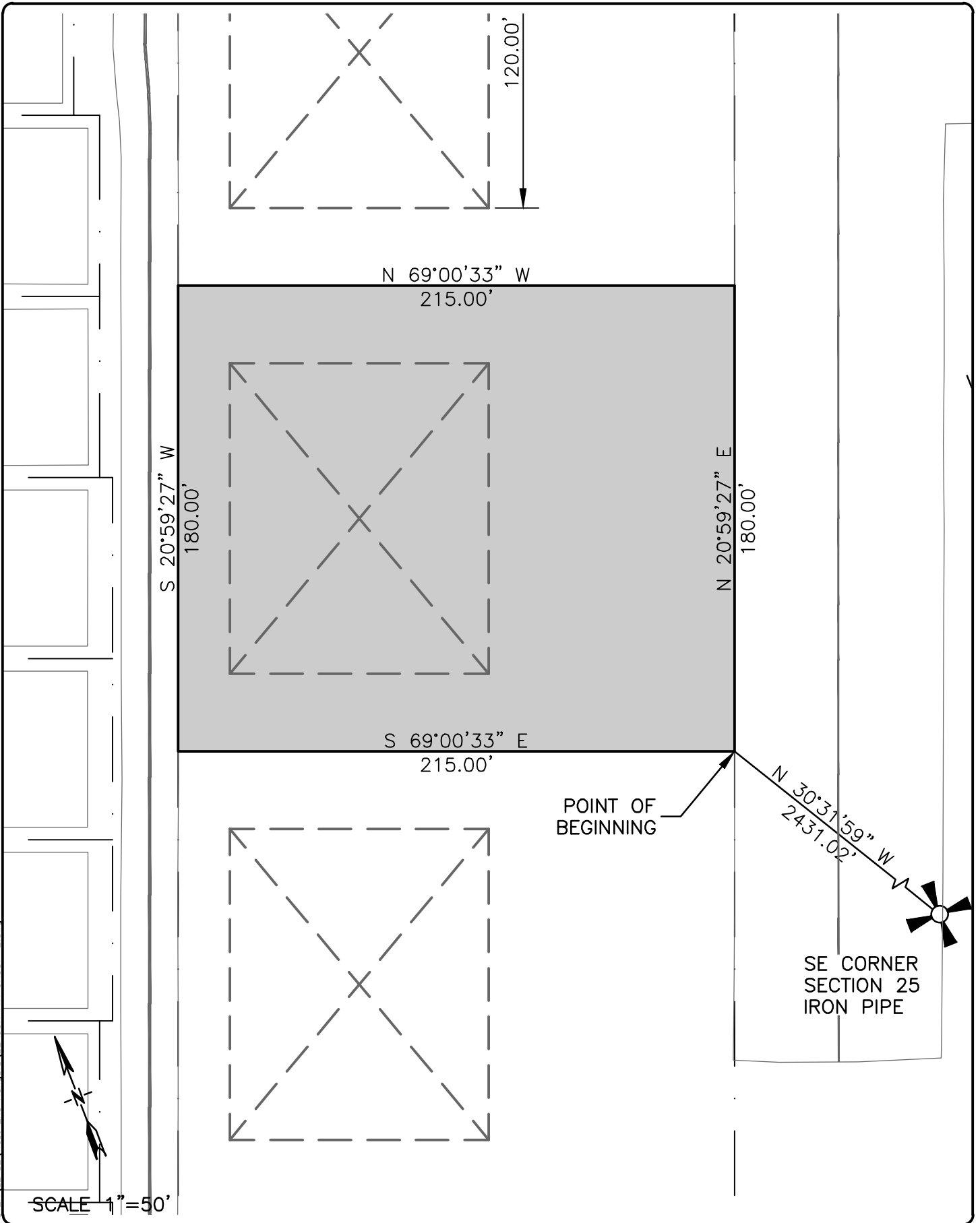
EXHIBIT A 1 of 3



315 N. 25th Street, Suite 102  
Billings, MT 59101  
Phone: 406.696.6000  
Fax: 406.237.1201

ISSUE DATE: FEBRUARY 2022

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BEACON AIR GROUP, LLC

AVIATION AND TRANSIT DEPARTMENT-CITY OF BILLINGS

EXHIBIT A 2 of 3

 Morrison  
Maierle

315 N. 25th Street, Suite 102  
Billings, MT 59101  
Phone: 406.656.6000  
Fax: 406.237.1201

ISSUE DATE: FEBRUARY 2022

# DESCRIPTION

## Main Parcel

Commencing at the S.E. Corner of Section 25 (Iron Pipe), T. 1 N., R. 25 E., P.M.M., Yellowstone County, Montana; thence from said point, N 30°31'59" W a distance of 2431.02 feet to the Point of Beginning; thence N 20°59'27" E a distance of 180.00 feet; thence N 69°00'33" W a distance of 215.00 feet; thence S 20°59'27" W a distance of 180.00 feet; thence S 69°00'33" E a distance of 215.00 feet to the Point of Beginning.

Said Parcel containing 38,700 square feet.

V:\2447\000-MASTER\LEASE\West\_End\_Hangars\BEACON AIR GROUP-2.dwg

BEACON AIR GROUP, LLC

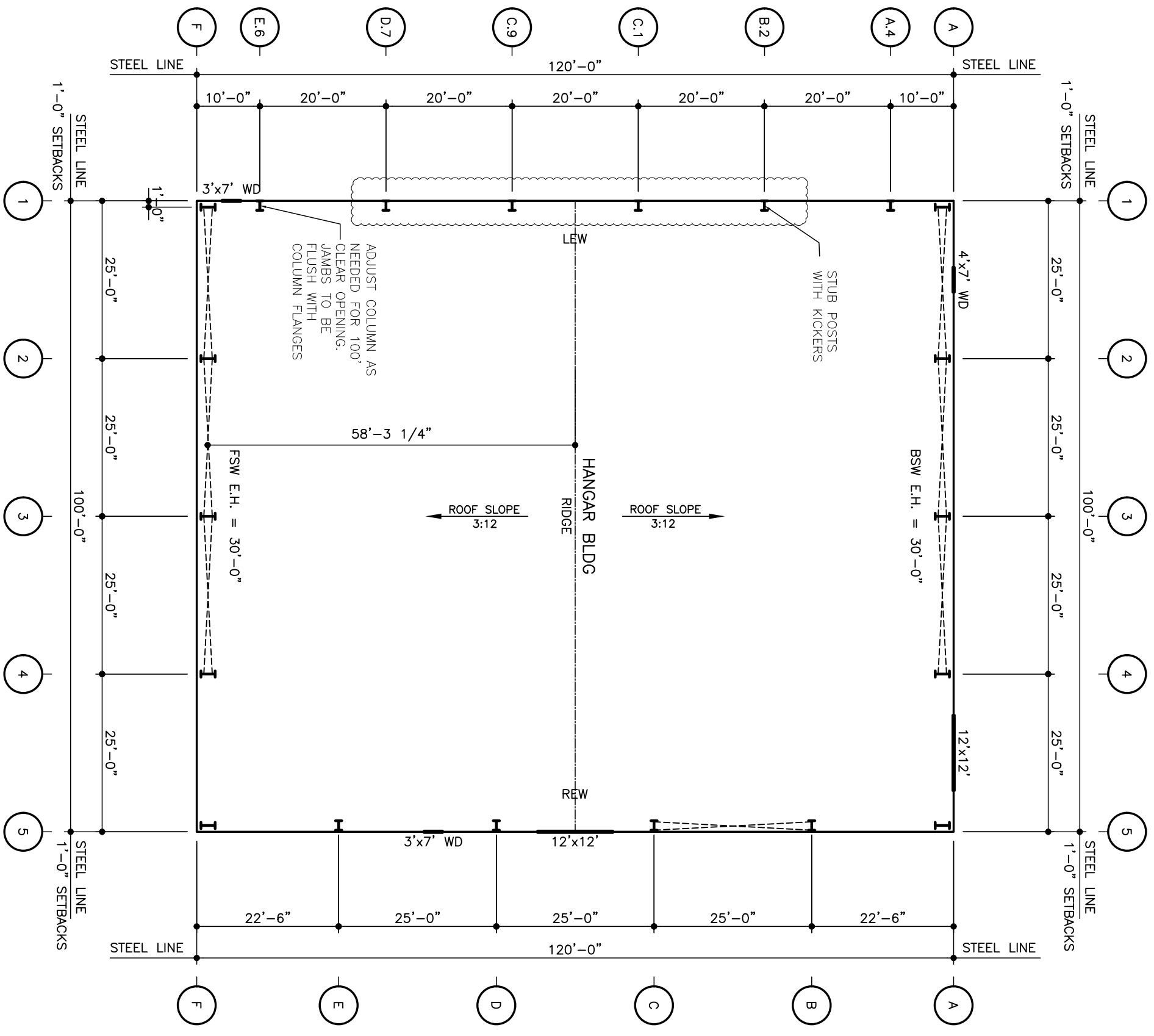
AVIATION AND TRANSIT DEPARTMENT-CITY OF BILLINGS

EXHIBIT A 3 of 3



315 N. 25th Street, Suite 102  
Billings, MT 59101  
Phone: 406.656.6000  
Fax: 406.237.1201

ISSUE DATE: FEBRUARY 2022




**DO NOT USE FOR FINAL CONSTRUCTION**



SHEET TITLE: 12/17/2020 2:38 PM  
**PRELIMINARY FLOOR PLAN**

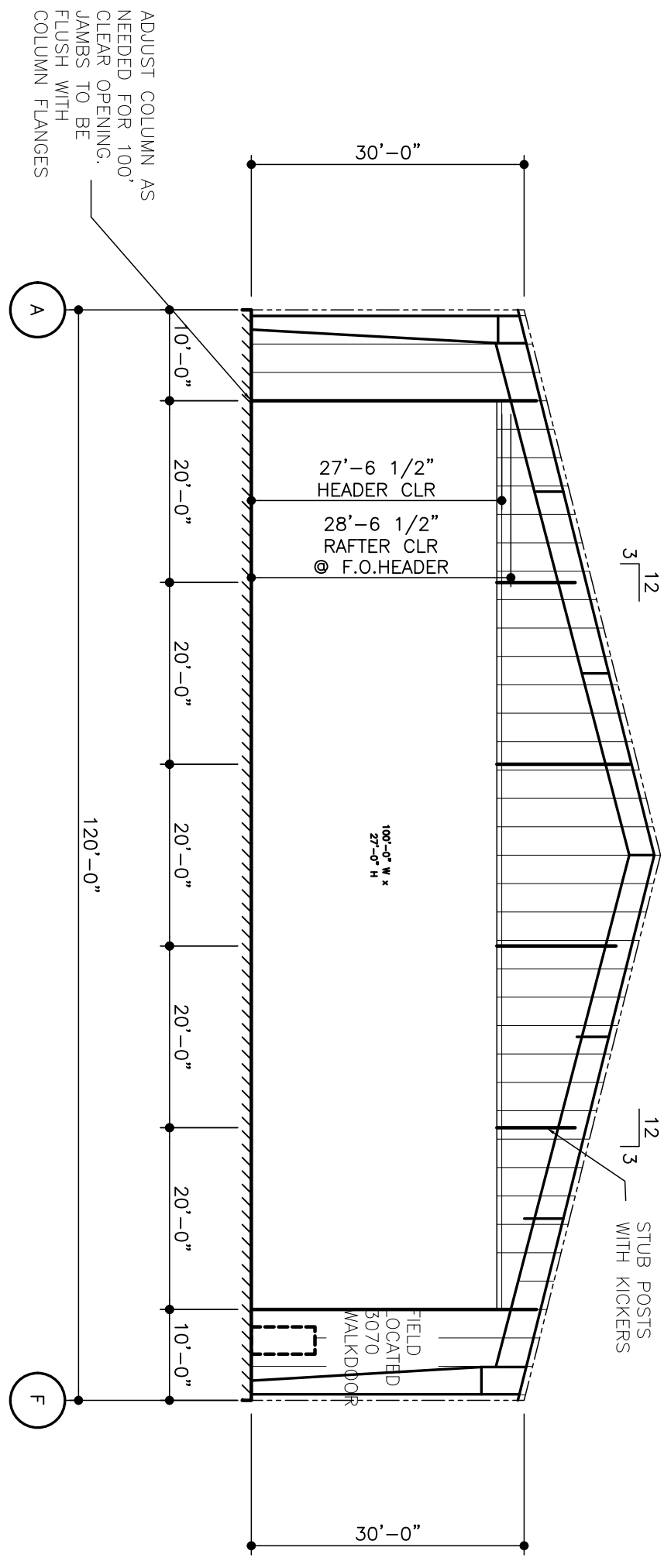
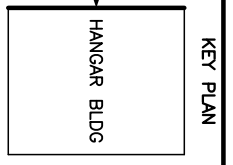
SHEET NUMBER: SK1  
 QUOTE NUMBER: N20L1260A

PROJECT NAME:  
**TWO RIVERS-HANGAR PROJECT-R3**  
 ENNIS, MT  
 CUSTOMER NAME:  
**TWO RIVERS, LLC**  
 BLACKFOOT, ID

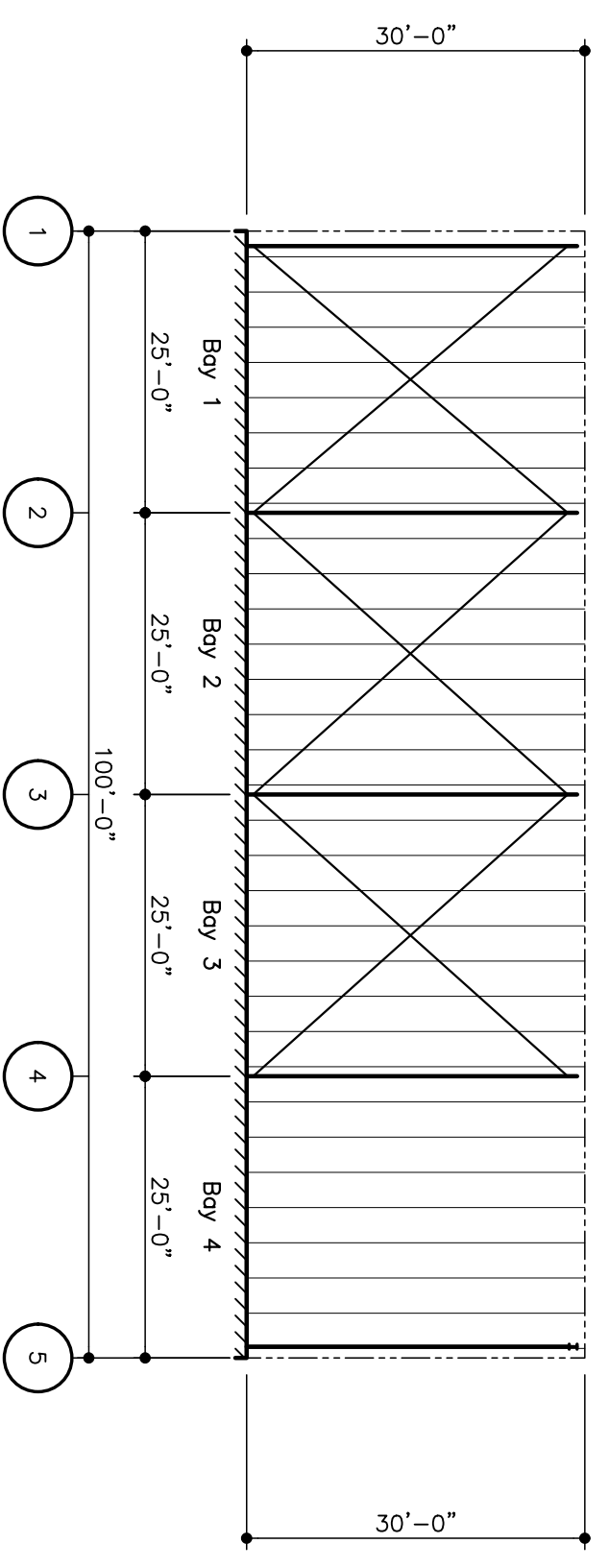
  
 AMERICAN BUILDINGS COMPANY  
 A RUBER COMPANY

Drawing Generated By  



**ELEVATION AT LINE 1**  
**PANELS: A3P26 SANDSTONE**



**ELEVATION AT LINE F**  
**PANELS: A3P26 SANDSTONE**

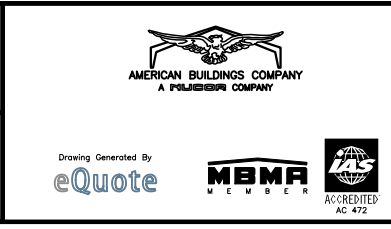
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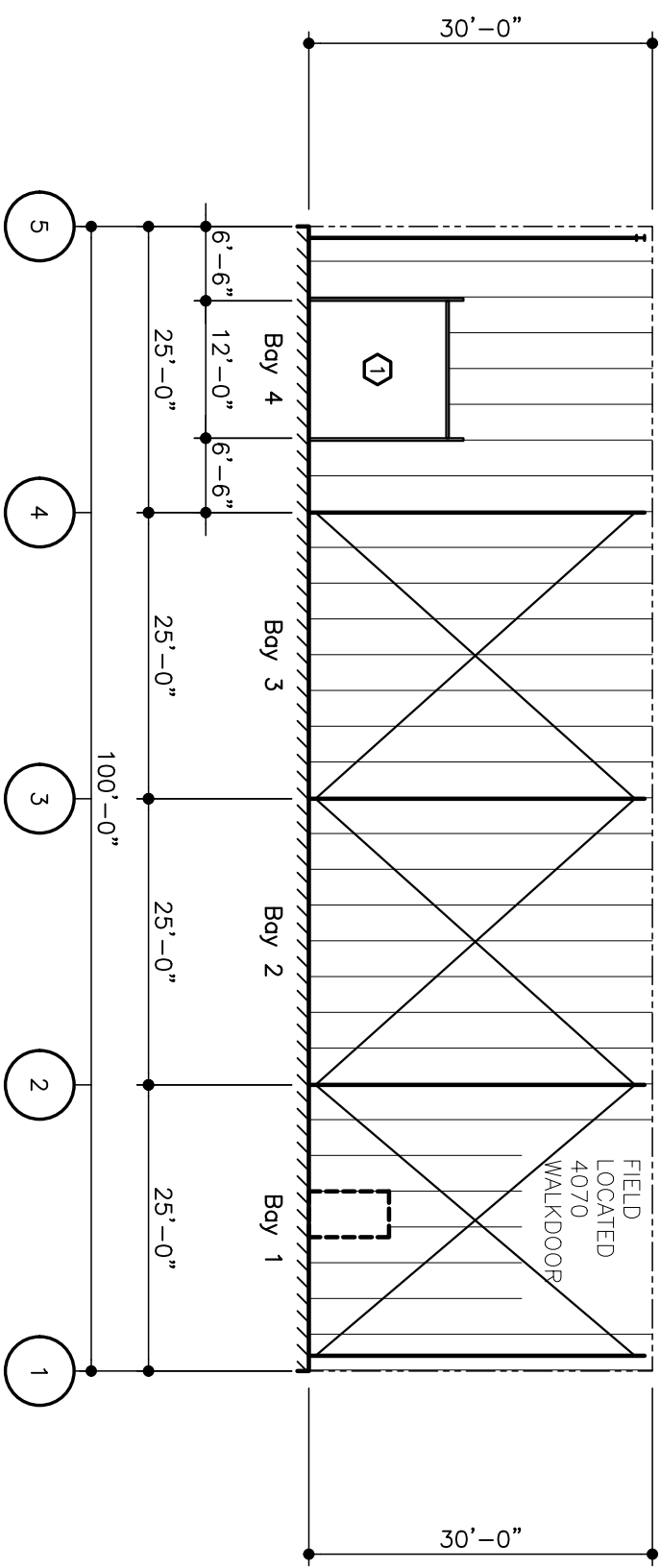
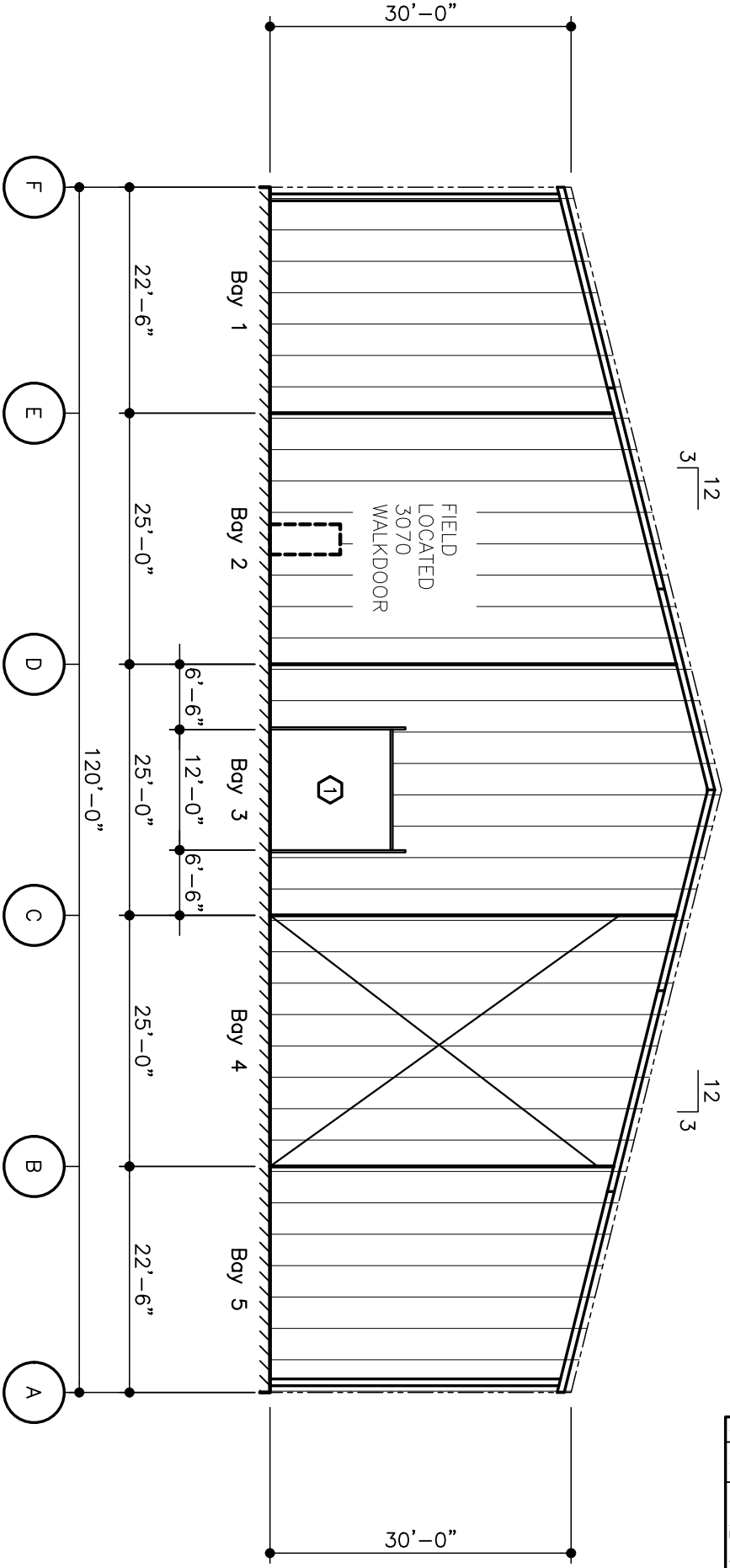
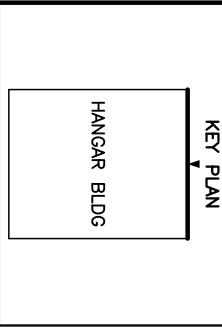
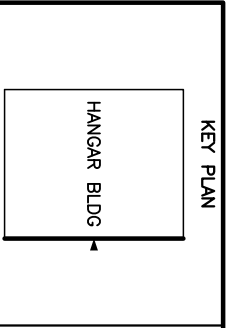
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**PRELIMINARY STRUCTURAL ELEVATIONS**

SHEET NUMBER: SK2  
QUOTE NUMBER: N20L1260A

PROJECT NAME:  
**TWO RIVERS-HANGAR PROJECT-R3**  
ENNIS, MT

CUSTOMER NAME:  
**TWO RIVERS, LLC**  
BLACKFOOT, ID





FRAMED OPENING SCHEDULE

| ID | QTY | WIDTH  | HEIGHT | SILL HEIGHT | LOCATED |
|----|-----|--------|--------|-------------|---------|
| 1  | 1   | 12'-0" | 12'-0" | 0'-0"       | FACTORY |

FRAMED OPENING SCHEDULE

| ID | QTY | WIDTH  | HEIGHT | SILL HEIGHT | LOCATED |
|----|-----|--------|--------|-------------|---------|
| 1  | 1   | 12'-0" | 12'-0" | 0'-0"       | FACTORY |

**ELEVATION AT LINE A**  
**PANELS: A3P26 SANDSTONE**

**ELEVATION AT LINE 5**  
**PANELS: A3P26 SANDSTONE**

**DO NOT USE FOR FINAL CONSTRUCTION**

SHEET TITLE: 12/17/2020 2:38 PM  
**PRELIMINARY STRUCTURAL ELEVATIONS**

SHEET NUMBER: SK3

QUOTE NUMBER: N20L1260A

PROJECT NAME:  
**TWO RIVERS-HANGAR PROJECT-R3**

ENNIS, MT

CUSTOMER NAME:  
**TWO RIVERS, LLC**  
**BLACKFOOT, ID**



**City Council Regular**

**Date:** 03/28/2022  
**Title:** Acceptance of Perpetual Right-of-Way Easement from Development 55, LLC and Frontier Services  
**Presented by:** Debi Meling  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Yes

---

**RECOMMENDATION**

Staff recommends that City Council accept the Perpetual Right-of-Way Easement from Development 55 LLC and Frontier Services.

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

As part of the development of the recently annexed area south of I-90, proposed to be developed as the Coca-Cola bottling facility, water and sewer mains will be extended by the Developer to serve the facility. A water main and sanitary sewer main will be constructed, generally to the west from East Lane to Parcel 11A of Certificate Survey 1391, located along Harnish Boulevard (the proposed Coca-Cola bottling site). A portion of the water and sanitary mains are proposed to be located along the south side of Certificate of Survey 234 Second Amended Tract 6-A-1 and the unplatted parcel south of Tract 6-A-1. The parcels are owned by Development 55, LLC and Frontier Services. City staff has reviewed this portion of the route for the water and sanitary sewer mains. Both property owners have agreed to grant to the City a 60-foot wide perpetual access and utility easement through their property for the construction of the water and sanitary sewer mains. In addition, the easement will allow the City perpetual access to maintain the water and sanitary sewer mains.

**ALTERNATIVES**

The City Council may:

- Approve the easement; or
- Not approve the easement. If not approved, the Developer will be required to propose a different route for the water and sanitary sewer mains which would increase the cost of construction considerably.

**FISCAL EFFECTS**

There is no cost to the City for acceptance of the easement. However, because the City is paying for the cost of material oversizing of the mains in accordance with City compensation policy, the cost to the City for an alternate route would increase if the easement is not accepted.

---

**Attachments**

Easement

## PERPETUAL RIGHT-OF-WAY EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the undersigned,

DEVELOPMENT 55, LLC, of 2150 Coca-Cola Lane, Rapid City, SD 57702, and FRONTIER SERVICES of 1850 Shackelford Lane, Billings MT 59101, hereinafter called "Grantors", hereby grant and convey unto THE CITY OF BILLINGS, a municipal corporation and political subdivision of the State of Montana, of the address of City Hall, Billings, Montana 59101, hereinafter called "Grantee", a perpetual easement and right-of-way over, across, under and through the following described tracts of real property in Yellowstone County Montana (ATTACH drawing of property describing easement):

**A 60-footwide access and utility easement, being 30 feet on each side of the East West 1/16 line that runs between the of the NE ¼ of Section 24. The South sideline of said easement being extended or shortened to intersect with the East Section line of said Section 24 and on the North South 1/4 line of said Section 24. The North sideline of said easement being extended or shortened to intersect with the East Section line of said Section 24 and the West Property line of Tract 6-A-1 of record of survey number 234 2<sup>nd</sup> AM on file in the Office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3679901.**

This Perpetual easement to Grantee is for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing and replacing sanitary sewers and/or water lines over, across, under and through the said real property, together with the right of free ingress and egress at all times for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing and replacing said sanitary sewers and/or water lines and appurtenances, and adding additional sanitary sewer and/or water lines.

Grantors shall continue to have the right to use and enjoy the above-described property, except as to the rights herein granted, subject to the following restrictions:

1. Grantors and their successors agree not to construct, nor cause to be constructed, within the easement right-of-way, any type of building or structure, such as, but not limited to, houses, garages, sheds, kennels, fences, nor any other fixed objects of any kind, shape or form, except as many be licensed by Grantee.
2. Grantors agree not to plant, nor cause to be planted within the easement right-of-way, any trees, bushes, shrubs, hedges nor any other plantings of a similar nature, except as may be licensed by Grantee.

3. Grantors agree that authorized representatives of the City of Billings can freely travel within the easement right-of-way with their equipment in the performance of their duties at any time, day or night, regardless of outside weather conditions.
4. Grantors agree to obtain the permission of the Public Works Department or Grantee prior to placing or removing any fill dirt within the easement right-of-way and, in addition, in the event such permission is granted, the Grantors agree to perform any work necessary to modify the existing sanitary sewers and/or water lines and appurtenances, which work may be required prior to placing or removing any fill dirt within the easement right-of-way and all such work shall be done at the Grantor's expense and without expense to the City.
5. Grantors agree that the sole responsibility of the City of Billings for any surface restoration due to any construction, replacement, repair or service work to the sanitary sewer and/or water lines by the City of Billings, shall be limited to trench backfill compaction and placement of backfill material to existing grade by the City of Billings.

6. HOLD HARMLESS AGREEMENT:

- Grantors agree that the owner or owners of the above described property shall at all times fully relieve and save harmless the City of Billings and its authorized representatives for any and all damages of property that may be caused within said easement right-of-way, such as, but not limited to, ruts or deep tracks in lawns, gardens, or flower beds, broken or crushed shrubs, bushes, hedges, trees or any other type of plantings; crushed, cracked split or otherwise damaged, irrigation piping and appurtenances; and, any other damage to any other type of object, material or equipment located within the easement right-of-way which cannot, with a minimum of human effort and within a few minutes time period, be removed from easement right-of-way by authorized representatives of the City of Billings in exercise of any of their rights under this easement right-of-way.
  - Grantors agree the owners of the above-described real property shall reimburse the City of Billings for any and all damage claims paid by the City for damages of any type or nature to any and all persons and entities in the event such damage results from or was caused to happen by such owner's failure to comply with any portion of the rights, restrictions, obligations or responsibilities contained in this agreement.
7. The restrictions, Covenants and Hold Harmless Agreements herein contained shall attach to and run with the land and shall bind the parties hereto and all persons claiming thereunder.

Grantors warrant and covenant that there are no liens or other encumbrances on the described tract or tracts.

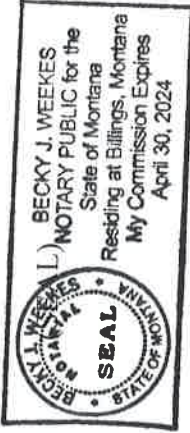
L. Scott Lawson  
[Signature]

President Fortive Services  
Director of Property Development SS, LLC

STATE OF MONTANA )  
 ) ss.  
County of Yellowstone )

On this 2 day of March, 2022, before me, the undersigned, a Notary Public for the State of Montana, personally appeared L. Scott Lawson to me known to be the President of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Becky J. Weekes  
Signature of Notary  
Becky J. Weekes  
Printed name of Notary

NOTARIAL SEAL \* STATE OF MONTANA  
RESIDING AT BILLINGS, MONTANA  
MY COMMISSION EXPIRES 4/30/24

STATE OF MONTANA )  
 ) ss.  
County of Yellowstone )

On this 3rd day of MARCH, 2022, before me, the undersigned, a Notary Public for the State of Montana, personally appeared JOE EASTON to me known to be the person whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]  
Signature of Notary  
HANNAH COOP  
Printed name of Notary

NOTARIAL SEAL \* STATE OF MONTANA  
RESIDING AT BILLINGS, MONTANA  
MY COMMISSION EXPIRES July 16 2025

STATE OF MONTANA )  
 ) ss.  
County of Yellowstone )

On this \_\_\_ day of \_\_\_, 20\_\_\_, before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_ to me known to be the person whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Signature of Notary  
\_\_\_\_\_  
Printed name of Notary

(SEAL)

NOTARIAL SEAL \* STATE OF MONTANA  
RESIDING AT BILLINGS, MONTANA  
MY COMMISSION EXPIRES \_\_\_\_\_

**ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE**

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

\_\_\_\_\_  
Mayor, City of Billings

ATTEST: \_\_\_\_\_  
City Clerk

STATE OF MONTANA )  
                                  :SS  
County of Yellowstone )

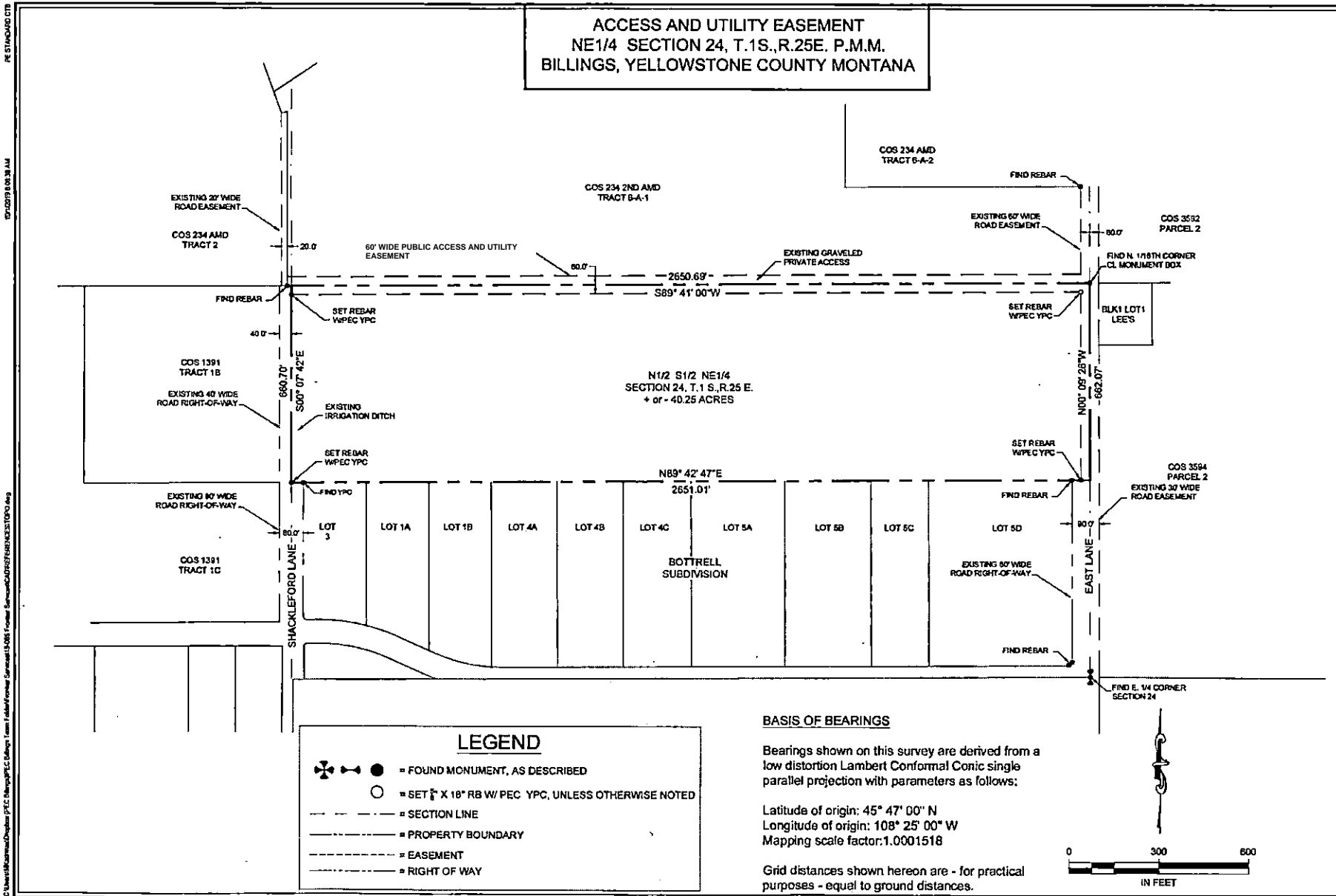
On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_ and \_\_\_\_\_, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for the State of Montana

### Exhibit A

An access and utility easement granted by Development 55, LLC and Frontier Services, LLC to the City of Billings



**City Council Regular**

**Date:** 03/28/2022  
**Title:** Utility Easement West side of 36th Street West Between Monad Road and Central Avenue  
**Presented by:** Mike Whitaker, Parks, Recreation & Public Lands Director  
**Department:** Parks/Rec/Public Lands  
**Presentation:** No  
**Legal Review** Yes

---

**RECOMMENDATION**

Staff recommends that Council approves the utility easement in parkland along the west side for 36th Street West from Monad Road to Central Avenue to allow Northwestern Energy to install new overhead electric cables to upgrade area services.

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

Northwestern Energy is requesting a ten-foot easement within parkland along the West side of 36th Street West from Monad Road to Central Avenue. See Exhibit A. The purpose of the easement is to install an overhead electric distribution line to upgrade services in the surrounding area.

**ALTERNATIVES**

City Council may:

- Approve the requested utility easement in parkland along 36th Street West; or,
- Not Approve the easement and provide staff with additional direction.

**FISCAL EFFECTS**

There will be no fiscal effects to the city.

---

**Attachments**

36th Street West Easement  
36th St. W. Exhibit A

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

CITY OF BILLINGS  
DEPARTMENT OF PARKS, RECREATION AND PUBLIC LANDS

**UTILITY RIGHT-OF-WAY EASEMENT**

The **City of Billings** for and in consideration of One Hundred Dollars \$100.00 in hand paid by **NorthWestern Corporation d/b/a NorthWestern Energy, Grantee**, the receipt whereof is hereby acknowledged, as agreed, hereby grants and conveys to **Grantee, a Utility Right-of Way Easement (“Easement”)** on the following described **City of Billings** property:

**TOWNSHIP 1 SOUTH, RANGE 25 EAST, P.M.M., YELLOWSTONE COUNTY, MT**

Section 11: That portion of the N2 of Section 11, described as Block 2, PARK, of the Plat of Parkland West Subdivision, Second Filing, being Tracts 1-A and 2-B of the Amended Tracts 1 and 2 of Certificate of Survey No. 2185, on file in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1413418, and that portion described as Block 21, Lot 1, PARK, of the Plat of Parkland West Subdivision, Second Filing, being Tracts 1-A and 2-B of the Amended Tracts 1 and 2 of Certificate of Survey No. 2185, on file in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1413418, and Block 21, Lots 2 through 4, and Lot 35, and Block 24, Lot 19, PARK, of the Plat of Parkland West Subdivision, Fifth Filing, being a portion of Tract 1 of Certificate of Survey No. 2481 and a portion of Tracts 2A-1 and 2A-3 of Amended Tracts 1B and 2A of Amended Tracts 1 & 2 of Certificate of Survey No. 2185, on file in the Office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1914765, and Block 24, Lot 10 through 18, and Lot 1, and Block 25, Lot 16, PARK, of the Plat of Parkland West Subdivision, Fourth Filing, being Tracts 2 of Certificate of Survey No. 2481, on file in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1738401, and Block 25, Lots 17 through 20, and Block 28, Lot 25, PARK, of the Plat of Parkland West Subdivision, Third Filing, being Tract 1B-2 of Amended Tracts 1B and 2A of Amended Tracts 1 and 2 of Certificate of Survey No. 2185, on file in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1731937.

This Easement to **Grantee**, is for the purpose of constructing, operating, maintaining, replacing and removing utility systems as described in the attached Exhibit “A” concerning the above-described property, together with the right of free ingress and egress over and across said

property for the above stated purpose subject to the conditions provided below. However, the **City of Billings** reserves the right to occupy and/or use the property in question for all purposes not inconsistent with the rights herein granted.

**It is understood and agreed that the following conditions shall apply to this Easement:**

1. All utility installation located within this Easement shall be located as required by the **Policy on Utility Easements in City Parks, Section III, B** of the **City of Billings**.
2. **Grantee** shall install the overhead utility and restore the lot to its original condition as approved by the **City of Billings**. Installation and restoration shall be completed within 45 days after construction.
3. **Grantee** shall notify the Parks, Recreation and Public Lands (“PRPL”) offices 48 hours in advance of any construction, maintenance or repairs. In the event of an emergency **Grantee** shall provide notice within 24 hours after access.
4. During operations in the Easement, **Grantee** shall keep the site clear of any debris caused by **Grantee’s** operations. The Easement area shall be left in a condition equal to or better than the existing condition prior to access satisfactory to the PRPL. **Grantee** shall coordinate all access routes with the **City of Billings** Park Superintendent or designee.
5. **Grantee** shall take all necessary precautions to protect existing infrastructure including but not limited to structures, vegetation, utilities, irrigation, fencing, sidewalks and paths. Any and all damage caused by **Grantee** shall be repaired at **Grantee’s** expense to the satisfaction of PRPL. Damage not repaired in a reasonable time period shall be undertaken by PRPL and all expenses shall be billed to the **Grantee**.
6. To allow travel over and across the park by **Grantee**, linear portions of the utility installation shall be ten (10) feet in width (sufficient to allow access to necessary equipment for installation and repair purposes).
7. Protection of trees and facilities in the vicinity of the utility during installation and during any replacement, maintenance, or repairs shall comply with the **Policy on Utility Easements in City Parks, Section III, L**.
8. **Grantee** shall maintain any surface equipment in such a manner as to preserve or enhance the safety and aesthetics of the surrounding park area and private housing lots as approved by the **City of Billings**.
9. All overhead wire and cable installation shall be in conduit.
10. The Easement shall not be assignable by the **Grantee** to any other utility for any use other than that specifically described in the Easement.
11. Subject to the condition in # 10 above, this Easement shall run with the land and be binding upon successors in interest should ownership of said described tract change in the future.
12. **Indemnity and Insurance:** As partial consideration for the permission to obtain this Easement across **City of Billings** parkland, **Grantee** agrees to indemnify, defend and save the **City of Billings**, its officers, agents and employees harmless from any and all losses, damages, judgments, causes of action and liability, including reasonable attorney’s fees occasioned by, growing out of, or in any way arising or resulting from any intentionally wrongful or negligent act or omission on the part of **Grantee** or its contractors, subcontractors, agents or employees. For this purpose, **Grantee** has provided the **City of Billings** with proof of self-insurance attached as Exhibit “B” and shall maintain the liability limits listed thereon.

13. Noncompliance with any of the above terms and conditions, may result in the **City of Billings** exercising any or all available remedies up to and including termination of this Easement if **Grantee** fails to initiate action to remedy the non-compliance after fifteen (15) calendar days written notice from the City.

Dated this \_\_\_\_\_ day of February, 2022.

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

Attest:

By: \_\_\_\_\_  
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 of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

\_\_\_\_\_  
Notary Public for the State of Montana

\_\_\_\_\_  
Printed Name

Residing at \_\_\_\_\_

My commission expires \_\_\_\_\_

\_\_\_\_\_

## Exhibit "A"

The following is made a part of that certain Overhead Electric Powerline Easement dated \_\_\_\_\_ by and between City of Billings, a Montana municipal corporation of PO Box 1178, Billings, MT, 59103-1178, hereinafter known as "Grantor" and Northwestern Corporation, a Delaware corporation, D/B/A NorthWestern Energy, hereinafter known as "Grantee".

*All distances, areas and measurements shown below are approximate and not to scale.*



**Township 1 South, Range 25 East, M.P.M., Yellowstone County, MT**

Section 11: Section 11: That portion of the N2 of Section 11, described as Block 2, PARK, of the Plat of Parkland West Subdivision, Second Filing, being Tracts 1-A and 2-B of the Amended Tracts 1 and 2 of Certificate of Survey No. 2185, on file in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1413418, and that portion described as Block 21, Lot 1, PARK, of the Plat of Parkland West Subdivision, Second Filing, being Tracts 1-A and 2-B of the Amended Tracts 1 and 2 of Certificate of Survey No. 2185, on file in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1413418, and Block 21, Lots 2 through 4, and Lot 35, and Block 24, Lot 19, PARK, of the Plat of Parkland West Subdivision, Fifth Filing, being a portion of Tract 1 of Certificate of Survey No. 2481 and a portion of Tracts 2A-1 and 2A-3 of Amended Tracts 1B and 2A of Amended Tracts 1 & 2 of Certificate of Survey No. 2185, on file in the Office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1914765, and Block 24, Lot 10 through 18, and Lot 1, and Block 25, Lot 16, PARK, of the Plat of Parkland West Subdivision, Fourth Filing, being Tracts 2 of Certificate of Survey No. 2481, on file in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1738401, and Block 25, Lots 17 through 20, and Block 28, Lot 25, PARK, of the Plat of Parkland West Subdivision, Third Filing, being Tract 1B-2 of Amended Tracts 1B and 2A of Amended Tracts 1 and 2 of Certificate of Survey No. 2185, on file in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1731937, and

**City Council Regular**

**Date:** 03/28/2022  
**Title:** Amended Lot 1A, Block 1, Lenhardt Square Subdivision, First Filing - Final plat  
**Presented by:** Monica Plecker  
**Department:** Planning & Community Services  
**Presentation:** No  
**Legal Review** Not Applicable

---

**RECOMMENDATION**

Staff recommends the City Council approve the final plat and SIA of Amended Lot 1A, Block 1, Lenhardt Square Subdivision, First Filing.

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

On March 7, 2022, Sanderson Stewart applied for final minor plat approval for Amended Lot 1A, Block 1, Lenhardt Square Subdivision, First Filing. The proposed subdivision creates 4 lots for residential development. The subject property is generally located on the east side of South 44th Street West and south of Monad Road. The property is zoned Planned Unit Development. (PUD).

**ALTERNATIVES**

The City Council may approve, conditionally approve or disapprove the final plat of Amended Lot 1A, Block 1, Lenhardt Square Subdivision, First Filing. If the City Council chooses to deny the final plat, the denial must be because the criteria in Section 76-3-611, MCA are not met. The criteria are as follows:

76-3-611. Review of final plat.

(1) The governing body or the agent or agency designated by the governing body shall examine each final plat, and the governing body shall approve the plat only if:

(a) it conforms to the conditions of approval set forth on the preliminary plat and to the terms of this chapter and (local) regulations adopted pursuant to this chapter; and

(b) the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

Staff finds the final plat meets the criteria outlined in 76-3-611 above.

**FISCAL EFFECTS**

The final plat of this subdivision will have no financial impact on the Planning Division.

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**Attachments**

Final Plat  
SIA  
Conditions of Approval

# AMENDED PLAT OF LOT 1A OF AMENDED PLAT OF LOT 1, BLOCK 1, LENHARDT SQUARE SUBDIVISION, FIRST FILING

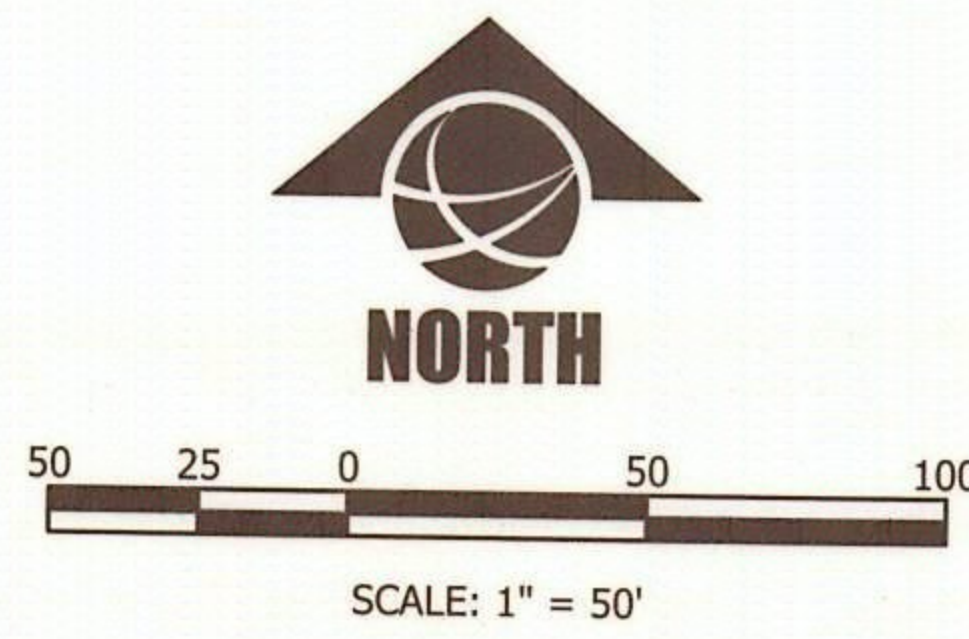
SITUATED IN THE SE1/4, SECTION 10, T. 1 S., R. 25 E., P.M.M.,  
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : SREI-LENHARDT LLC

DECEMBER, 2021

PREPARED BY : SANDERSON STEWART

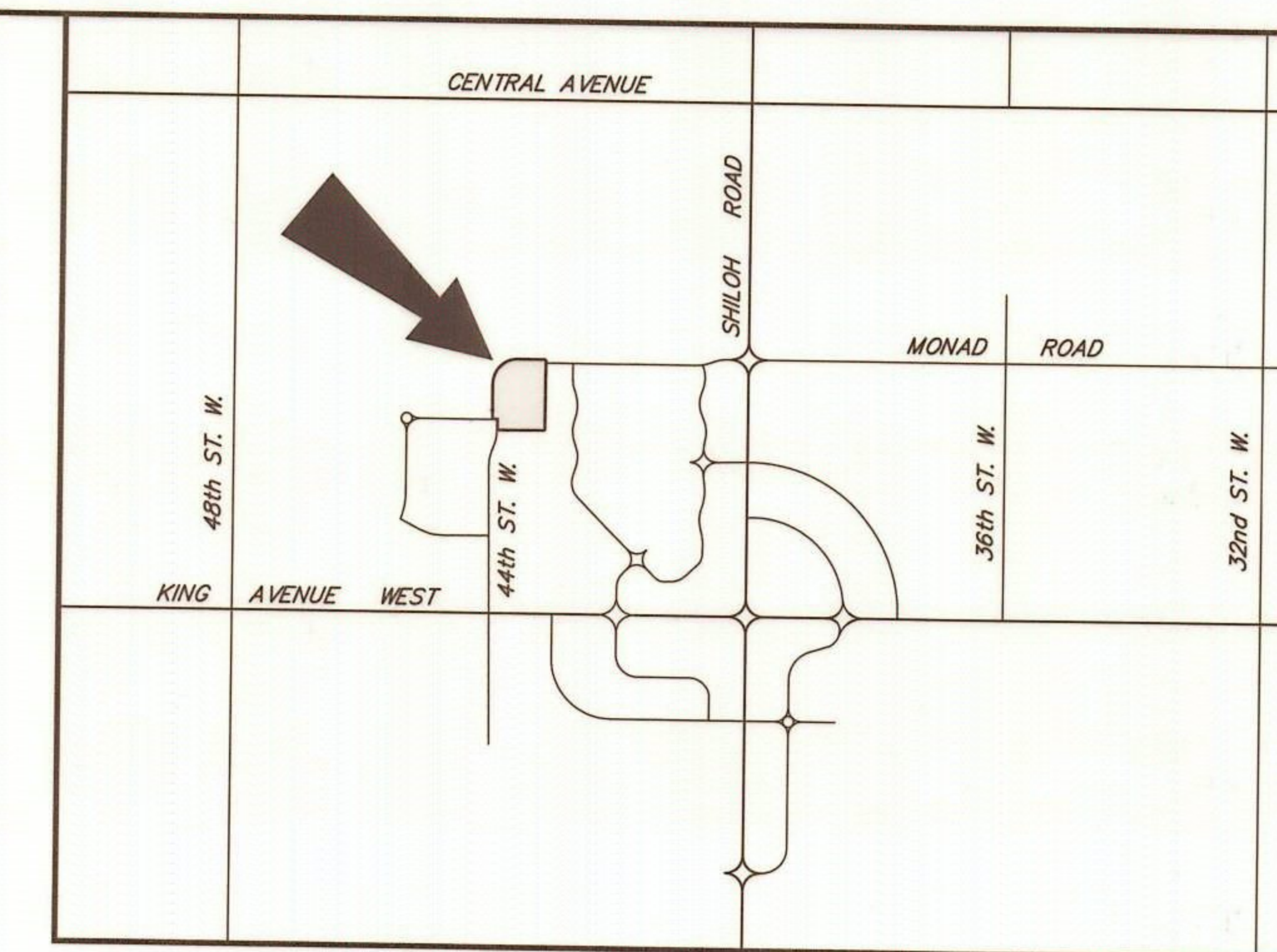
BILLINGS, MONTANA



BASIS OF BEARING: AMENDED LOT 1, BLOCK 1, LENHARDT SQUARE SUBDIVISION, FIRST FILING

- FOUND SURVEY MONUMENT, REBAR WITH CAP MARKED "SANDERSON STEWART", OR AS NOTED
- SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART"

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



VICINITY MAP  
NOT TO SCALE

### NOTICE OF APPROVAL

STATE OF MONTANA )  
County of Yellowstone )

This plat has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this board.

Date \_\_\_\_\_ President \_\_\_\_\_

Executive Secretary \_\_\_\_\_

### CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA )  
County of Yellowstone )

We hereby certify that we have examined the annexed and foregoing PLAT OF AMENDED PLAT OF LOT 1A OF AMENDED PLAT OF LOT 1, BLOCK 1, LENHARDT SQUARE SUBDIVISION, FIRST FILING, and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of The Yellowstone County Board of Planning. It is therefore approved and the dedication to public use of any and all lands shown on this plat as being dedicated to such use are accepted.

IN WITNESS WHEREOF, we have set our hands and the seal of the CITY OF BILLINGS, MONTANA, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF BILLINGS, MONTANA

By: \_\_\_\_\_ Mayor Attest: \_\_\_\_\_ City Clerk

### CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that the annexed and foregoing plat conforms with Section 76-4-125(1)(d), M.C.A., for the removal of sanitary restrictions since the plat is inside a master planning area and said lots will be provided with municipal facilities for the supply of water and the disposal of sewage and solid waste.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

City Engineer's Office

### ERRORS AND OMISSIONS REVIEW

I hereby certify that I have examined the annexed and foregoing plat for errors and omissions in computations and drafting.

Examining Land Surveyor \_\_\_\_\_ Date \_\_\_\_\_

### CERTIFICATE OF CITY ATTORNEY

This document has been reviewed by the City Attorney's office and is acceptable as to form.

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

Reviewed by: \_\_\_\_\_

### CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76-3-611(1)(b)/76-3-207(3), M.C.A.

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

Yellowstone County Treasurer

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

### CERTIFICATE OF DEDICATION

STATE OF MONTANA )  
County of Yellowstone )

KNOW ALL MEN BY THESE PRESENTS: That SREI-LENHARDT LLC, the owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and platted into lots, blocks and streets as shown on the annexed plat, said tract being situated in the SE1/4 of Section 10, T. 1 S., R. 25 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Lot 1A of the Amended Plat of Lot 1, Block 1, Lenhardt Square Subdivision, First Filing, according to the official plat on file in the office of the clerk and recorder of Yellowstone County, Montana, under Document No. 3863565.

Pursuant to the City of Billings Subdivision Regulations and the Lenhardt Square Master Plan Agreement, there is no park requirement of this subdivision.

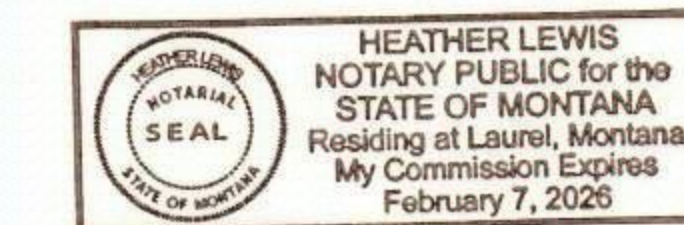
Said tract to be known and designated as AMENDED PLAT OF LOT 1A OF AMENDED PLAT OF LOT 1, BLOCK 1, LENHARDT SQUARE SUBDIVISION, FIRST FILING.

SREI-LENHARDT LLC,  
a Montana limited liability company

By: \_\_\_\_\_  
Title: MGR Member

STATE OF MONTANA )  
County of Yellowstone )

On this 23 day of February, 2022, before me, the undersigned Notary Public for the State of Montana, personally appeared Michael B. Stoltz, known to me to be the persons who signed the foregoing instrument as Manager Member, of SREI-LENHARDT LLC, and acknowledged to me that said company executed the same. Witness my hand and seal the day and year herein above written.



\_\_\_\_\_  
Notary Public in and for the State of Montana

### CERTIFICATE OF SURVEYOR

STATE OF MONTANA )  
County of Yellowstone )

The undersigned, a Land Surveyor licensed in the State of Montana, states that during the month of December, 2021, a survey was performed under his supervision of a tract of land to be known as AMENDED PLAT OF LOT 1A OF AMENDED PLAT OF LOT 1, BLOCK 1, LENHARDT SQUARE SUBDIVISION, FIRST FILING, in accordance with the request of the owner thereof and in conformance with the Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the annexed plat; that the monuments found and set are of the character and occupy the positions shown hereon and that the gross area and the net area is 7.113 acres.

SANDERSON STEWART

By: \_\_\_\_\_  
Montana License No. 1897268  
Date: February 28, 2022



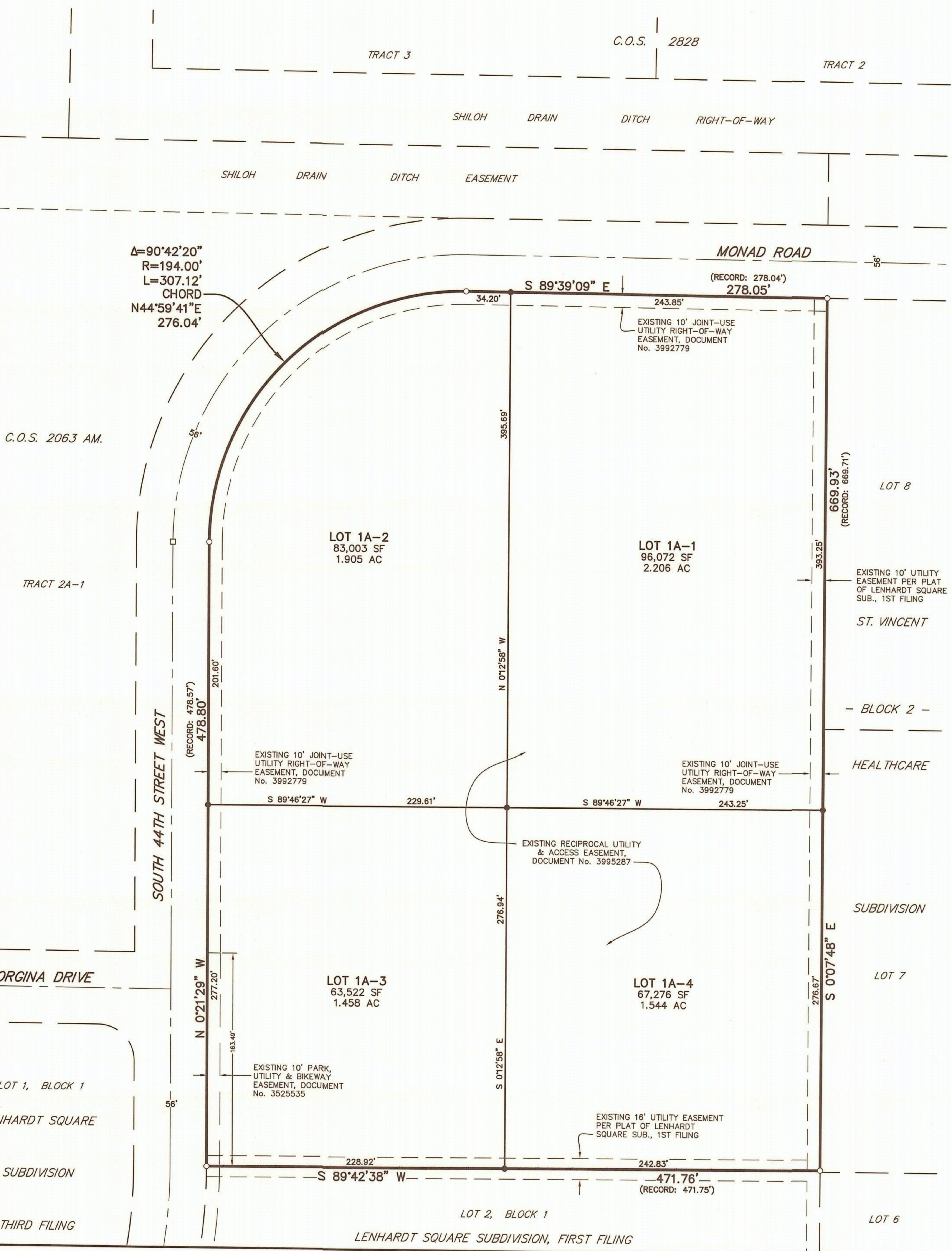
### SUBDIVISION IMPROVEMENTS AGREEMENT

Document No. \_\_\_\_\_

### CONSENT TO PLATTING

Document No. \_\_\_\_\_

RECORDED FOR CLERK AND RECORDER



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

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT  
LOT 1A, BLOCK 1, LENHARDT SQUARE SUBDIVISION,  
FIRST FILING AMENDED  
CITY OF BILLINGS  
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Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59102

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

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

**WITNESSETH:**

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

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

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

**WHEREAS**, the provisions of this agreement shall be effective and applicable to the plat of Lot 1A, Block 1, Lenhardt Square Subdivision, First Filing, Amended, upon filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The subdivision shall comply with all requirements of the City of Billings subdivision regulations; the rules, regulations, policies, and resolutions of the City of Billings; and the laws and administrative rules of the State of Montana.

**THEREFORE, THE PARTIES TO THIS AGREEMENT**, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

**I. VARIANCES**

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

Subdivider requests no variances.

**II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS**

- A. Lot owners will be required to construct that segment of the required five-foot-wide boulevard-style sidewalk that fronts their property at the time of lot development. If the sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.
- B. Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department do not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- C. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the Geotechnical Assessment performed for Lenhardt Square Subdivision, First Filing, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical investigation prior to construction. Assessment and mitigation, if any, of these conditions shall be the responsibility of the lot owner.
- D. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- E. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner, or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

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

- F.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the city and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- G.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.
- H.** Lot owners should be aware that agricultural activities could be present on surrounding properties. Any impacts associated with agricultural activities and any issue arising therefrom is the responsibility of the lot owners.
- I.** Lot owners should be aware that there is a planned development zoning agreement, a master plan agreement, covenants, and design guidelines that govern the development and use of the property, and that their lots will be subject to requirements as set forth in said documents. The Lenhardt Square Conceptual Master Plan is attached with this subdivision improvements agreement for reference.

### **III. TRANSPORTATION**

#### **A. Streets**

1. Improvements to South 44th Street West and Monad Road to complete a vehicular route to the intersection of Monad Road and Shiloh Road are currently being constructed under Private Contract No. 766.
2. The City of Billings is currently considering intersection improvements at the intersection of King Avenue West and South 44th Street West that would be done in accordance with this waiver and through an SID.

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

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

**B. Sidewalks**

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

**C. Street Lighting**

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

**D. Traffic Control Devices**

1. The Subdivider shall furnish and install all necessary traffic control devices adjacent to the subdivision. Traffic control devices shall include all necessary signing, striping, and channelization device to properly complete the implementation of the proposed street construction.
2. All traffic control and street improvements will be as outlined in the previously approved traffic accessibility study provided to the City by the Subdivider with Lenhardt Subdivision, First Filing. Any significant change of anticipated use of any lot from that estimated in the original traffic accessibility study would require an update of the traffic analysis and recommendations.

**E. Access**

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

**F. Billings Area Bikeway and Trail Master Plan**

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

**G. Public Transit**

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

**IV. EMERGENCY SERVICES**

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

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

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (fire hydrants) in place to allow for fire suppression requirements. Prior to the issuance of a building permit for construction using combustible materials (i.e., lumber, plywood, wood trusses, etc.), fire apparatus access roads and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along the approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of twenty (20) feet wide.

- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

## V. STORM DRAINAGE

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

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

## VI. UTILITIES

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

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The Subdivider shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department, Engineering Division. The extension/connection of/to water mains and sanitary sewers are subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications. The appropriate application fees in effect at the time shall be submitted with the applications.

The developer / owner acknowledges that the lots within the subdivision shall be subject to the applicable water and sanitary sewer system development fees in effect at the time a building permit is issued. System development fees are attached to any applicable building permit.

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

Quality.

**A. Water**

The subdivision will be served by an existing single metered water service which presently serves Lot 2, Block 1, Lenhardt Square Subdivision, 1st Filing. The existing water meter which serves Lot 2 and which will serve Lot 1A is a Neptune Protectus fire and domestic meter. The developers / owners acknowledge that each lot is responsible for all costs of maintaining and repairing all water lines in, under, and across their applicable. The developers / owners of the subdivision also acknowledge to pay to the City for a single monthly bill for any and all water charges incurred. All water construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality and will be approved by the City of Billings Public Works Department, Engineering Division.

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

**B. Sanitary Sewer**

The subdivision will be served by a single sanitary sewer service which presently runs near the northerly portion of Lot 2, Block 1, Lenhardt Square Subdivision, 1st Filing. The developers / owners acknowledge that each lot is responsible for all costs of maintaining and repairing all sanitary sewer lines in, under, and across their applicable lot. The developers / owners of the subdivision also acknowledge to pay to the City for a single monthly bill for any and all sanitary sewer charges incurred. All sanitary sewer construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality and will be approved by the City of Billings Public Works Department, Engineering Division.

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

**C. Power, Telephone, Gas, and Cable Television**

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

shall be subject to approval of the city engineer.

**VII. PARKS/OPEN SPACE**

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

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

**VIII. SOILS/GEOTECHNICAL STUDY**

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

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

**IX. IRRIGATION**

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

**X. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider or its transferee shall install and construct the improvements required under this Agreement by private contracts secured by one or more letters of credit or letters of commitment to lend funds from a commercial

lender or other means permitted under City regulations. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contracts, and the improvements shall be installed as approved by the City Engineering Department and Public Works Department, Collection and Distribution Division.

**XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER**

- A. Subdivider agrees to guarantee all public improvements for a period of two years from the date of final acceptance by the City of Billings.
- B. The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.
- C. The covenants, agreements, and all statements in this Agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.
- D. In the event it becomes necessary for any party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party giving notice shall be entitled to reasonable attorney fees and costs.
- E. Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- F. Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.



This agreement is hereby approved and accepted by the City of Billings, this \_\_\_\_\_ day of \_\_\_\_\_, 20 .

“CITY”

**CITY OF BILLINGS MONTANA**

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

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

STATE OF MONTANA        )  
                                          : ss  
County of Yellowstone    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_ and \_\_\_\_\_, known to me to be the Mayor and City Clerk, respectively, of the **City of Billings, Montana**, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_





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

December 20, 2021

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

Dear Applicant:

On December 20, 2021, the Billings City Council conditionally approved the preliminary plat of Amended Lot 1A, Block 1, Lenhardt Square Subdivision, 1<sup>st</sup> Filing, subject to the following conditions of approval:

1. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS to determine what type of deliver system is preferred and to locate and provide the correct amount of space for safely delivering the mail to the residents.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

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

Sincerely,

  
William A. Cole, Mayor

pc: Sanderson Stewart

**City Council Regular**

**Date:** 03/28/2022  
**Title:** Payment of Claims for week of February 21, 2022  
**Presented by:** Andy Zoeller, Finance Director  
**Department:** Finance  
**Presentation:** No  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Staff recommends Council approve the Payment of Claims

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

Claims in the amount of \$1,561,124.56 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.

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**Attachments**

Councilmemo wk of 02212022

| Check Date | Check# | Name                  | Fund Name        | Amount       | Item Desc                                                                 |
|------------|--------|-----------------------|------------------|--------------|---------------------------------------------------------------------------|
| 02/22/2022 | 849975 | A-1 Landscaping       | Library          | \$ 720.00    | 4061 January 2022 Snow Removal                                            |
| 02/22/2022 | 849975 | A-1 Landscaping       | Library          | \$ 997.50    | 4066_ Snow Removal 1/1/22-1/25/2022                                       |
| 02/22/2022 | 849975 | A-1 Landscaping       | Parking          | \$ 4,372.50  | 4066_ Snow Removal 1/1/22-1/25/2022                                       |
| 02/22/2022 | 849975 | A-1 Landscaping       | Parking          | \$ 1,290.00  | 4066_ Snow Removal 1/1/22-1/25/2022                                       |
| 02/22/2022 | 849975 | A-1 Landscaping       | Parking          | \$ 2,295.00  | 4066_ Snow Removal 1/1/22-1/25/2022                                       |
| 02/22/2022 | 849975 | A-1 Landscaping       | Parking          | \$ 2,820.00  | 4066_ Snow Removal 1/1/22-1/25/2022                                       |
| 02/22/2022 | 849976 | Ace Electric          | Wastewater       | \$ 4,900.00  | Heat trace and piping                                                     |
| 02/22/2022 | 849981 | Advanced Eng & Enviro | Storm Sewer      | \$ 30,033.15 | Babcock Boulevard Drainage Area Improvements                              |
| 02/22/2022 | 849981 | Advanced Eng & Enviro | Storm Sewer      | \$ 27,807.45 | Babcock Boulevard Drainage Area Improvements                              |
| 02/22/2022 | 849985 | Alpine Plumbing       | Transit          | \$ 7,500.00  | Invoice #I-18469-1. Sump Repair                                           |
| 02/22/2022 | 849990 | Aquatic Renovation    | Park Dist 1      | \$ 73,921.82 | PVC liner at Rose Park Pool                                               |
| 02/22/2022 | 849994 | ATS Inland NW         | Airport          | \$ 2,644.62  | Invoice #I040406. Slab Heat Sensors for Mud Wash                          |
| 02/22/2022 | 850005 | Business Tax Section  | Airport          | \$ 190.03    | AIP-69 Commercial Aircraft Concrete Ramps - CA - Federal Share            |
| 02/22/2022 | 850005 | Business Tax Section  | Airport          | \$ 17,509.08 | AIP-72 Sletten Const. (GMP) Terminal Expansion - Eligible For Reimburse   |
| 02/22/2022 | 850005 | Business Tax Section  | Airport          | \$ 1,481.24  | AIP-72 Sletten Const. (GMP) Terminal Expansion - Ineligible Costs         |
| 02/22/2022 | 850005 | Business Tax Section  | Airport          | \$ 651.22    | AIP-73 Terminal Expansion - Eligible for Reimbursement                    |
| 02/22/2022 | 850005 | Business Tax Section  | Airport          | \$ 7,871.61  | AIP-73 Terminal Expansion - Eligible for Reimbursement                    |
| 02/22/2022 | 850005 | Business Tax Section  | Airport          | \$ 55.09     | AIP-73 Terminal Expansion - Ineligible for Reimbursement                  |
| 02/22/2022 | 850005 | Business Tax Section  | Airport          | \$ 665.93    | AIP-73 Terminal Expansion - Ineligible for Reimbursement                  |
| 02/22/2022 | 850005 | Business Tax Section  | Airport          | \$ 507.37    | Retainage Release                                                         |
| 02/22/2022 | 850005 | Business Tax Section  | Arterial Streets | \$ 928.78    | City Milling & Overlay of King Ave W, Rimrock Rd, S Blgs Blvd & 4th Ave N |
| 02/22/2022 | 850005 | Business Tax Section  | Arterial Streets | \$ 994.66    | Rimrock to Virginia Traffic Improvements: 2F WO2116 Elcon                 |
| 02/22/2022 | 850005 | Business Tax Section  | Arterial Streets | \$ 2,662.06  | S 32nd Street W; 1 WO2012 KnifeRiver                                      |
| 02/22/2022 | 850005 | Business Tax Section  | Arterial Streets | \$ 5,537.79  | S 32nd Street W; 4 WO2012 KnifeRiver                                      |
| 02/22/2022 | 850005 | Business Tax Section  | Arterial Streets | \$ 932.94    | Signal Conduit Update; 1F WO2122 Elcon                                    |
| 02/22/2022 | 850005 | Business Tax Section  | Arterial Streets | \$ 2,492.75  | Wicks Lane Improvements                                                   |
| 02/22/2022 | 850005 | Business Tax Section  | Arterial Streets | \$ 697.00    | Wicks Lane Improvements; 5 WO2015 Riverside                               |
| 02/22/2022 | 850005 | Business Tax Section  | Facilities       | \$ 330.50    | business tax TJ Construction 22-000202                                    |
| 02/22/2022 | 850005 | Business Tax Section  | Facilities       | \$ 97.80     | Hail Damage Repair to Restroom Building at Swords Park                    |
| 02/22/2022 | 850005 | Business Tax Section  | Facilities       | \$ 336.00    | Hail Damage Repairs at CastleRock Park                                    |
| 02/22/2022 | 850005 | Business Tax Section  | Gas Tax          | \$ 1,180.32  | Bike Boulevard-Avenue D                                                   |
| 02/22/2022 | 850005 | Business Tax Section  | Gas Tax          | \$ 1,252.26  | City Milling & Overlay of King Ave W, Rimrock Rd, S Blgs Blvd & 4th Ave N |
| 02/22/2022 | 850005 | Business Tax Section  | Gas Tax          | \$ 730.22    | City Milling & Overlay of King Ave W, Rimrock Rd, S Blgs Blvd & 4th Ave N |
| 02/22/2022 | 850005 | Business Tax Section  | Gas Tax          | \$ 111.14    | City Overlay Schedule 3 City Digsouts                                     |

| Check Date | Check# | Name                 | Fund Name       | Amount      | Item Desc                                                                  |
|------------|--------|----------------------|-----------------|-------------|----------------------------------------------------------------------------|
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 2,000.00 | Contract No. 2 City Crack Seal/Mastic                                      |
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 2,182.80 | Contract No. 2 City Crack Seal/Mastic                                      |
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 36.76    | Gleneagles Blvd                                                            |
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 430.64   | SID 1418 Holiday Ave Improvements                                          |
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 64.60    | SID 1418 Holiday Ave Improvements; 3 SID1418 Knife Rivr                    |
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 770.76   | Wicks Lane Improvements; 4 WO2015 Riverside                                |
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 2,533.18 | WO 20-28 Songbird Drive Construction                                       |
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 1,902.98 | WO 20-28 Songbird Drive Construction; 4 WO2028 KnifeRiver                  |
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 1,243.21 | WO 21-12 Harrow Drive Reconstruction                                       |
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 126.80   | WO 21-12 Harrow Drive Reconstruction                                       |
| 02/22/2022 | 850005 | Business Tax Section | Gas Tax         | \$ 2,304.14 | WO 21-12 Harrow Drive Reconstruction; 3F WO2112 COP                        |
| 02/22/2022 | 850005 | Business Tax Section | Park Dist 1     | \$ 304.85   | 3 Bull-Terry park install shelter and sidewalks                            |
| 02/22/2022 | 850005 | Business Tax Section | Park Dist 1     | \$ 2,073.85 | Poly vista improvement-Weave Construction (1% tax)                         |
| 02/22/2022 | 850005 | Business Tax Section | Park Dist 1     | \$ 563.95   | Poly vista improvement-Weave Construction (1% tax)                         |
| 02/22/2022 | 850005 | Business Tax Section | Park Dist 1     | \$ 746.68   | PVC liner at Rose Park Pool-Aquatic Renovation Systems (Renosys)           |
| 02/22/2022 | 850005 | Business Tax Section | Parking         | \$ 46.32    | Park 2 Elevator-Sand & Clean existing piston and install new jack packing. |
| 02/22/2022 | 850005 | Business Tax Section | Rose Pool Const | \$ 786.97   | business tax on Gage Park restrooms (Centennial Park restrooms)            |
| 02/22/2022 | 850005 | Business Tax Section | SID Const       | \$ 260.84   | Gleneagles Blvd                                                            |
| 02/22/2022 | 850005 | Business Tax Section | SID Const       | \$ 3,127.08 | SID 1417 Elysian Rd                                                        |
| 02/22/2022 | 850005 | Business Tax Section | SID Const       | \$ -        | SID 1417 Elysian Road                                                      |
| 02/22/2022 | 850005 | Business Tax Section | Sidewalk Const  | \$ 3,102.79 | S 32nd Street W; 4 WO2012 KnifeRiver                                       |
| 02/22/2022 | 850005 | Business Tax Section | Sidewalk Const  | \$ 127.70   | WO 20-28 Songbird Drive Construction                                       |
| 02/22/2022 | 850005 | Business Tax Section | Sidewalk Const  | \$ 447.71   | WO 20-28 Songbird Drive Construction                                       |
| 02/22/2022 | 850005 | Business Tax Section | Sidewalk Const  | \$ 34.89    | WO 21-12 Harrow Drive Reconstruction                                       |
| 02/22/2022 | 850005 | Business Tax Section | Sidewalk Const  | \$ 55.72    | WO 21-12 Harrow Drive Reconstruction                                       |
| 02/22/2022 | 850005 | Business Tax Section | Sidewalk Const  | \$ 1,557.40 | WO 21-12 Harrow Drive Reconstruction; 3F WO2112 COP                        |
| 02/22/2022 | 850005 | Business Tax Section | Solid Waste     | \$ 145.49   | Remove underground storage tank of UST system.                             |
| 02/22/2022 | 850005 | Business Tax Section | Storm Sewer     | \$ 39.71    | Gleneagles Blvd                                                            |
| 02/22/2022 | 850005 | Business Tax Section | Storm Sewer     | \$ 316.75   | WO 20-24 54th to Grand to 48th Drainage Corridor                           |
| 02/22/2022 | 850005 | Business Tax Section | Storm Sewer     | \$ 1,267.46 | WO 20-24 54th to Grand to 48th Drainage Corridor                           |
| 02/22/2022 | 850005 | Business Tax Section | Tax Incrmnt N27 | \$ 694.39   | WO 20-42 North 29th & 30th Streets Two-Way Conversion                      |
| 02/22/2022 | 850005 | Business Tax Section | Tax Incrmnt S   | \$ 401.72   | Hallowell Lane Improvements; RetRel1 WO2030 KLE                            |
| 02/22/2022 | 850005 | Business Tax Section | Tax Incrmnt S   | \$ 4,814.85 | Hallowell Lane Improvements; WO2030 KLE Pymt 6                             |
| 02/22/2022 | 850005 | Business Tax Section | Wastewater      | \$ 448.98   | S 32nd Street W; 4 WO2012 KnifeRiver                                       |

| Check Date | Check# | Name                  | Fund Name  | Amount       | Item Desc                                                    |
|------------|--------|-----------------------|------------|--------------|--------------------------------------------------------------|
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 110.59    | WO 14-11 Water Reclamation Facility Nutrient                 |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 2,448.27  | WO 14-11 Water Reclamation Facility Nutrient                 |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 899.94    | WO 14-11 Water Reclamation Facility Nutrient                 |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 3,981.64  | WO 19-21: WRF Influent Lift Station                          |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 10.00     | WO 20-10 WRF Equipment Installation                          |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 784.13    | WO 20-11 Lake Hills Lift Station Rehabilitation              |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 396.75    | WO 21-12 Harrow Drive Reconstruction                         |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 15.47     | WO 21-12 Harrow Drive Reconstruction                         |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 556.50    | WO 22-13 Bypass Pumping for Heights Trunk Sewer Repair       |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 1,565.52  | WO 22-13 Heights Sewer Trunk Repair                          |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 1,105.25  | WO 22-13 Heights Trunk Sewer Repair                          |
| 02/22/2022 | 850005 | Business Tax Section  | Wastewater | \$ 778.62    | WRF Administration Building Second floor remodel project     |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 3,023.10  | 2021 Water Replacement Project                               |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 190.50    | 6/18/2021 Water Service Repairs                              |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 267.94    | Hallowell Lane Improvements; RetRel1 WO2030 KLE              |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 2,347.25  | Hallowell Lane Improvements; WO2030 KLE Pymt 6               |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 261.00    | Palm Tree Contract List 8_6_2021                             |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 570.17    | S 32nd Street W; 4 WO2012 KnifeRiver                         |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 289.61    | W.O. 21-15 Lead Service Replacements                         |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 147.45    | WO 15-35 Zone 1 WTP Waterline Improvements                   |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 40.00     | WO 18-22 Leavens Reservoir Waterline and Improvements        |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 187.23    | WO 19-47 Centennial Park Irrigation Pump                     |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 282.56    | WO 20-20 Walter Pump Station Pump Addition                   |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 6,455.41  | WO 20-21 Water Replacement Project                           |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 1,444.67  | WO 21-12 Harrow Drive Reconstruction                         |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 82.76     | WO 21-12 Harrow Drive Reconstruction                         |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 374.73    | WO 21-12 Harrow Drive Reconstruction                         |
| 02/22/2022 | 850005 | Business Tax Section  | Water      | \$ 669.54    | WO 21-39 RIP RAP Improvements                                |
| 02/22/2022 | 850005 | Business Tax Section  | SID Const  | \$ 55.36     | SID 1418 Holiday Ave Improvements                            |
| 02/22/2022 | 850005 | Business Tax Section  | SID Const  | \$ 611.19    | SID 1418 Holiday Ave Improvements                            |
| 02/22/2022 | 850014 | Civicplus             | Transit    | \$ 3,288.11  | Department Header Implementation and annual fee -MET/Airport |
| 02/22/2022 | 850017 | Cop Construction      | Water      | \$ 3,769.04  | West End Raw Water Pipeline Project                          |
| 02/22/2022 | 850017 | Cop Construction      | Water      | \$ 18,536.22 | WO 19-47 Centennial Park Irrigation Pump                     |
| 02/22/2022 | 850020 | Cucancic Construction | Wastewater | \$ 77,083.38 | WRF Administration Building Second floor remodel project     |

| Check Date | Check# | Name                   | Fund Name     | Amount       | Item Desc                                      |
|------------|--------|------------------------|---------------|--------------|------------------------------------------------|
| 02/22/2022 | 850022 | Dana Safety Supply     | Public Safety | \$ 1,764.00  | 772265                                         |
| 02/22/2022 | 850022 | Dana Safety Supply     | Public Safety | \$ 2,029.00  | 772266                                         |
| 02/22/2022 | 850022 | Dana Safety Supply     | Public Safety | \$ 1,764.00  | 772267                                         |
| 02/22/2022 | 850022 | Dana Safety Supply     | Public Safety | \$ 1,764.00  | 772268                                         |
| 02/22/2022 | 850022 | Dana Safety Supply     | Public Safety | \$ 345.00    | 772348                                         |
| 02/22/2022 | 850022 | Dana Safety Supply     | Public Safety | \$ 1,764.00  | 772549                                         |
| 02/22/2022 | 850028 | Dixie Petro-Chem       | Water         | \$ 15,384.00 | BULK CHLORINE                                  |
| 02/22/2022 | 850039 | Ferguson Enterprise    | Water         | \$ 40.26     | 2" MUELLER THREAD PLUG                         |
| 02/22/2022 | 850039 | Ferguson Enterprise    | Water         | \$ 1,340.52  | 5-1/4" SAFETY FLANGE REPAIR KIT CENTURION A301 |
| 02/22/2022 | 850039 | Ferguson Enterprise    | Water         | \$ 219.84    | AERVOE BLUE MARKING PAINT                      |
| 02/22/2022 | 850039 | Ferguson Enterprise    | Water         | \$ 87.02     | MARKING PAINT GREEN - GREEN SPRAYON #3631      |
| 02/22/2022 | 850039 | Ferguson Enterprise    | Water         | \$ 132.82    | MARKING PAINT GREEN - GREEN SPRAYON #3631      |
| 02/22/2022 | 850039 | Ferguson Enterprise    | Water         | \$ 1,058.00  | SAFETY FLANGE KIT                              |
| 02/22/2022 | 850039 | Ferguson Enterprise    | Water         | \$ 1,058.00  | SAFETY FLANGE KIT                              |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 34.78     | 57619323                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 35.97     | 57619324                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 8.99      | 57619324                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 10.61     | 57619324                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 20.04     | 57619325                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 7.77      | 57619326                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 29.50     | 57619327                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 20.63     | 57619328                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 15.92     | 57619329                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 15.31     | 57619330                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 15.31     | 57619331                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 7.79      | 57619332                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 151.92    | 57619333                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 243.20    | 57619334                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 17.70     | 57619334                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 11.99     | 57619335                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 35.40     | 57619336                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 15.92     | 57619336                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 32.44     | 57619337                                       |
| 02/22/2022 | 850056 | Ingram Library Service | Library       | \$ 137.41    | 57619338                                       |

| Check Date | Check# | Name                   | Fund Name | Amount    | Item Desc |
|------------|--------|------------------------|-----------|-----------|-----------|
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 9.60   | 57619338  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 180.94 | 57619338  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 660.33 | 57619338  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 6.48   | 57619339  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 9.19   | 57740640  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 27.90  | 57740641  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 10.61  | 57740642  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 19.18  | 57740643  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 16.56  | 57740644  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 13.56  | 57740645  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 10.61  | 57740646  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 16.49  | 57740646  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 15.92  | 57740647  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 11.37  | 57740647  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 15.93  | 57740648  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 17.67  | 57740649  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 18.59  | 57765338  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 118.91 | 57765338  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 13.18  | 57765338  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 348.04 | 57765338  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 296.68 | 57765338  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 54.99  | 57765338  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 8.99   | 57765339  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 34.80  | 57765340  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 191.89 | 57765341  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 16.51  | 57765342  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 67.66  | 57765343  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 11.99  | 57765343  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 31.86  | 57765344  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 4.79   | 57765345  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 9.59   | 57765345  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 51.63  | 57765345  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 16.50  | 57765346  |
| 02/22/2022 | 850056 | Ingram Library Service | Library   | \$ 14.99  | 57765346  |

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| 02/22/2022 | 850056 | Ingram Library Service | Library        | \$ 28.89     | 57765347                                            |
| 02/22/2022 | 850056 | Ingram Library Service | Library        | \$ 5.97      | 57765348                                            |
| 02/22/2022 | 850060 | Interstate Power       | Wastewater     | \$ 4,078.83  | WRF Plant Generator                                 |
| 02/22/2022 | 850061 | Invoice Cloud          | Building       | \$ 78.47     | For Service Period of 01/01/2022 through 1/31/2022  |
| 02/22/2022 | 850061 | Invoice Cloud          | City Ins Fund  | \$ 108.53    | For Service Period of 01/01/2022 through 1/31/2022  |
| 02/22/2022 | 850061 | Invoice Cloud          | Parking        | \$ 186.43    | For Service Period of 01/01/2022 through 1/31/2022  |
| 02/22/2022 | 850061 | Invoice Cloud          | Solid Waste    | \$ 8,542.08  | For Service Period of 01/01/2022 through 1/31/2022  |
| 02/22/2022 | 850061 | Invoice Cloud          | Wastewater     | \$ 9,084.00  | For Service Period of 01/01/2022 through 1/31/2022  |
| 02/22/2022 | 850061 | Invoice Cloud          | Water          | \$ 10,687.06 | For Service Period of 01/01/2022 through 1/31/2022  |
| 02/22/2022 | 850063 | Jacobs Engineering     | Gas Tax        | \$ 1,256.46  | Asset Management Program Project                    |
| 02/22/2022 | 850063 | Jacobs Engineering     | Light Maint    | \$ 1,256.47  | Asset Management Program Project                    |
| 02/22/2022 | 850063 | Jacobs Engineering     | Storm Sewer    | \$ 2,575.75  | Asset Management Program Project                    |
| 02/22/2022 | 850063 | Jacobs Engineering     | Street/Traffic | \$ 3,769.40  | Asset Management Program Project                    |
| 02/22/2022 | 850063 | Jacobs Engineering     | Wastewater     | \$ 8,418.32  | Asset Management Program Project                    |
| 02/22/2022 | 850063 | Jacobs Engineering     | Water          | \$ 8,426.51  | Asset Management Program Project                    |
| 02/22/2022 | 850067 | Johnstone Supply       | Airport        | \$ 6,298.83  | Invoice #1341782. Cooler Equipment. New Restaurant. |
| 02/22/2022 | 850068 | Jottodesk              | Public Safety  | \$ 6,323.95  | 7845185                                             |
| 02/22/2022 | 850082 | M.C. Wholesale         | Facilities     | \$ 7,030.00  | 4 ft. wrap 5K x38                                   |
| 02/22/2022 | 850086 | McMaster Carr Supply   | Water          | \$ 5,326.73  | H-1 Project for WTP                                 |
| 02/22/2022 | 850094 | Moulton Bellingham     | General        | \$ 2,757.50  | Inv.#145589 Houser WWFF                             |
| 02/22/2022 | 850094 | Moulton Bellingham     | General        | \$ 5,667.50  | Inv.#145590 Abromeit et al v. COB                   |
| 02/22/2022 | 850094 | Moulton Bellingham     | General        | \$ 337.50    | Inv.#145591 County Water District Billings Heights  |
| 02/22/2022 | 850094 | Moulton Bellingham     | General        | \$ 11,007.50 | Inv.#145592 McDaniel v. COB                         |
| 02/22/2022 | 850094 | Moulton Bellingham     | General        | \$ 496.00    | Inv.#145613 General-Ditch Bank issues               |
| 02/22/2022 | 850094 | Moulton Bellingham     | General        | \$ 75.00     | Inv.#145614 Good Stuff Zoning Violations            |
| 02/22/2022 | 850094 | Moulton Bellingham     | General        | \$ 7,537.50  | Inv.#145690 Watters et al v. COB                    |
| 02/22/2022 | 850091 | MT Dakota Utilities    | Airport        | \$ 530.96    | 129 573 1000 1. Mud Wash. February 2022             |
| 02/22/2022 | 850091 | MT Dakota Utilities    | Airport        | \$ 268.19    | 160 723 3573 6. USDA. February 2022                 |
| 02/22/2022 | 850091 | MT Dakota Utilities    | Airport        | \$ 2,092.34  | 179 053 7751 5. Concourse New. February 2022        |
| 02/22/2022 | 850091 | MT Dakota Utilities    | Airport        | \$ 424.45    | 185 580 1000 7. TSA. February 2022                  |
| 02/22/2022 | 850091 | MT Dakota Utilities    | Airport        | \$ 143.04    | 229 573 1000 0. Detail Bay 1 Hertz. February 2022   |
| 02/22/2022 | 850091 | MT Dakota Utilities    | Airport        | \$ 393.36    | 283 116 0655 3. Alpine IP-12. February 2022         |
| 02/22/2022 | 850091 | MT Dakota Utilities    | Airport        | \$ 2,974.45  | 285 580 1000 6                                      |
| 02/22/2022 | 850091 | MT Dakota Utilities    | Airport        | \$ 265.61    | 295 580 1000 4. Aero Interiors. February 2022       |

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| 02/22/2022 | 850091 | MT Dakota Utilities     | Airport       | \$ 25.65     | 329 573 1000 9. Detail bay 3 Enterprise. February 2022     |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Airport       | \$ 190.51    | 429 573 1000 8. Detail Bay 4 Avis/Budget. February 2022    |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Airport       | \$ 81.75     | 529 573 1000 7. Detail Bay 5 Thrifty/Dollar. February 2022 |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Airport       | \$ 10,969.78 | 595 580 1000 1                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Airport       | \$ 341.57    | 629 573 1000 6. Detail Bay 2 National/Alamo. February 2022 |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Airport       | \$ 1,748.87  | 706 580 1000 7                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Airport       | \$ 1,690.92  | 889 373 1000 6. Car Wash. February 2022                    |
| 02/22/2022 | 850091 | MT Dakota Utilities     | General       | \$ 170.44    | 112 138 9381 8                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | General       | \$ 240.58    | 703 760 1000 8                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | General       | \$ 62.19     | 879 660 1000 8                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | General       | \$ 600.54    | 902 360 1000 6                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Park Dist 1   | \$ 140.44    | 501 473 1000 2                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Public Safety | \$ 991.19    | 307 111 5825 0                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Public Safety | \$ 674.98    | 668 670 1000 2                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Public Safety | \$ 426.16    | 672 860 1000 3                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Public Safety | \$ 1,739.49  | 819 360 1000 8                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Public Safety | \$ 21.32     | 930 442 2308 4                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Public Safety | \$ 558.95    | 958 650 1000 3                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Wastewater    | \$ 63.89     | 596 733 1000 5                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Wastewater    | \$ 63.05     | 713 064 3190 0                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Wastewater    | \$ 67.64     | 843 879 2205 1                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Water         | \$ 287.19    | 162 660 1000 4                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Water         | \$ 81.02     | 373 580 1000 9                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Water         | \$ 81.01     | 373 580 1000 9                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Water         | \$ 154.26    | 541 380 1000 1                                             |
| 02/22/2022 | 850091 | MT Dakota Utilities     | Water         | \$ 82.64     | 921 580 1000 6                                             |
| 02/22/2022 | 850092 | MT Municipal Interlocal | Property Ins  | \$ 42,603.51 | January 2022                                               |
| 02/22/2022 | 850095 | MT Waterworks           | Water         | \$ 220.16    | 1" PLASTIC X IRON-P-T ADAPTER - H15456                     |
| 02/22/2022 | 850095 | MT Waterworks           | Water         | \$ 35.76     | 1" STIFFENERS - CTS PE INSERTS SS                          |
| 02/22/2022 | 850095 | MT Waterworks           | Water         | \$ 154.00    | 1" X 100' POLY PIPE - SDR9 CTS 250#                        |
| 02/22/2022 | 850095 | MT Waterworks           | Water         | \$ 612.09    | 12" X 30" SH CI-FC REPAIR CLAMP - F1-1350 X 30-SH          |
| 02/22/2022 | 850095 | MT Waterworks           | Water         | \$ 1,429.15  | 16" HYMAX COUPLING - 17.10-19.20                           |
| 02/22/2022 | 850095 | MT Waterworks           | Water         | \$ 14,002.50 | 24" Dezurik valve and Dezurik Actuator                     |
| 02/22/2022 | 850095 | MT Waterworks           | Water         | \$ 2,118.50  | 3/4" METER LOOPS AKA YOKE                                  |

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| 02/22/2022 | 850095 | MT Waterworks       | Water       | \$ 107.52   | MARKING PAINT GREEN - GREEN SPRAYON #3631             |
| 02/22/2022 | 850095 | MT Waterworks       | Water       | \$ 900.00   | PACER DRAIN PLUNGER (PVC) (AFCPACER7)                 |
| 02/22/2022 | 850095 | MT Waterworks       | Water       | \$ 239.25   | RANGER X RANGER - 3/4" X 1" COUPLING                  |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 1,699.50 | 0100484-5. ARFF Facility. February 2022               |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 74.70    | 1138926-9. Aero Interiors. February 2022              |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 153.64   | 1647695-4. De Icer. February 2022                     |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 1,513.86 | 1993430-6. Car Wash. February 2022                    |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 351.36   | 2001846-1. Mud Wash. February 2022                    |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 673.17   | 2001848-7. Detail Bay 1 Hertz. February 2022          |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 161.70   | 2001855-2. Detail Bay 2 National/Alamo. February 2022 |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 138.80   | 2001862-8. Detail Bay 3 Enterprise. February 2022     |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 111.66   | 2001867-7. Detail Bay 5 Thrifty/Dollar. February 2022 |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 98.63    | 3085107-5. Employee Parking. February 2022            |
| 02/22/2022 | 850099 | NorthWestern Energy | Airport     | \$ 21.49    | 3733186-5. Airport Storage. February 2022             |
| 02/22/2022 | 850099 | NorthWestern Energy | Facilities  | \$ 517.07   | 1160802-3                                             |
| 02/22/2022 | 850099 | NorthWestern Energy | Facilities  | \$ 1,911.93 | 1160804-9                                             |
| 02/22/2022 | 850099 | NorthWestern Energy | Facilities  | \$ 1,905.23 | 1269391-7                                             |
| 02/22/2022 | 850099 | NorthWestern Energy | Facilities  | \$ 250.71   | 3922089-2                                             |
| 02/22/2022 | 850099 | NorthWestern Energy | General     | \$ 35.88    | 0712387-0                                             |
| 02/22/2022 | 850099 | NorthWestern Energy | General     | \$ 123.46   | 0712536-2                                             |
| 02/22/2022 | 850099 | NorthWestern Energy | General     | \$ 50.30    | 0720818-4                                             |
| 02/22/2022 | 850099 | NorthWestern Energy | General     | \$ 181.69   | 0720821-8                                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,037.66 | SILMD 10 Acct# 0712546-1                              |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,933.97 | SILMD 100 Acct# 0712559-4                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,647.59 | SILMD 107 Acct# 0712560-2                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 4,132.07 | SILMD 109 Acct# 0712561-0                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 189.12   | SILMD 113 Acct# 0712562-8                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 889.18   | SILMD 114 Acct# 0712563-6                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 209.23   | SILMD 115 Acct# 0712564-4                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 549.21   | SILMD 116 Acct# 0712565-1                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 2,986.33 | SILMD 117 Acct# 0712566-9                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 190.97   | SILMD 118 Acct# 0712567-7                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 116.08   | SILMD 119 Acct# 0712568-5                             |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 2,353.70 | SILMD 121 Acct# 0712570-1                             |

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| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 176.42   | SILMD 122 Acct# 0712571-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 313.84   | SILMD 123 Acct# 0712572-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 915.33   | SILMD 124 Acct# 0712573-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 366.10   | SILMD 125 Acct# 0712574-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 183.06   | SILMD 126 Acct# 0712575-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 661.55   | SILMD 127 Acct# 0712576-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 463.10   | SILMD 128 Acct# 0712577-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 313.84   | SILMD 129 Acct# 0712578-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 4,278.81 | SILMD 13 Acct# 0721276-4  |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 111.97   | SILMD 130 Acct# 0712579-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 810.73   | SILMD 131 Acct# 0712580-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 207.96   | SILMD 133 Acct# 0712581-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 479.88   | SILMD 134 Acct# 0712582-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 485.13   | SILMD 135 Acct# 0712583-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 444.58   | SILMD 136 Acct# 0712584-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 346.78   | SILMD 137 Acct# 0712585-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 706.12   | SILMD 138 Acct# 0712586-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 235.37   | SILMD 139 Acct# 0712587-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 2,116.07 | SILMD 14 Acct# 0721277-2  |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 549.21   | SILMD 143 Acct# 0712588-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 26.12    | SILMD 144 Acct# 0712589-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 441.05   | SILMD 145 Acct# 0712590-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 339.97   | SILMD 146 Acct# 0712591-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 412.01   | SILMD 147 Acct# 0712592-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,459.59 | SILMD 149 Acct# 0712593-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 705.64   | SILMD 150 Acct# 0712594-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 601.51   | SILMD 151 Acct# 0712595-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 4,059.03 | SILMD 152 Acct# 0712596-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 507.20   | SILMD 153 Acct# 0712597-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,146.71 | SILMD 154 Acct# 0712598-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 470.74   | SILMD 155 Acct# 0712599-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 860.02   | SILMD 157 Acct# 0712600-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 758.41   | SILMD 158 Acct# 0712601-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 907.31   | SILMD 159 Acct# 0712602-2 |

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| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 679.96   | SILMD 160 Acct# 0712603-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 992.35   | SILMD 161 Acct# 0712604-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 44.25    | SILMD 162 Acct# 0712605-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 708.99   | SILMD 163 Acct# 0712606-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 352.83   | SILMD 164 Acct# 0712607-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 836.86   | SILMD 165 Acct# 0712608-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 220.53   | SILMD 167 Acct# 0712609-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,083.16 | SILMD 17 Acct# 0712553-7  |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 529.26   | SILMD 171 Acct# 0712610-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 479.90   | SILMD 172 Acct# 0712611-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,102.58 | SILMD 173 Acct# 0712612-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 926.16   | SILMD 174 Acct# 0712613-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 308.69   | SILMD 175 Acct# 0712614-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 31.61    | SILMD 176 Acct# 0712615-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 242.56   | SILMD 178 Acct# 0712616-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 485.13   | SILMD 179 Acct# 0712617-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 92.28    | SILMD 18 Acct# 0712554-5  |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 330.78   | SILMD 180 Acct# 0712618-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,595.28 | SILMD 181 Acct# 0712619-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 551.30   | SILMD 182 Acct# 0712620-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,102.58 | SILMD 183 Acct# 0712621-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 352.83   | SILMD 184 Acct# 0712622-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 132.31   | SILMD 185 Acct# 0712623-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 637.78   | SILMD 186 Acct# 0712624-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 220.53   | SILMD 187 Acct# 0712625-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 264.64   | SILMD 188 Acct# 0712626-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 220.53   | SILMD 189 Acct# 0712627-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,146.71 | SILMD 190 Acct# 0712628-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 393.55   | SILMD 191 Acct# 0712629-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 286.67   | SILMD 192 Acct# 0712630-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 705.64   | SILMD 193 Acct# 0712631-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 279.71   | SILMD 194 Acct# 0712632-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 223.79   | SILMD 195 Acct# 0712633-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 71.52    | SILMD 196 Acct# 0712634-5 |

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| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 71.52    | SILMD 197 Acct# 0712635-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 110.26   | SILMD 198 Acct# 0712636-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 104.34   | SILMD 200 Acct# 0712637-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 463.10   | SILMD 201 Acct# 0712638-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 594.04   | SILMD 202 Acct# 0712639-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 19.08    | SILMD 203 Acct# 0712640-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 416.71   | SILMD 204 Acct# 0712641-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 25.30    | SILMD 205 Acct# 0712642-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 308.69   | SILMD 206 Acct# 0712643-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 352.83   | SILMD 207 Acct# 0712644-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 253.84   | SILMD 208 Acct# 0712645-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 507.20   | SILMD 209 Acct# 0712646-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 85.85    | SILMD 210 Acct# 0712647-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 47.70    | SILMD 211 Acct# 0712648-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 47.70    | SILMD 212 Acct# 0712649-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 28.62    | SILMD 213 Acct# 0712650-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 355.18   | SILMD 214 Acct# 0712651-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 132.31   | SILMD 216 Acct# 0712652-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 363.28   | SILMD 217 Acct# 0712653-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 255.16   | SILMD 220 Acct# 0712654-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 6.31     | SILMD 221 Acct# 0712655-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 75.58    | SILMD 222 Acct# 0712656-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 114.47   | SILMD 223 Acct# 0712657-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,338.09 | SILMD 224 Acct# 0712658-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 405.07   | SILMD 225 Acct# 0712659-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 217.95   | SILMD 226 Acct# 0712660-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 664.72   | SILMD 227 Acct# 0712661-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 758.41   | SILMD 228 Acct# 0712662-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 392.28   | SILMD 229 Acct# 0712663-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 915.32   | SILMD 230 Acct# 0712664-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 549.21   | SILMD 231 Acct# 0712665-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 2,379.87 | SILMD 232 Acct# 0712666-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 835.21   | SILMD 233 Acct# 0712667-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 472.24   | SILMD 234 Acct# 0712668-3 |

| Check Date | Check# | Name                | Fund Name   | Amount      | Item Desc                 |
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| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 528.21   | SILMD 235 Acct# 0712669-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 167.84   | SILMD 236 Acct# 0712670-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 374.88   | SILMD 237 Acct# 0712671-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 12.64    | SILMD 238 Acct# 0712672-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 88.23    | SILMD 239 Acct# 0712673-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 402.82   | SILMD 240 Acct# 0712674-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 548.94   | SILMD 241 Acct# 0712675-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 78.45    | SILMD 242 Acct# 0712676-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 104.63   | SILMD 244 Acct# 0712677-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 69.43    | SILMD 245 Acct# 0712678-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 313.84   | SILMD 246 Acct# 0712679-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 920.98   | SILMD 247 Acct# 0712680-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 2,589.07 | SILMD 249 Acct# 0718734-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 201.41   | SILMD 250 Acct# 0719001-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 3,664.82 | SILMD 251 Acct# 0718801-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 523.06   | SILMD 252 Acct# 0719162-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,716.83 | SILMD 253 Acct# 0719644-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 151.19   | SILMD 254 Acct# 0719763-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 165.88   | SILMD 255 Acct# 0720813-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 898.58   | SILMD 257 Acct# 0720360-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 2,464.95 | SILMD 258 Acct# 0720606-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,442.62 | SILMD 259 Acct# 0720810-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 470.74   | SILMD 261 Acct# 0720705-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 2,924.60 | SILMD 262 Acct# 0720937-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 996.98   | SILMD 263 Acct# 0720716-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 164.92   | SILMD 264 Acct# 0721427-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 343.64   | SILMD 265 Acct# 0721556-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 73.71    | SILMD 266 Acct# 0721684-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 439.99   | SILMD 270 Acct# 0906944-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 901.78   | SILMD 271 Acct# 0995095-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 2,680.31 | SILMD 272 Acct# 0905005-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 194.48   | SILMD 273 Acct# 0926386-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 479.35   | SILMD 276 Acct# 0961926-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 807.57   | SILMD 277 Acct# 1058710-3 |

| Check Date | Check# | Name                | Fund Name   | Amount      | Item Desc                 |
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| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 212.58   | SILMD 278 Acct# 1087619-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 56.04    | SILMD 279 Acct# 1124127-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 615.10   | SILMD 280 Acct# 1045653-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 468.27   | SILMD 283 Acct# 1172743-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 308.34   | SILMD 285 Acct# 1206985-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 231.39   | SILMD 286 Acct# 1296582-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,758.33 | SILMD 288 Acct# 1303978-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 224.54   | SILMD 289 Acct# 1685375-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 159.12   | SILMD 290 Acct# 1433921-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 575.35   | SILMD 292 Acct# 1481532-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 220.53   | SILMD 293 Acct# 1481534-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 441.05   | SILMD 294 Acct# 1481535-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 104.63   | SILMD 295 Acct# 1481536-9 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,168.77 | SILMD 296 Acct# 1481537-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 198.46   | SILMD 297 Acct# 1481539-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 176.42   | SILMD 298 Acct# 1481540-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 387.22   | SILMD 300 Acct# 1662840-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 5,175.61 | SILMD 301 Acct# 1687005-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 329.31   | SILMD 302 Acct# 1607534-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,015.31 | SILMD 305 Acct# 1695873-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 214.64   | SILMD 306 Acct# 1740353-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 4,253.34 | SILMD 307 Acct# 2049005-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 259.88   | SILMD 308 Acct# 2072459-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 433.95   | SILMD 309 Acct# 2001311-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 288.74   | SILMD 310 Acct# 2060519-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 403.68   | SILMD 311 Acct# 3014475-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 366.87   | SILMD 312 Acct# 3146127-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 497.36   | SILMD 315 Acct# 3305804-1 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 1,148.59 | SILMD 316 Acct# 3291842-7 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 109.21   | SILMD 317 Acct# 3253826-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 769.24   | SILMD 318 Acct# 3372018-6 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 55.05    | SILMD 320 Acct# 0712569-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 474.17   | SILMD 321 Acct# 3338917-2 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint | \$ 109.13   | SILMD 322 Acct# 3402033-9 |

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| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 860.45    | SILMD 323 Acct# 3597170-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 406.48    | SILMD 324 Acct# 1246537-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 363.61    | SILMD 325 Acct# 3587598-8 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 128.68    | SILMD 326 Acct# 3840455-4 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 178.39    | SILMD 327 Acct# 3810801-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 771.74    | SILMD 328 Acct# 3894879-0 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 102.00    | SILMD 329 Acct# 3939032-3 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 212.92    | SILMD 330 Acct# 3951594-5 |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 361.26    | SILMD 8 Acct# 0712544-6   |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 336.07    | SILMD 9 Acct# 0712545-3   |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 491.87    | SILMD 95 Acct# 0712556-0  |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 9,164.66  | SILMD 97 Acct# 0712557-8  |
| 02/22/2022 | 850100 | NorthWestern Energy | Light Maint    | \$ 1,027.62  | SILMD 99 Acct# 0712558-6  |
| 02/22/2022 | 850099 | NorthWestern Energy | Park Dist 1    | \$ -         | 0722287-0                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Park Dist 1    | \$ -         | 0723045-1                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Park Dist 1    | \$ -         | 0839280-5                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Park Dist 1    | \$ 10.13     | 1836666-6                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Public Safety  | \$ 659.37    | 0871546-8                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Street/Traffic | \$ 0.23      | 1740357-7                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Street/Traffic | \$ 0.57      | 1748896-6                 |
| 02/22/2022 | 850100 | NorthWestern Energy | Street/Traffic | \$ 13,397.04 | Signal Bills 2.15.22      |
| 02/22/2022 | 850099 | NorthWestern Energy | Wastewater     | \$ 61,309.29 | 0100591-7                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Wastewater     | \$ 935.43    | 0100606-3                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Wastewater     | \$ 804.48    | 822 Shiloh Crossing       |
| 02/22/2022 | 850099 | NorthWestern Energy | Water          | \$ 71,092.24 | 0100606-3                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Water          | \$ 2,806.28  | 0100606-3                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Water          | \$ 2,155.32  | 0722264-9                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Water          | \$ 2,060.42  | 0723040-2                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Water          | \$ 42.95     | 0723059-2                 |
| 02/22/2022 | 850099 | NorthWestern Energy | Water          | \$ 129.44    | 1142253-2                 |
| 02/22/2022 | 850105 | Precise MRM         | Building       | \$ 2,652.00  | LiGO Subscription         |
| 02/22/2022 | 850105 | Precise MRM         | CDBG           | \$ 204.00    | LiGO Subscription         |
| 02/22/2022 | 850105 | Precise MRM         | Engineering    | \$ 1,632.00  | LiGO Subscription         |
| 02/22/2022 | 850105 | Precise MRM         | General        | \$ 816.00    | LiGO Subscription         |

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| 02/22/2022 | 850105 | Precise MRM           | Park Dist 1    | \$ 4,896.00   | LiGO Subscription                                            |
| 02/22/2022 | 850105 | Precise MRM           | Planning       | \$ 612.00     | LiGO Subscription                                            |
| 02/22/2022 | 850105 | Precise MRM           | Street/Traffic | \$ 16,844.00  | LiGO Subscription                                            |
| 02/22/2022 | 850105 | Precise MRM           | Wastewater     | \$ 1,836.00   | LiGO Subscription                                            |
| 02/22/2022 | 850105 | Precise MRM           | Water          | \$ 816.00     | LiGO Subscription                                            |
| 02/22/2022 | 850105 | Precise MRM           | Water          | \$ 1,836.00   | LiGO Subscription                                            |
| 02/22/2022 | 850109 | QSI 2011, Inc         | IT Resources   | \$ 12,319.45  | Annual Silver Level Questys Software Maintenance             |
| 02/22/2022 | 850111 | Record Steel & Const  | Wastewater     | \$ 394,182.17 | WO 19-21: WRF Influent Lift Station                          |
| 02/22/2022 | 850112 | Rexel USA             | Wastewater     | \$ 495.73     | Blade socket                                                 |
| 02/22/2022 | 850112 | Rexel USA             | Wastewater     | \$ 4.64       | Cable ring                                                   |
| 02/22/2022 | 850112 | Rexel USA             | Wastewater     | \$ 87.93      | Electrical shop supplies                                     |
| 02/22/2022 | 850112 | Rexel USA             | Wastewater     | \$ 7,679.01   | Lights                                                       |
| 02/22/2022 | 850112 | Rexel USA             | Water          | \$ 833.50     | L structure case moldings                                    |
| 02/22/2022 | 850113 | Russell Industries    | Wastewater     | \$ 10,450.87  | Primary Digester                                             |
| 02/22/2022 | 850120 | SRF Consulting Group  | Transit        | \$ 10,009.02  | 5 Year Transit Development Plan Consultant                   |
| 02/22/2022 | 850121 | St V Occupational     | City Ins Fund  | \$ 605.25     | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850121 | St V Occupational     | City Ins Fund  | \$ 40.00      | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850121 | St V Occupational     | Fleet          | \$ 95.00      | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850121 | St V Occupational     | General        | \$ 2,410.00   | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850121 | St V Occupational     | Public Safety  | \$ 50.00      | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850121 | St V Occupational     | Public Safety  | \$ 50.00      | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850121 | St V Occupational     | Solid Waste    | \$ 380.00     | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850121 | St V Occupational     | Street/Traffic | \$ 95.00      | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850121 | St V Occupational     | Transit        | \$ 95.00      | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850121 | St V Occupational     | Wastewater     | \$ 58.00      | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850121 | St V Occupational     | Water          | \$ 87.00      | Drug Testing, Nurse Visit, DOT Physicals, Hep B Vaccinations |
| 02/22/2022 | 850131 | TESSCO                | Wastewater     | \$ 4,358.04   | UPS Conversion                                               |
| 02/22/2022 | 850131 | TESSCO                | Water          | \$ 58.32      | Adapter                                                      |
| 02/22/2022 | 850131 | TESSCO                | Water          | \$ 1,217.92   | Antenna                                                      |
| 02/22/2022 | 850133 | Torgerson's           | Wastewater     | \$ 5,825.77   | P00020                                                       |
| 02/22/2022 | 850134 | Town & Country Supply | Airport        | \$ 10,093.73  | Invoice #400218. Diesel for Operations                       |
| 02/22/2022 | 850134 | Town & Country Supply | Airport        | \$ 26,271.37  | Invoice #424201. Fuel for QTA Car Rental                     |
| 02/22/2022 | 850134 | Town & Country Supply | Fleet          | \$ 22,274.07  | 423801 PO NUM 313947                                         |
| 02/22/2022 | 850134 | Town & Country Supply | Transit        | \$ 6,238.66   | 425027 PO NUM 313977. 2006 Gal Unleaded                      |

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| 02/22/2022 | 850135 | Towsurfer.com      | Fire Grants    | \$ 5,055.00 | FIRE 2: RESCUE SLED, MOUNTING HARDWARE KIT & SNAP CLIPS |
| 02/22/2022 | 850138 | Tyler Technologies | EOC 911        | \$ 1,848.00 | 9-1-1 Center Annual New World Maintenance               |
| 02/22/2022 | 850138 | Tyler Technologies | IT Resources   | \$ 1,197.00 | Yellowstone County Jail Annual New World Maintenance    |
| 02/22/2022 | 850138 | Tyler Technologies | Public Safety  | \$ 437.00   | Fire Records Annual New World Maintenance               |
| 02/22/2022 | 850138 | Tyler Technologies | Public Safety  | \$ 5,523.63 | Police Annual New World Maintenance                     |
| 02/22/2022 | 850140 | Verizon Wireless   | Airport        | \$ 51.66    | Airport                                                 |
| 02/22/2022 | 850140 | Verizon Wireless   | Engineering    | \$ 136.60   | PW-Engineering                                          |
| 02/22/2022 | 850140 | Verizon Wireless   | Fleet          | \$ 114.41   | Motor Pool                                              |
| 02/22/2022 | 850140 | Verizon Wireless   | General        | \$ 167.73   | City Administrator 0100-13130-403450                    |
| 02/22/2022 | 850140 | Verizon Wireless   | General        | \$ 40.01    | Tina Hoeger Laptop                                      |
| 02/22/2022 | 850140 | Verizon Wireless   | General        | \$ 35.26    | Victoria Hill Laptop                                    |
| 02/22/2022 | 850140 | Verizon Wireless   | Park Dist 1    | \$ 56.97    | PRPL-PARKS                                              |
| 02/22/2022 | 850140 | Verizon Wireless   | Parking        | \$ 27.32    | Parking 406-690-5822                                    |
| 02/22/2022 | 850140 | Verizon Wireless   | Parking        | \$ 54.25    | PRKING Enforcement (Parking)                            |
| 02/22/2022 | 850140 | Verizon Wireless   | PD Program     | \$ 475.79   | CCSIU Cell/PTT + the cost of new phone \$69.99          |
| 02/22/2022 | 850140 | Verizon Wireless   | PD Program     | \$ 54.64    | CCSIU MDT                                               |
| 02/22/2022 | 850140 | Verizon Wireless   | PD Program     | \$ 80.02    | CCSIU RAVEN                                             |
| 02/22/2022 | 850140 | Verizon Wireless   | Public Safety  | \$ 268.32   | Fire MDT 500-22210-403450                               |
| 02/22/2022 | 850140 | Verizon Wireless   | Public Safety  | \$ 484.29   | MDT Toughbooks                                          |
| 02/22/2022 | 850140 | Verizon Wireless   | Public Safety  | \$ 57.89    | Police                                                  |
| 02/22/2022 | 850140 | Verizon Wireless   | Public Safety  | \$ 80.02    | Police iPads                                            |
| 02/22/2022 | 850140 | Verizon Wireless   | Public Safety  | \$ 40.01    | Police MiFi                                             |
| 02/22/2022 | 850140 | Verizon Wireless   | Public Safety  | \$ 41.58    | Police -Mike Robinson                                   |
| 02/22/2022 | 850140 | Verizon Wireless   | Solid Waste    | \$ 27.32    | PW Dozer Trimble Dozer                                  |
| 02/22/2022 | 850140 | Verizon Wireless   | Solid Waste    | \$ 109.28   | PW-Solid Waste                                          |
| 02/22/2022 | 850140 | Verizon Wireless   | Solid Waste    | \$ 207.35   | PW-SW-ON CALL Solid Waste On Call                       |
| 02/22/2022 | 850140 | Verizon Wireless   | Solid Waste    | \$ 80.54    | PW-SW-ON CALL Solid Waste On Call                       |
| 02/22/2022 | 850140 | Verizon Wireless   | Solid Waste    | \$ 524.52   | Solid Waste Tablets -Routware                           |
| 02/22/2022 | 850140 | Verizon Wireless   | Street/Traffic | \$ 81.96    | PW-Streets iPad                                         |
| 02/22/2022 | 850140 | Verizon Wireless   | Street/Traffic | \$ 163.92   | PW-Streets City Works                                   |
| 02/22/2022 | 850140 | Verizon Wireless   | Street/Traffic | \$ 198.43   | PW-STRT TRFC Streets                                    |
| 02/22/2022 | 850140 | Verizon Wireless   | Transit        | \$ 309.02   | MET AVL                                                 |
| 02/22/2022 | 850140 | Verizon Wireless   | Wastewater     | \$ -        | PW-DIS-COLL Cityworks 60/40                             |
| 02/22/2022 | 850140 | Verizon Wireless   | Water          | \$ 27.32    | PW Belknap Meter Shop                                   |

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|------------|--------|----------------------|---------------|--------------|------------------------------------------------------------|
| 02/22/2022 | 850140 | Verizon Wireless     | Water         | \$ (81.30)   | PW Environmental iPads                                     |
| 02/22/2022 | 850140 | Verizon Wireless     | Water         | \$ 27.32     | PWBLKNP Water Treatment                                    |
| 02/22/2022 | 850140 | Verizon Wireless     | Water         | \$ 54.64     | PWBLNP Comm-Meter CityWorks/Neptune                        |
| 02/22/2022 | 850142 | Viken Detection Corp | PD Program    | \$ 100.00    | Nighthawk - HBI XP 140 Wide area detectors.                |
| 02/22/2022 | 850142 | Viken Detection Corp | PD Program    | \$ 37,000.00 | Nighthawk - HBI XP 140 Wide area detectors.                |
| 02/22/2022 | 850143 | Wallace              | Public Safety | \$ 3,000.00  | 2-DAY EXECUTIVE LEADERSHIP TRAINING, FEBRUARY 9 & 10, 2022 |
| 02/22/2022 | 850147 | Weston               | Public Safety | \$ 3,391.24  | reimbursement for trip to Hawaii for backgrounds           |

**City Council Regular**

**Date:** 03/28/2022  
**Title:** Payment of Claims for week of February 28, 2022  
**Presented by:** Andy Zoeller, Finance Director  
**Department:** Finance  
**Presentation:** No  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Staff recommends Council approve the Payment of Claims

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

Claims in the amount of \$1,018,329.69 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.

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**Attachments**

Councilmemo wk of 02282022

| Check Date | Check# | Name                               | Fund Name        | Amount       | Item Desc                                                    |
|------------|--------|------------------------------------|------------------|--------------|--------------------------------------------------------------|
| 02/28/2022 | 850150 | A & E Architects                   | Tax Incrmnt S    | \$ 30,440.00 | Generational Community Recreation Center design              |
| 02/28/2022 | 850155 | Advanced Eng & Enviro Service      | Water            | \$ 8,350.75  | WO 19-17 Water Plant Drought and Flood Control Plan          |
| 02/28/2022 | 850162 | Avery Dennison Corp                | Street/Traffic   | \$ 1,724.26  | ink cartridges/swabs/flush for sign machine                  |
| 02/28/2022 | 850162 | Avery Dennison Corp                | Street/Traffic   | \$ 1,071.00  | sheeting for signs                                           |
| 02/28/2022 | 850168 | Burns & McDonnell Eng              | Water            | \$ 12,152.77 | WO 19-42 West End Water Treatment Plant Project              |
| 02/28/2022 | 850195 | Denny Menholt                      | General          | \$ 4,795.40  | 403681                                                       |
| 02/28/2022 | 850195 | Denny Menholt                      | Public Safety    | \$ 425.00    | 404088                                                       |
| 02/28/2022 | 850200 | Downtown Blgs Partners             | Tax Incrmnt N27  | \$ 23,286.75 | Urban Revitalization District Operating Agreement            |
| 02/28/2022 | 850205 | First Montana Title                | CDBG             | \$ 15,000.00 | FTHB Thomas liams 913 S. 29th                                |
| 02/28/2022 | 850206 | Fischer Commercial Floor           | Public Safety    | \$ 4,230.00  | FIRE 2: REPLD CARPET IN CREW QTRS./BUNK ROOM W/LVT           |
| 02/28/2022 | 850209 | Gaynor's Auto Body                 | Public Safety    | \$ 3,336.60  | 07132021                                                     |
| 02/28/2022 | 850213 | Grainger Parts                     | Solid Waste      | \$ 58.30     | 9211065033                                                   |
| 02/28/2022 | 850213 | Grainger Parts                     | Street/Traffic   | \$ 19.68     | 9206847601                                                   |
| 02/28/2022 | 850213 | Grainger Parts                     | Wastewater       | \$ 801.15    | Push buttons                                                 |
| 02/28/2022 | 850213 | Grainger Parts                     | Wastewater       | \$ 4,509.20  | Storage Bins                                                 |
| 02/28/2022 | 850214 | Graphic Imprints                   | General          | \$ 3,012.42  | recreation seasonal staff shirts and youth volleyball shirts |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Fleet            | \$ 71.19     | 1623851 PO NUM 313976                                        |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Fleet            | \$ 30.40     | 1626438 PO NUM 313990                                        |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Solid Waste      | \$ 515.48    | 1622447                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Solid Waste      | \$ 140.72    | 1622581                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Solid Waste      | \$ 489.64    | 1622765                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Solid Waste      | \$ 303.86    | 1624125                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Solid Waste      | \$ 2.52      | 1627286                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Solid Waste      | \$ 249.08    | 1627515                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Solid Waste      | \$ 534.32    | 1627927                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Street/Traffic   | \$ 158.97    | 1621978                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Street/Traffic   | \$ 195.38    | 1623706                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Street/Traffic   | \$ 124.97    | 1623840                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Street/Traffic   | \$ 15.37     | 1624234                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Street/Traffic   | \$ 66.40     | 1626569                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Wastewater       | \$ 79.85     | 1622429                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Wastewater       | \$ 148.08    | 1624581                                                      |
| 02/28/2022 | 850222 | Hose & Rubber Supply               | Wastewater       | \$ 314.16    | NONSTOCKING ITEMS-P.U.D.                                     |
| 02/28/2022 | 850224 | laff                               | Payroll Clearing | \$ 4,797.36  | Payroll Summary                                              |
| 02/28/2022 | 850235 | Johnson Laffen Galloway Architects | GO Const         | \$ 16,250.00 | Phase 1 Stillwater Bldg - develop comprehensive master plan  |
| 02/28/2022 | 850240 | Knife River                        | Street/Traffic   | \$ 7,077.68  | sand/salt material                                           |

| Check Date | Check# | Name              | Fund Name        | Amount       | Item Desc                                             |
|------------|--------|-------------------|------------------|--------------|-------------------------------------------------------|
| 02/28/2022 | 850240 | Knife River       | Street/Traffic   | \$ 6,673.80  | sand/salt material                                    |
| 02/28/2022 | 850240 | Knife River       | Street/Traffic   | \$ 7,549.48  | sand/salt material                                    |
| 02/28/2022 | 850241 | Kois Brothers     | Fleet            | \$ 689.34    | 125103 PO NUM 313681                                  |
| 02/28/2022 | 850241 | Kois Brothers     | Solid Waste      | \$ 6,542.24  | 124285                                                |
| 02/28/2022 | 850241 | Kois Brothers     | Solid Waste      | \$ 150.70    | 125087                                                |
| 02/28/2022 | 850241 | Kois Brothers     | Street/Traffic   | \$ 788.70    | 125068                                                |
| 02/28/2022 | 850241 | Kois Brothers     | Street/Traffic   | \$ 641.18    | cutting edges/bolts for unit 1115                     |
| 02/28/2022 | 850241 | Kois Brothers     | Street/Traffic   | \$ 493.58    | cutting edges for unit 1115 and 1116                  |
| 02/28/2022 | 850241 | Kois Brothers     | Water            | \$ 310.70    | 125007                                                |
| 02/28/2022 | 850245 | L N Curtis & Sons | Public Safety    | \$ 450.00    | ESTIMATED SHIPPING                                    |
| 02/28/2022 | 850245 | L N Curtis & Sons | Public Safety    | \$ 5,399.00  | RESCUE42 TELECRIB TRUCK KITS FOR 2 NEW PIERCE PUMPERS |
| 02/28/2022 | 850245 | L N Curtis & Sons | Public Safety    | \$ 23,066.82 | TURNOUTS/RECRUITS                                     |
| 02/28/2022 | 850246 | Lee Newspaper     | General          | \$ 364.56    | Finance 102-60001620                                  |
| 02/28/2022 | 850246 | Lee Newspaper     | Public Safety    | \$ 328.99    | Animal Control renewal 102-00038148                   |
| 02/28/2022 | 850246 | Lee Newspaper     | Solid Waste      | \$ 12,215.52 | Public Works 102-60129575                             |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 64.42     | AC4405 KIN LTS-D AIRWAY W/GASTRIC ACCESS SIZE 5       |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 89.72     | BP CUFF, 1-TUBE W/BAYONET CONNECTOR, ADULT            |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 484.00    | DR 3340-00 ATROPINE SULFATE, 1MG                      |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 113.30    | DR 6102-04, FUROSEMIDE, 40MG, 4LL VIAL                |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 428.75    | DR0159-25, EPINEPHRINE, 1:1000 1MG, 1ML VIAL          |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 32.75     | DR0376-25, DIPHENHYDRAMINE, 50MG, 1ML VIAL            |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 71.92     | DR0436-11 NITROGLYCERIN TABLETS, 0.4MG (BOTTLE OF 25) |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 329.00    | DR3352-00 SODIUM BICARB, 8.4% 50ML LUER-JET SYRINGE   |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 924.84    | DR3369-00, NALOXONE, 2MG, 2ML LUER-JET SYRINGE        |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 74.00     | DR3390-00 LIDOCAINE, 2%, 100MG, 5ML LUER JET SYRINGE  |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 47.50     | DR6078-25 ONDANSETRON, 4MG, 2ML VIAL                  |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 253.44    | DR7809-22, DOPAMINE, 400 MG / D5W 250 ML BAG          |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 660.00    | DR8031-01 GLUCAGON, 1MG, 1ML EMERGENCY KIT            |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 154.80    | EL7091, PHYSIO-CNTRL EDGE ELECTRODE, ADULT            |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 30.50     | INFU-SURG PRESSURE INFUSER BAG, 1000CC                |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 179.58    | PCI 11996-000093, PHYSIC CNTRL EDGE ELECTRODE, PEDI   |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ -         | QUOTE #Q95549, EMS SUPPLIES, CUSTOMER #59101BFD       |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ -         | QUOTE #Q95549, EMS SUPPLIES, CUSTOMER #59101BFD       |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 89.76     | SL5202 DEXTROSE 10% B BRAUN IV SOLUTION, 250ML BAG    |
| 02/28/2022 | 850247 | Life-Assist       | Public Safety    | \$ 62.28     | SL7983-09, SODIUM CHLORIDE, 0.9% HOSPIRA, 1000ML BAG  |
| 02/28/2022 | 850262 | MFPE              | Payroll Clearing | \$ 2,783.75  | Payroll Summary                                       |

| Check Date | Check# | Name                | Fund Name        | Amount        | Item Desc                           |
|------------|--------|---------------------|------------------|---------------|-------------------------------------|
| 02/28/2022 | 850266 | Motorola Solutions  | EOC 911          | \$ 89,231.64  | VESTA RADIO P25 SYSTEM ANNUAL MAINT |
| 02/28/2022 | 850266 | Motorola Solutions  | Radio            | \$ 208,207.16 | VESTA RADIO P25 SYSTEM ANNUAL MAINT |
| 02/28/2022 | 850268 | MPPA                | Payroll Clearing | \$ 3,908.80   | Payroll Summary                     |
| 02/28/2022 | 850259 | MT CSED             | Payroll Clearing | \$ 3,160.48   | Payroll Summary                     |
| 02/28/2022 | 850261 | MT Dakota Utilities | Engineering      | \$ 295.90     | 595 373 1000 1                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Facilities       | \$ 1,483.81   | 130 733 1000 8                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Facilities       | \$ 10,659.54  | 375 963 4481 4                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Facilities       | \$ 4,554.61   | 757 633 1000 2                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Facilities       | \$ 3,618.78   | 929 780 1000 4                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Facilities       | \$ 576.13     | 989 733 1000 0                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Facilities       | \$ 1,193.19   | 993 733 1000 4                      |
| 02/28/2022 | 850260 | MT Dakota Utilities | Fleet            | \$ 5,010.57   | 03112022 PO NUM 313985              |
| 02/28/2022 | 850261 | MT Dakota Utilities | General          | \$ 62.19      | 061 943 1000 6                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | General          | \$ 579.82     | 437 780 1000 9                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | General          | \$ 465.01     | 571 295 3342 8                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | General          | \$ 155.12     | 927 890 1000 3                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Library          | \$ 5,212.57   | 219 924 4851 0                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | P.W. Admin       | \$ 73.97      | 595 373 1000 1                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Park Dist 1      | \$ 124.05     | 371 101 1000 6                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Parking          | \$ 271.65     | 303 725 2591 2                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Parking          | \$ 22.20      | 717 353 1000 6                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Parking          | \$ 133.64     | 799 152 1209 0                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Public Safety    | \$ 35.13      | 062 907 9494 7                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Public Safety    | \$ 886.36     | 169 233 1000 3                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Public Safety    | \$ 564.19     | 442 190 1000 4                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Public Safety    | \$ 82.62      | 514 117 0478 9                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Public Safety    | \$ 683.50     | 533 653 1000 1                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Public Safety    | \$ 63.05      | 602 589 7178 1                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Public Safety    | \$ 1,084.94   | 885 880 1000 4                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Solid Waste      | \$ 1,149.72   | 284 225 1320 1                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Solid Waste      | \$ 65.60      | 602 680 9335 2                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Solid Waste      | \$ 1,812.47   | 770 390 1000 2                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Transit          | \$ 2,106.82   | 962 880 1000 0                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Wastewater       | \$ 12,007.88  | 293 780 1000 2                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Wastewater       | \$ 6,003.95   | 293 780 1000 2                      |
| 02/28/2022 | 850261 | MT Dakota Utilities | Wastewater       | \$ 6,003.95   | 293 780 1000 2                      |

| Check Date | Check# | Name                    | Fund Name        | Amount       | Item Desc                               |
|------------|--------|-------------------------|------------------|--------------|-----------------------------------------|
| 02/28/2022 | 850261 | MT Dakota Utilities     | Wastewater       | \$ 289.99    | 310 490 1000 7                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Wastewater       | \$ 430.62    | 410 490 1000 6                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Wastewater       | \$ 64.75     | 735 453 1000 2                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Wastewater       | \$ 121.86    | 868 563 1000 7                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 350.21    | 010 490 1000 0                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 66.46     | 076 225 9180 3                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 77.44     | 110 490 1000 9                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 348.47    | 209 077 5055 6                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 503.84    | 210 490 1000 8                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 869.95    | 310 490 1000 7                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 1,291.83  | 410 490 1000 6                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 4,757.44  | 500 490 1000 7                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 110.22    | 510 490 1000 5                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 127.51    | 527 033 1000 4                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 149.95    | 566 923 1000 8                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 68.49     | 600 490 1000 6                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 68.50     | 600 490 1000 6                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 166.33    | 610 490 1000 4                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 114.55    | 666 923 1000 7                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 427.04    | 700 490 1000 5                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 62.19     | 800 490 1000 4                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 157.71    | 832 001 1000 1                          |
| 02/28/2022 | 850261 | MT Dakota Utilities     | Water            | \$ 743.16    | 900 490 1000 3                          |
| 02/28/2022 | 850265 | MT State Firemen        | Payroll Clearing | \$ 4,436.70  | Payroll Summary                         |
| 02/28/2022 | 850267 | Mt West Holding         | Street/Traffic   | \$ 4,950.00  | repairs to guardrail on Zimmerman Trail |
| 02/28/2022 | 850272 | Newman Traffic Signs    | Street/Traffic   | \$ 3,843.20  | sign blanks                             |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Public Safety    | \$ 109.48    | 7671339                                 |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Wastewater       | \$ 623.85    | Coupling, flange, bolts                 |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Wastewater       | \$ 27.44     | Dies for pipe threads                   |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Wastewater       | \$ 13.10     | Pipe                                    |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Wastewater       | \$ 1,108.06  | PVC, Bolts, Valve, Brass, plugs         |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Wastewater       | \$ 201.39    | Valve                                   |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Wastewater       | \$ 26.21     | Wands for jet trucks                    |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water            | \$ 32.10     | 1/4 X 2 BRASS NIPPLE                    |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water            | \$ 233.91    | 1-1/2" TD METER FLANGES                 |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water            | \$ 22,041.18 | 3/4" E-CODER WALL CU/FT METER W/RECPT   |

| Check Date | Check# | Name                    | Fund Name   | Amount       | Item Desc                                                |
|------------|--------|-------------------------|-------------|--------------|----------------------------------------------------------|
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 26.10     | 3/4" IPS PE STIFFNER SS                                  |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 47.80     | BLACK NIPPLE 1-1/4" X 4"                                 |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 11.95     | BLACK NIPPLE 1-1/4" X 4"                                 |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 80.16     | BLACK NIPPLE 1-1/4" X 5-1/2"                             |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 87.00     | BLACK NIPPLE 1-1/4" X 6"                                 |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 27.20     | CAST IRON CURB BOX PLUG 1-1/4"                           |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 413.85    | COLLISION REPAIR KITS - K81A                             |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 1,241.55  | Collision repair kits - Kennedy K81A Guardian 5" Hydrant |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 183.70    | CURB BOX LID W/PLUG 1-1/2"                               |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 238.40    | CURB BOX LID W/PLUG 1-1/4"                               |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 41.15     | Dies for pipe threads                                    |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 16.50     | HYDRANT METER GASKET 2.5" - THREAD SWIVEL GASKET         |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 405.90    | METER WIRE - 1000 FT ROLLS                               |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 19.66     | Pipe                                                     |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 154.23    | Pump                                                     |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 35.51     | PVC, tape                                                |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 23,800.00 | R-900 ENHANCED WALL RR - MIU 13341-200 (RF'S)            |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 656.38    | replacement pumps                                        |
| 02/28/2022 | 850275 | Northwest Pipe Fittings | Water       | \$ 39.31     | Wands for jet trucks                                     |
| 02/28/2022 | 850277 | NorthWestern Energy     | Facilities  | \$ 5,160.90  | 0100507-3                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Facilities  | \$ 1,244.42  | 0975808-7                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Facilities  | \$ 54.47     | 3602453-7                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Facilities  | \$ 1,544.02  | 3602454-5                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Facilities  | \$ 7,942.40  | 3927205-9                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | General     | \$ 1,381.42  | 0100506-5                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | General     | \$ 180.08    | 0712683-2                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Park Dist 1 | \$ 6.85      | 0722237-5                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Park Dist 1 | \$ 6.00      | 0722247-4                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Park Dist 1 | \$ 0.10      | 0722254-0                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Park Dist 1 | \$ 84.20     | 0722255-7                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Park Dist 1 | \$ 25.24     | 0722257-3                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Park Dist 1 | \$ -         | 0722260-7                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Park Dist 1 | \$ -         | 0722261-5                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Park Dist 1 | \$ -         | 0722262-3                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Park Dist 1 | \$ -         | 0722263-1                                                |
| 02/28/2022 | 850277 | NorthWestern Energy     | Park Dist 1 | \$ -         | 0722265-6                                                |

| Check Date | Check# | Name                | Fund Name     | Amount      | Item Desc |
|------------|--------|---------------------|---------------|-------------|-----------|
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 125.62   | 0722266-4 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ -        | 0722268-0 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 12.57    | 0722269-8 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 10.02    | 0722292-0 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 16.02    | 0722293-8 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 6.00     | 0722905-7 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 49.33    | 0722933-9 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ -        | 0723027-9 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 76.65    | 0723035-2 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 7.45     | 0723036-0 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 157.63   | 0723037-8 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ -        | 0723038-6 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 44.95    | 0723042-8 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 24.21    | 0723044-4 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ -        | 0723051-9 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ -        | 0723052-7 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 8.20     | 0723055-0 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 34.54    | 0723056-8 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 10.51    | 0723057-6 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 23.91    | 0723058-4 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 8.70     | 0723090-7 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 6.00     | 0723162-4 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ -        | 0723170-7 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 12.95    | 0789437-1 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 6.00     | 0831702-6 |
| 02/28/2022 | 850277 | NorthWestern Energy | Park Dist 1   | \$ 116.23   | 0925496-2 |
| 02/28/2022 | 850277 | NorthWestern Energy | Parking       | \$ 715.02   | 0720829-1 |
| 02/28/2022 | 850277 | NorthWestern Energy | Parking       | \$ 2,836.51 | 0720834-1 |
| 02/28/2022 | 850277 | NorthWestern Energy | Parking       | \$ 1,600.77 | 1569636-2 |
| 02/28/2022 | 850277 | NorthWestern Energy | Parking       | \$ 1,016.65 | 1594282-4 |
| 02/28/2022 | 850277 | NorthWestern Energy | Parking       | \$ 2,051.88 | 3067416-2 |
| 02/28/2022 | 850277 | NorthWestern Energy | Parking       | \$ 646.61   | 3279035-4 |
| 02/28/2022 | 850277 | NorthWestern Energy | Parking       | \$ 124.97   | 3463478-2 |
| 02/28/2022 | 850277 | NorthWestern Energy | Parks Maint   | \$ 251.29   | 1059093-3 |
| 02/28/2022 | 850277 | NorthWestern Energy | Public Safety | \$ 506.42   | 0712537-0 |
| 02/28/2022 | 850277 | NorthWestern Energy | Public Safety | \$ 287.07   | 0720840-8 |

| Check Date | Check# | Name                      | Fund Name      | Amount        | Item Desc                                             |
|------------|--------|---------------------------|----------------|---------------|-------------------------------------------------------|
| 02/28/2022 | 850277 | NorthWestern Energy       | Public Safety  | \$ 266.00     | 1984150-1                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Public Safety  | \$ 288.11     | 1984155-0                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Public Safety  | \$ 1,572.28   | 3448739-7                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Public Safety  | \$ 1,852.02   | FIRE 1: 0100476-1 - MONTHLY ELECTRIC SERVICES         |
| 02/28/2022 | 850277 | NorthWestern Energy       | Radio          | \$ 250.92     | 0721580-9                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Solid Waste    | \$ 1,453.31   | 3252194-0                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Street/Traffic | \$ 6.00       | 0723645-8                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Transit        | \$ 24.02      | 0712764-0                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Transit        | \$ 315.08     | 1784756-7                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Water          | \$ 1,292.74   | 0100485-2                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Water          | \$ 4,771.39   | 0100540-4                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Water          | \$ 54.66      | 0722252-4                                             |
| 02/28/2022 | 850277 | NorthWestern Energy       | Water          | \$ 872.55     | 1116452-2                                             |
| 02/28/2022 | 850276 | NW Playground Equip       | Park Dist 1    | \$ 126,624.96 | Lillis park playground equipment-invoices 49240,49235 |
| 02/28/2022 | 850276 | NW Playground Equip       | Park Dist 1    | \$ 3,873.83   | Lillis park playground equipment-invoices 49240,49235 |
| 02/28/2022 | 850280 | Performance Eng & Consult | Park Dist 1    | \$ 20,943.00  | WO 22-12 Optimist Park Parking Lots                   |
| 02/28/2022 | 850283 | Polydyne                  | Wastewater     | \$ 4,420.00   | Floperse                                              |
| 02/28/2022 | 850285 | Public Utilities          | Wastewater     | \$ 3,082.40   | 111176                                                |
| 02/28/2022 | 850296 | Scotts Mobile Welding     | Public Safety  | \$ 4,950.00   | FIRE/BURN BUILDING STAIRS                             |
| 02/28/2022 | 850315 | Tire-Rama                 | Solid Waste    | \$ 1,358.00   | Tire repair and purchase. Collections.                |
| 02/28/2022 | 850315 | Tire-Rama                 | Solid Waste    | \$ 4,916.00   | Tire repair and purchase. Collections.                |
| 02/28/2022 | 850315 | Tire-Rama                 | Solid Waste    | \$ 1,079.00   | Tire Repair and purchase. Collections.                |
| 02/28/2022 | 850315 | Tire-Rama                 | Solid Waste    | \$ 204.60     | Tire repair and purchase. Collections.                |
| 02/28/2022 | 850315 | Tire-Rama                 | Solid Waste    | \$ 1,302.00   | Tire repair and purchase. Collections.                |
| 02/28/2022 | 850315 | Tire-Rama                 | Transit        | \$ 203.00     | 101 0016243. Tires Unit 1867. W/O 205421              |
| 02/28/2022 | 850317 | Town & Country Supply     | Fleet          | \$ 20,731.04  | 423500 PO NUM 313982                                  |
| 02/28/2022 | 850317 | Town & Country Supply     | Fleet          | \$ 23,723.44  | 424203 PO NUM 313986                                  |
| 02/28/2022 | 850317 | Town & Country Supply     | Public Safety  | \$ 881.92     | 425091 FIRE 5: DIESEL BLENDED, 140 GALLONS EACH       |
| 02/28/2022 | 850317 | Town & Country Supply     | Public Safety  | \$ 1,196.89   | 425092 FIRE 3 DIESEL BLENDED, 190 GALLONS EACH        |
| 02/28/2022 | 850317 | Town & Country Supply     | Public Safety  | \$ 944.91     | 425093 FIRE 1 - DIESEL BLENDED, 150 GALLONS EACH      |
| 02/28/2022 | 850317 | Town & Country Supply     | Public Safety  | \$ 558.02     | 425093 FIRE 1 - UNLEADED DELIVERED 2/17/2022          |
| 02/28/2022 | 850317 | Town & Country Supply     | Public Safety  | \$ 755.92     | 425094 FIRE 6 DIESEL, BLENDED 120 GALLONS OF EACH     |
| 02/28/2022 | 850328 | Yellowstone Co Finance    | Building       | \$ 6,853.89   | Miller Building; March Rent; Building Dept.           |
| 02/28/2022 | 850328 | Yellowstone Co Finance    | CDBG           | \$ 5,330.52   | Miller Building; March Rent; Community Development    |
| 02/28/2022 | 850328 | Yellowstone Co Finance    | General        | \$ 2,132.82   | Miller Building; March Rent; Code Enforcement         |
| 02/28/2022 | 850328 | Yellowstone Co Finance    | Planning       | \$ 4,566.03   | Miller Building; March Rent; Planning Dept.           |

| Check Date | Check# | Name                    | Fund Name      | Amount      | Item Desc                                       |
|------------|--------|-------------------------|----------------|-------------|-------------------------------------------------|
| 02/28/2022 | 850329 | Yellowstone Valley Elec | Light Maint    | \$ 364.67   | SILMD 299 Vintage Estates; 4179014 2.23.2022    |
| 02/28/2022 | 850329 | Yellowstone Valley Elec | Light Maint    | \$ 665.82   | SILMD 313 Vintage Estates Sub Phase II          |
| 02/28/2022 | 850329 | Yellowstone Valley Elec | Public Safety  | \$ 742.73   | 4179013: FIRE 7 (INCLUDES PD3) ELECTRIC SERVICE |
| 02/28/2022 | 850329 | Yellowstone Valley Elec | Radio          | \$ 219.15   | 4179002, LANDFILL TOWER ELECTRIC SERVICE        |
| 02/28/2022 | 850329 | Yellowstone Valley Elec | Solid Waste    | \$ 4,112.62 | Electricity Service Landfill.                   |
| 02/28/2022 | 850329 | Yellowstone Valley Elec | Street/Traffic | \$ 52.69    | 54th St W & Grand Signal                        |
| 02/28/2022 | 850329 | Yellowstone Valley Elec | Street/Traffic | \$ 80.56    | 54th St W & Rimrock                             |
| 02/28/2022 | 850329 | Yellowstone Valley Elec | Street/Traffic | \$ 73.47    | Alkali Cr Rd & Interbelt Loop lights            |
| 02/28/2022 | 850329 | Yellowstone Valley Elec | Street/Traffic | \$ 32.70    | Ben Steele School - 56th St W                   |

**City Council Regular**

**Date:** 03/28/2022  
**Title:** Special Review 993 - Vehicle Service >5,000 sf - Shiloh Crossing Blvd.  
**Presented by:** Karen Husman  
**Department:** Planning & Community Services  
**Presentation:** Yes  
**Legal Review** Not Applicable

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**RECOMMENDATION**

The Zoning Commission is recommending conditional approval based on the proposed findings of the nine review criteria (BMCC 27-1623.D), and approval of the requested accompanying variance from the front lot line building coverage of at least 50% (Table 27-400-3).

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

This is a special review request to allow a vehicle service and repair building over 5,000 square feet in a Corridor Mixed Use 2 (CMU2) zone district, for a new 9,540 square foot building, on Lot 4E3, Block 1 of Shiloh Crossing Subdivision, a 2.17 acre parcel of land. The applicant is also requesting variances from the front lot line building coverage of at least 50% (Table 27-400-3).

**APPLICATION DATA**

**OWNER:** Central Holdings, LLC  
**AGENT:** Donna Madson  
**LEGAL DESCRIPTION:** Lot 4E3, Block 1 of Shiloh Crossing Subdivision  
**ADDRESS:** None assigned - generally located at the south intersection of Shiloh Road and Shiloh Crossing Blvd.  
**CURRENT ZONING:** CMU2  
**EXISTING LAND USE:** Vacant  
**PROPOSED USE:** Tire and Auto center greater than 5,000 sf  
**SIZE OF PARCEL:** 2.17 acres

**CONCURRENT APPLICATIONS**

None

**APPLICABLE ZONING HISTORY**

See attachments

**SURROUNDING ZONING & LAND USE**

**NORTH:** Zoning: CMU2  
Land Use: Vacant  
**SOUTH:** Zoning: CMU2 & CX  
Land Use: Vacant  
**EAST:** Zoning: CMU2  
Land Use: Scheels Sporting Goods  
**WEST:** Zoning: P1  
Land Use: Open Space and Hogans Slough

The proposed tire center and auto repair shop would fit into this area of mixed commercial development. The area includes multiple restaurants, retail clothing, shoe and sporting goods sales, a movie theater, financial institutions and other local and national businesses within the Shiloh Crossing Subdivision.

**STAKEHOLDERS**

Applicants for special review approval are now required to conduct a pre-application neighborhood meeting similar to zone change applicants. The preapplication meeting was held in virtual meeting format on Tuesday, January 11, 2022. There were two members of the public in attendance, Jeff Kanning and Oscar Heinrich. During the presentation, the design team shared the plan to construct a new Les Schwab Tire Center in the Shiloh Crossing Shopping Center. A copy of the meeting synopsis is included in the attachments. No comments were received by the

Planning staff after the public hearing notices were mailed, the property was posted, and the legal ad published as required.

The City Zoning Commission held a public hearing on March 1, 2022. Staff gave a brief presentation and recommendation of conditional approval to the Zoning Commission. Zack Graham, agent for the applicant, concurred with staff, and added more details surrounding the project. He said the Les Schwab is primarily a tire store providing installation and maintenance of tires, but also will provide oil changes and maintenance services to vehicles in for tire services. He added that the project is also still under design review with the Shiloh Crossing development design team for the site plan design and use. The Shiloh development standard included a restriction for tire centers. This restriction would allow tire centers included in a big box store, but not as a freestanding business. The Design Review Committee for the development currently is reviewing a plan that includes a variation from this restriction to allow the tire center as a separate business at this location. Joel Long, owner of an adjacent property said he had no objections to the Special Review request. There were no other public comments.

Zoning Commissioner Greg McCall asked if the access point would interfere with the entry into the Scheel's property. Staff said that the plans and request were sent to all City departments for review and did not receive any comments from the City Engineering department, however the applicant would be willing to work with the Engineering Division to modify the entrance location if necessary.

The Zoning Commission voted unanimously to forward a recommendation of conditional approval with the Staff recommended conditions to the City Council.

## **ALTERNATIVES**

The City Council may:

- Conditionally approve the special review and variance as recommended by the Zoning Commission; or
- Grant the application for a special review use and variance with no conditions; or
- Delay action on the application for a period not to exceed thirty (30) days;
- Allow the applicant to withdraw the application.

The Zoning Commission recommended findings of the criteria are in the Summary section below.

## **FISCAL EFFECTS**

Approval or disapproval of the proposed special review use should not have an impact of the Planning Division budget.

## **SUMMARY**

The new zoning code has a variety of considerations and findings before a special review use can be considered acceptable at a particular location. The requirements are set forth in Section 27-1623.D as follows:

1. The special review use is consistent with the City's growth policy and applicable neighborhood plans, if any;
2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking.
4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
6. Conditions necessary to protect the public health, safety, and general welfare can be established, including but not limited to conditions on:
  - (a) Regulation of the use;
  - (b) Special setbacks, buffers, or screening;
  - (c) Surfacing of parking areas;
  - (d) Street, alley, or service road dedications, improvements, or bonds;
  - (e) Regulation of points of vehicular ingress and egress;
  - (f) Regulation of signs;
  - (g) Regulation on the performance of the site, including noise, vibration, and odors;
  - (h) Regulation of the hours of activities;
  - (i) Timeframe for development

- (j) Duration of use; and
- (k) Other relevant conditions that will ensure the orderly development of the site.

7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets; and
9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.

Each decision criteria must be given due consideration and a finding is proposed for each one. Planning staff is including a set of recommended conditions of approval based on the submitted site plan, applicant letter, and findings of the criteria. A significant change from the previous zoning code is that a special review use must not be considered an "allowed" use in the zone district. The proof of compatibility now rests with the applicant instead of the Zoning Commission and City Council to prove non-compatibility. The applicant is requesting one requirement of the CMU2 zone district be modified for the purpose of this application. (Criteria 9). The applicant requests to provide less than 50% front lot line coverage on the Shiloh Road frontage. The applicant proposes the use is compatible by stating it is an in-fill project that will provide services to a high density developing area.

#### **ZONING COMMISSION PROPOSED FINDINGS:**

1. The special review use is consistent with the City's growth policy and applicable neighborhood plans, if any.

**Applicant:** According to the 2016 City of Billings Growth Policy, residents envision a city that grows and diversifies within existing city limits and capitalizes on connecting to existing infrastructure. The proposed Les Schwab Tire Center project aligns with this vision. Below is a list of Growth Guidelines taken from the Growth Policy that are supported by the proposed Les Schwab Tire Center.

**Zoning Commission:** The Zoning Commission agrees with the applicant's determinations. There are nine Growth Guidelines in the 2016 City of Billings Growth Policy including Essential Investments, Placemaking, Community Fabric, Strong Neighborhoods, Home Base, Mobility & Access and Prosperity. In addition, the West Billings Neighborhood Plan includes goals and policies related to development in this area of Billings including Planned Growth, Appropriate Land Use, Achieving a Distinctive Community Character and Enhancing Public Safety, Open Space, Waterways and Scenic Resources. It is desirable to complete the development of this 15-year-old subdivision. This is one of the last parcels to be developed in the Shiloh Crossing Subdivision. Development of this property will be an appropriate commercial business on this busy intersection. The West Billings plan acknowledged this area as a major commercial development node that would include a variety of businesses and services. On the east across Shiloh Crossing Blvd. is the Sheels sporting goods store. In addition to the Sheels site, this is a large commercial development that includes several restaurants, a movie theater, a clothing store (Kohls), Jiffy Lube, and a number of other businesses including restaurants, retail and services to accommodate West Billings demand and the larger regional retail market.

#### **Essential Investments**

- Infill development and development near existing City infrastructure may be the most cost effective.

The proposed project is considered commercial infill development due to its location within the Shiloh Crossing subdivision and its diverse commercial development. This location, on the west end of city limits, facilitates connection to existing City water & sewer and access using the existing street system. Further, the retail opportunities and services provided by the Les Schwab Tire Center will improve convenient access to residents and visitors looking for tires and auto services in the area. Les Schwab complements the existing national and regional tenants.

#### **Community Fabric:**

- Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods.
- Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity.
- Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.

The shops at Shiloh Crossing are Montana's newest and largest lifestyle center located in Billings, Montana. The 80-acre retail, dining, and entertainment center serves a customer base from Montana, Wyoming, North and South Dakota, in addition to a large tourist trade. Due to the scale of development at Shiloh Crossing, services focus on providing large community scale areas each connected by a network of sidewalks and landscaped areas to

encourage pedestrian activity and vibrant commercial activity. The proposed project improvements include a professionally designed landscape plan to align with the look and feel of Shiloh Crossing and comply with city requirements. A new sidewalk is also planned to span the parcel frontage facing Shiloh Crossing Blvd and will improve pedestrian connection throughout the subdivision.

#### **Prosperity:**

- Successful businesses that provide local jobs benefit the community.
- Retaining and supporting existing businesses helps sustain a healthy economy.

The applicant has stated in their application packet that Les Schwab Tire Center sets the standard for consistently exceptional customer service and today, the business has grown to over 7,000+ employees and is a trusted name in the west. With stores already in many Montana communities, Les Schwab has established itself as a successful business and job producer. Staff finds this is an opportunity for more available jobs in Billings.

#### **Planned Growth, Appropriate Land Use, Achieving a Distinctive Community Character: (West Billings Plan)**

- 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.
- With the intent of preventing strip commercial development, the West Billings planning area should contain commercial nodes of varying sizes located at the intersections of arterial streets.
- Large commercial stand-alone development lacking amenities such as landscaping and varied roof-lines, generally known as "big box," as exists along King Avenue near 24th Street West, is not appropriate to the desired character of West Billings west of or along Shiloh Road.
- Commercial nodes should contain business development sites of various sizes to accommodate a variety of businesses.
- Create identifiable, pedestrian-oriented commercial developments with focal points, opportunities for mixed-use areas that aesthetically combine residential and commercial buildings, residential subdivisions, and park areas that link neighborhoods through a linear open space network, subdivision entryways and special arterial treatments.
- Provide a consistent and abundant network of landscaping along streets and in parking areas by the creation of street tree planting, landscaped streetscapes, and aesthetic site improvement qualities throughout West Billings, and assure there is adequate room for utility placement in the right of way.

The proposed development plan and site development will help achieve some of the stated goals of the West Billings Plan. The intent is to provide pedestrian access to the site, provide landscaping along the street frontage, a building design that complements the existing entryway corridor of Shiloh Road and a safe lighting plan to minimize crimes of opportunity.

2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

**Applicant:** The proposed location within the Shiloh Crossing Shopping Center is an ideal site for the proposed project. The site is zoned Commercial Mixed Use 2 (CMU2) and is surrounded by commercially zoned properties. In addition, the shopping center location allows Les Schwab to join other national retailers, to provide service and shopping opportunities for community members. During the Neighborhood Meeting, a Property Owner Association (POA) representative asked that a landscape buffer be added to the east side of the site to soften the view of the use from the Scheel's property. An evergreen buffer was added to the landscape plan to mitigate this concern or potential visual impact to the Scheel's site.

**Zoning Commission:** The commission agrees with the applicant and has recommended conditions to mitigate impacts on the adjacent Scheel's site and ensure the landscape buffering is installed and maintained.

3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking.

**Applicant:** The proposed site is 2.17 acres in size and is located within the Shiloh Crossing Shopping Center. This location within the Shiloh Crossing Subdivision which was reviewed and approved by the City of Billings to ensure access, infrastructure capacity and other public health and safety topics. The proposed building square footage is 9,543 SF leaving adequate lot area to construct needed parking and ample, well-designed landscaping. Landscaping has been designed to meet both the requirements prescribed in City of Billings Zoning and POA standards. The proposed plant species illustrate native and water-wise planting with automatic drip irrigation that can be scheduled to align with Billings weather. No standard turf is proposed, instead, a dry land seed mix formulated by a seed supplier in the region will be used to facilitate appropriate cover. The street frontage landscaping includes several native

species selected to endure rugged conditions - from hot, dry summer heat to snow loads in the winter, common for the Billings.

**Zoning Commission:** The site is a large site and will not have obvious or immediate access to the adjacent neighborhoods. The site has the required parking and will meet the requirements for landscaping. Vehicle access will be from Shiloh Crossing Blvd. Staff believes the site is safely designed and has recommended conditions to improve the safety features of the site.

4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

**Applicant:** The proposed site is 2.17 acres in size and is located within the Shiloh Crossing Shopping Center. This location within the Shiloh Crossing Subdivision which was reviewed and approved by the City of Billings to ensure access, infrastructure capacity and other public health and safety topics. The proposed building square footage is 9,543 SF leaving adequate lot area to construct needed parking and ample, well-designed landscaping. Landscaping has been designed to meet both the requirements prescribed in City of Billings Zoning and POA standards. The proposed plant species illustrate native and water-wise planting with automatic drip irrigation that can be scheduled to align with Billings weather. No standard turf is proposed, instead, a dry land seed mix formulated by a seed supplier in the region will be used to facilitate appropriate cover. The street frontage landscaping includes several native species selected to endure rugged conditions - from hot, dry summer heat to snow loads in the winter, common for the Billings.

**Zoning Commission:** Diminishment of property value is not likely in this case especially if the applicant adheres to the conditions of approval and maintains the required buffer and screening to the adjacent properties. Repairs will be conducted within structures on site minimizing any noise, light or fumes that would cause substantial noise and disruption to the neighbors.

5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

**Applicant:** The proposed facility and use will not impede the normal improvement of the surrounding properties. The project site is currently vacant and located within a planned commercial subdivision that is already developed with various complementary commercial uses. The proposed Les Schwab Tire Center will not impede the normal improvement of surrounding property since many properties within the Shiloh Shopping Center have already been developed. The building will be designed and constructed to comply with existing land use standards and building codes, both of which have been developed to ensure orderly and safe development. Further, the proposed project is located within a developed subdivision and will utilize existing city infrastructure like roadways, water and sewer connections. These connections will enhance the City of Billings systems through the addition of streetscape landscaping, a new access off Shiloh Crossing Blvd and aligns with the city vision for future development.

**Zoning Commission:** The development of this parcel will not impede the continued development of this subdivision.

6. Conditions necessary to protect the public health, safety, and general welfare can be established.

The Zoning Commission recommends the following conditions of approval based on the above findings and the applicant's stated intent. These conditions will be related to the listed categories above, but may include other issues specific to the use for an auto repair business.

## PROPOSED CONDITIONS

1. The special review approval is limited to Lot 4E3, Block 1 of Shiloh Crossing Subdivision, generally located at the southern intersection of Shiloh Crossing Blvd and Shiloh Road.
2. The special review is for the construction and operation of a vehicle tire shop and automobile repair center greater than 5,000 square feet. Approval of a variance from the front lot line coverage of 50% is included in with this special review approval. No other use is intended or implied.
3. The landscaping plan shall include buffering to obscure the east side of the building to enhance the aesthetics on the east side of the property. The landscape plans will be submitted for review with the building permit and will include evergreen landscaping to be installed and maintained according to the approved plan.
4. With the exception of the above conditions, the site shall be developed in substantial conformance with the site plan submitted.
5. The reduction of the minimum 50% front lot line (Shiloh Road) building coverage is specifically allowed through this special review approval.
6. The proposed development shall comply with all other limitations of the Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.
7. The applicant will submit a building permit application within 12 months of the City Council approval and complete construction within 3 years of City Council approval.

8. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

**Applicant :** The proposed facility will go through a full engineering and permitting review from City of Billings Public Works for site layout and utility conformance to City of Billings Regulations.

**Zoning Commission:** The commission concurs with the applicant's statements and positive findings on utilities, access roads, drainage and necessary facilities. There are no site specific conditions that would hamper the applicant's ability to fulfill the local and state regulations for access, utilities, drainage or other necessary facilities.

8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets.

**Applicant:** Access onto Shiloh Crossing Blvd. has been established and will be updated and improved with the development of this parcel.

**Zoning Commission:** The access drive onto Shiloh Crossing Blvd. has already been established and will not be re-located for this project.

9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.

**Applicant:** There is a request to approve a variance from the front lot line building coverage of at least 50%, due to the shape of the parcel, it is requested the building be located as submitted on the site plan.

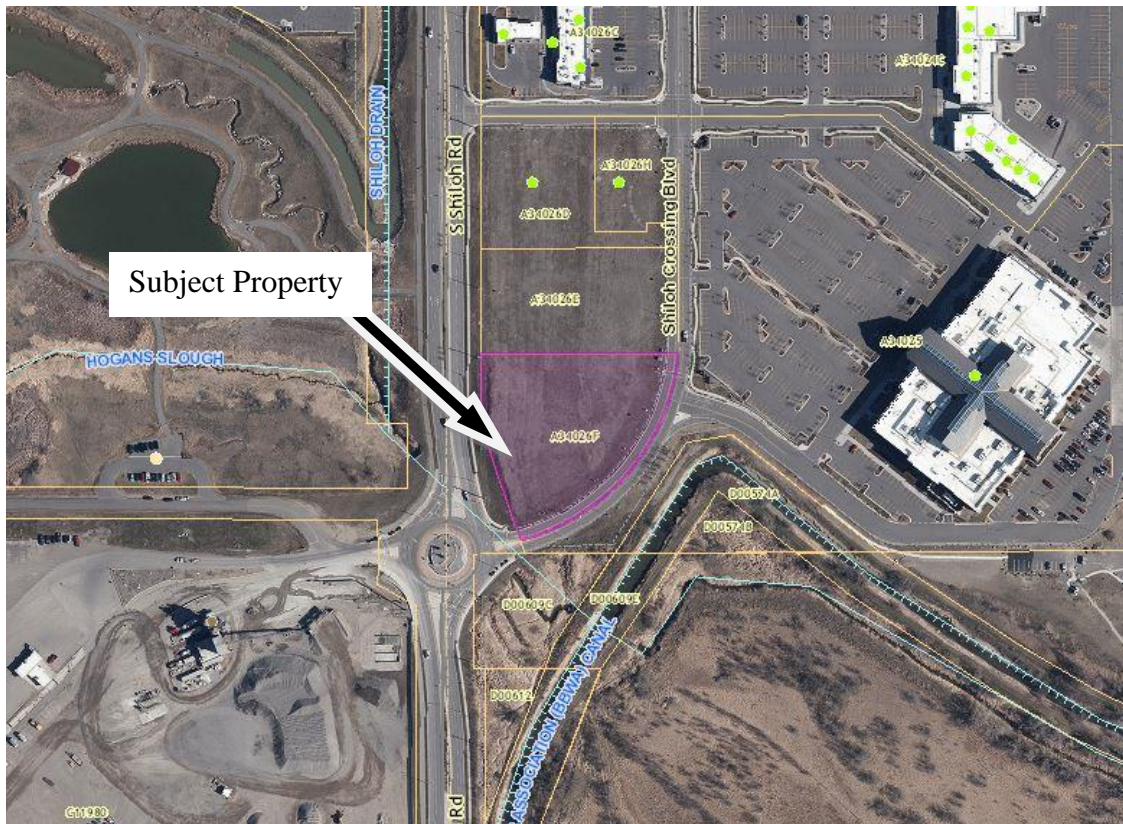
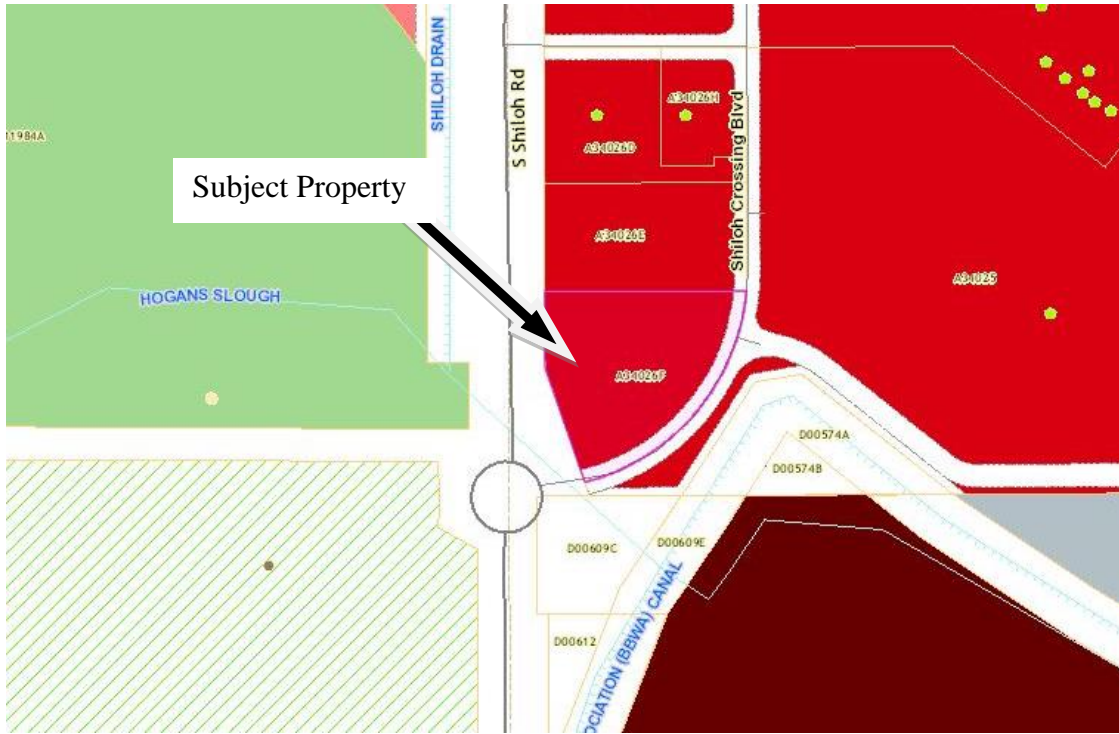
**Zoning Commission:** The commission agrees with the applicant and is forwarding a recommendation to approve a variance from the required front building lot coverage with this special review (Condition 5 above). The initial submittal included a site plan that would require a significant number of variances from the development requirements of the zone district. After discussion with the applicant about modifications to the site plan that would eliminate the majority of variances needed, the applicant submitted a revised site plan that would only require one variance approval for the 50% front lot line coverage. The zoning commission is supporting the proposed variance from the 50% minimum front lot line coverage due to the odd shape of the parcel and the potential affects on neighboring businesses. Orienting the garage bays as submitted on the site plan will mitigate noise from the surrounding businesses to the north and east, as well as, allow the access to the garage bays. Requiring the 50% front lot line coverage would restrict the access to the front garage bays and operations of the automotive and tire business would not function with this orientation of the building. The applicant is proposing several site development conditions such as a vegetative buffer on the east property line to buffer the Scheels property. Additional conditions of approval have been recommended to mitigate any other potential adverse effects to neighboring properties. The site appears to meet all other requirements for building height, setbacks, separations, lot coverage and yard treatments, with the exception of the variance request noted. The Zoning Commission has recommended specific conditions related to landscaping to address issues not apparent on the site plan.

---

## Attachments

Zoning Map & Site Photos  
Application & Applicant Letter  
Preapplication Meeting Held  
Zoning History  
Site Plan

# Zoning Map & Site Photos





North



Southwest



East

APPLICATION FORM

CITY SPECIAL REVIEW Billings Special Review# \_\_\_\_\_ - Project # \_\_\_\_\_

The undersigned as owner(s) of the following described property hereby request a Special Review as outlined in the City of Billings Zoning Regulations.

Present Zoning: Corridor Mixed Use 2 (CMU2)

Special Review Requested: Vehicle Maintenance and Repair, Major (>5,000 SF)

TAX ID# 000A34026F CITY ELECTION WARD # 5

Legal Description of Property: SHILOH CROSSING SUB (09), S14, T01 S, R25 E, BLOCK 1, Lot 4E3, AMD (13)

Address or General Location (If unknown, contact City Engineering): SHILOH CROSSING BLVD, across from Scheels

Size of Parcel (Area & Dimensions): 2.17 acres

Present Land-Use: Vacant

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): Central Holdings, LLC
(Recorded Owner) 1612 Gold Ave, Bozeman MT 59715
(Address)
(Phone Number) Donna AC Redtail mt. com (email)

Agent(s): Donna Madson
(Name) 1612 Gold Ave, Bozeman MT 59715
(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 Special Review. Also, I attest that all the information presented herein is factual and correct.

Signature: [Signature] Date: 1/26/22
(Recorded Owner)





## MEMORANDUM

Date: February 16, 2022

To: Karen Husman, Planner 1, City of Billings Planning & Community Services

From: Zack Graham, PE and Nicole Olmstead

RE: Les Schwab CMU2 zone district variance request

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### Summary

The layout of the proposed Les Schwab site does not comply with several zoning requirements due to the nature of the establishment as well as impacts to existing adjacent uses that would conflict with an alternate layout. Each of the zoning requirements is specifically addressed below.

As a double frontage lot, the building frontage requirements within the zoning regulation and the operational needs of the Les Schwab Tire Center create challenges to comply with the standards whether South Shiloh Road or Shiloh Crossing Boulevard is designated as the front street. In general, the nature of the Les Schwab business and resultant building prototype has driven the site plan layout as proposed. It should be noted that the front façade of the building includes six (6) vehicle bays that comprise approximately 70% of the façade. The bays require vehicular access for the business to operate. Access to the bays negates the ability to front the building to a street in a traditional sense. Instead, the proposal includes building details and site design features that meet the intent and spirit of the frontage requirements. The proposed building is designed with roof articulation and material changes, sidewalks and enhanced landscaping that create visual interest and pedestrian connectivity from the roadways.

Furthermore, it should also be noted the direction the bays face is the direction that the noise generated by activities associated with changing tires (pneumatic impact wrenches) will be directed. In this case, the choice to locate the bays and direct that noise to the south was intentional in order to limit impact to Scheels to the east and adjacent development to the north. By prioritizing the potential impact to adjacent development, this left the option of facing the bays south or west. If the bays were faced to the west, access to the site would have been constricted by the building itself.

### Front lot line building coverage

This table requires that a minimum of fifty percentage (50%) of the building façade must be placed along the front of the lot (in this case west to S Shiloh Road or east to Shiloh Crossing Blvd).

**TABLE 27-400-3. SITE & STRUCTURE REGULATIONS**

| A. | BUILDING SITING                     | CMU1     | CMU2 | REFERENCES                           |
|----|-------------------------------------|----------|------|--------------------------------------|
| 1  | Build to Corner                     | required |      |                                      |
| 2  | Maximum Building Coverage (%)       | 65       | 50   |                                      |
| 3  | Minimum Front Lot Line Coverage (%) | 65       | 50   | See 27-406.E for allowed courtyards. |

The nature of the business and associated building prototype does not allow for 50% of the building to front either road. As described in the summary, the building was placed, and the site was designed, to lessen the impact of the tire center on neighboring developments. Existing businesses are located to the north and to the east of the site. In order to mitigate noise impacts, the proposed building bays could face south or west. Due to access restrictions, the building was ultimately placed so that the bays faced to the south.

## Project Summary

### Type of Business

The proposed Les Schwab Tire Center is primarily a tire retail/service center. In addition to tire sales and service, other automotive parts like tire rims and accessories will also be for sale at this location. The service center will also services brakes, provides alignments, oil changes and other minor vehicle maintenance and repair.

The business is open during normal business hours Monday through Saturday and closed on Sundays and employ approximately 8-10 employees at any given time.

### Proposed Structures

The overall project consists of the construction of a 9,500 SF retail and service center building. The building is a linear prototype store and includes a retail showroom, 6-service bays, tire warehouse, and mezzanine storage. The building construction consists of concrete slab on grade, CMU exterior walls, steel roof framing with metal decking, and single-ply roofing. Exterior finishes include ground and split face CMU and storefront glazing. The CMU is proposed to match the building CMU. The height of the bull-pen is proposed to be 7' and will be used for used tire storage. The entire project is proposed to be constructed in a single phase.

## Neighborhood Meeting

A virtual Neighborhood Meeting was held on Tuesday, January 11th from 6-6:30pm. Notice of the meeting was sent via USPS on December 30, 2021 to a list of property owners generated by Hunter Kelly of the Billings Planning Department, approved by Rico Garza at the Montana Department of Revenue and Certified by Raechelle Gross at the Yellowstone County Clerk and Records Office on December 22, 2021. A copy of the notice, property owner list, approval and certification confirmations have also been included in the submittal.

In addition to the client representative and design team, two attendees participated in the meeting:

- Jeff Kanning was in attendance as a representative of Shiloh Crossing LLC
- Oscar Heinrich - member of the general public

During the presentation, the design team shared the plan to construct a new Les Schwab Tire Center in the Shiloh Crossing Shopping Center. A copy of the slide deck is included in the submittal for reference. Questions were taken and the following discussion points and clarification was provided:

- Oscar asked if there will be any variances that will come before the Board of Adjustment (Oscar is on the Board of Adjustment so he would have to leave the meeting if that was the case)

Response: No variances are anticipated at this time.

- Jeff commented that there are specs you have to use for signage to match all the monument signs on Shiloh Blvd

Response: No monument signs are proposed. All proposed signs will be located on the building.

- Jeff commented that the POA will want them to screen the concrete pad area to the east of the building for loading and unloading tires and the dumpster.

Response: Screening has been designed and is included in the proposed landscape plan to address this concern.

- Oscar apologized that this meeting was on his calendar but he thought this was the West End Task Force meeting.
- Jeff commented that there are a couple of really specific requirements about how to submit applications to the POA. First step is that since you'll be asking for a variance, send us your site plan and floor plan, as well as renderings. The biggest issue will probably be the north elevation (lack of windows).

Response: All required documentation will be submitted to the POA for review and approval. A variance will be required from the POA for the proposed use. Modifications to the building elevations were developed and included on updated elevation drawings to address POA concerns.

- Oscar recommended that they look into the Shiloh Overlay District
- Jeff commented that he thought the Overlay District was done away with after Project Recode. There are a certain number of points you have to score in order to conform with the requirements of that Overlay district. Number of trees, pathways, bus stops, etc.

## In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?

According to the 2016 City of Billings Growth Policy, residents envision a city that grows and diversifies within existing city limits and capitalizes on connecting to existing infrastructure. The proposed Les Schwab Tire Center project aligns with this vision. Below is a list of Growth Guidelines taken from the Growth Policy that are supported by the proposed Les Schwab Tire Center.

### Essential Investments (relating public and private expenditures to public values)

#### **Infill development and development near existing City infrastructure may be the most cost effective**

The proposed project is considered commercial infill development due to its location within the Shops at Shiloh Crossing subdivision. This location, on the south end of city limits, facilitates connection to existing City water & sewer and access using the existing street system. Further, the retail opportunities and services provided by the Les Schwab Tire Center will improve convenient access to residents and visitors looking for tires and auto services in the area. Les Schwab is a and complements the existing national and regional tenants.

### Community Fabric (attractive, aesthetically pleasing, uniquely Billings)

#### **Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity Prosperity (promoting equal opportunity and economic advancement)**

The Shops at Shiloh Crossing is Montana's newest and largest lifestyle center located in Billings, Montana. The 80-acre retail, dining, and entertainment center serves a customer base from Montana, Wyoming, North and South Dakota, in addition to a large tourist trade. Due to the scale of development at Shiloh Crossing focuses on providing large community scale areas each connected by a network of sidewalks and landscaped areas to encourage pedestrian activity and vibrant commercial

activity.

The proposed project improvements include a professionally designed landscape plan to align with the look and feel of Shiloh Crossing and comply with city requirements. A new sidewalk is also planned to span the parcel frontage facing Shiloh Crossing Blvd and will improve pedestrian connection throughout the subdivision.

### Prosperity (promoting equal opportunity and economic advancement)

#### **A diversity of available jobs can ensure a strong Billings' economy**

##### **Successful businesses that provide local jobs benefit the community**

Since opening the first store in Bend, Oregon, the Les Schwab Tire Center sets the standard for consistently exceptional customer service. Today, the business has grown to over 7,000+ employees and is a trusted name in the west. With stores already in many Montana communities, Les Schwab has established itself as a successful business and job producer. The Shiloh Crossing location will provide new opportunities for employment in Billings and offer customers convenient automotive services and a new option for retail tires.

### **How the site is adequate in size and location to accommodate the proposed use while still meeting all of the zone district requirements such as landscaping and parking?**

The proposed site is 2.17 acres in size and is located within the Shiloh Crossing Shopping Center. This location within the Shiloh Crossing Subdivision which was reviewed and approved by the City of Billings to ensure access, infrastructure capacity and other public health and safety topics.

The proposed building square footage is 9,543 SF leaving adequate lot area to construct needed parking and ample, well designed landscaping.

Landscaping has been designed to meet both the requirements prescribed in City of Billings Zoning and POA standards. The proposed plant species illustrate native and waterwise planting with automatic drip irrigation that can be scheduled to align with Billings weather. No standard turf is proposed, instead, a dryland seed mix formulated by a seed supplier in the region will be used to facilitate appropriate cover. The street frontage landscaping includes several native species selected to endure rugged conditions - from hot, dry summer heat to snow loads in the winter, common for the Billings.

The proposed off-street parking lot is designed to accommodate the required 1 space per 250 SF GFA as defined for Vehicle Maintenance and Repair uses. In total, the site includes 39 stalls and 2 ADA accessible spaces. Parking will be accessed directly from Shiloh Crossing Blvd, which has been constructed to typical city standards.

### **How the proposed use is compatible with nearby uses and how the applicant intends to mitigate any potential impacts?**

The proposed location within the Shiloh Crossing Shopping Center is an ideal site for the proposed project. The site is zoned Commercial Mixed Use 2 (SMU2) and is surrounded by commercially zoned properties. In addition, the shopping center location allows Les Schwab to join other national retailers, to provide service and shopping opportunities for community members.

During the Neighborhood Meeting, a POA representative asked that a landscape buffer be added to the east side of the site to soften the view of the use from the Scheels property. An evergreen buffer was added to the site to mitigate this concern or potential visual impact to the Scheels site.

## **How the proposed use will not impede the normal improvement of surrounding property?**

The proposed Les Schwab Tire Center will not impede the normal improvement of surrounding property since many properties within the Shiloh Shopping Center have already been developed. The building will be designed and constructed to comply with existing land use standards and building codes, both of which have been developed to ensure orderly and safe development. Further, the proposed project is located within a developed subdivision and will utilize existing city infrastructure like roadways, water and sewer connections. These connections will enhance the City of Billings systems through the addition of streetscape landscaping, a new access off of Shiloh Crossing Blvd and aligns with the city vision for future development.

January 27, 2022

City of Billings Planning Department  
2825 3<sup>rd</sup> Ave North, 4<sup>th</sup> Floor  
Billings, MT 59101

Re: Agent's Statement affirming the Les Schwab at Shiloh Crossing Neighborhood Meeting

To whom it may concern,

The undersigned, being the agent for the proposed Les Schwab at Shiloh Crossing located at the property legally described as SHILOH CROSSING SUB (09), S14, T01 S, R25 E, BLOCK 1, Lot 4E3, AMD (13) in Billings, Montana, do hereby affirm that a virtual Neighborhood Meeting was held on January 11, 2022, from 6-6:30 pm and that the enclosed application materials is based on the material presented during that meeting.

Sincerely,

 Digitally signed  
by Zack Graham  
Date: 2022.01.28  
08:37:19-07'00'

Zack Graham, PE

Director, Infrastructure

# PRE-APPLICATION NEIGHBORHOOD MEETING

## LES SCHWAB TIRE CENTER SHILOH CROSSING

**MEETING DATE:** January 11, 2022

**TIME:** 6 - 7pm MST

**LOCATION:** Virtual Meeting via Zoom:

<https://cushingterrell.zoom.us/j/94627271868?pwd=MEV1VlrbXhGZHNUKzZpcWRlb1pUdz09>

type the link above into your browser or scan this QR Code:



Meeting ID: 946 2727 1868  
Password: 583086

Dear neighbor,

This letter invites you to join a neighborhood meeting regarding the proposed Les Schwab Tire Center located at the north east corner of the intersection of S. Shiloh Rd and Shiloh Crossing Blvd. The proposed use of this property is for Vehicle Maintenance & Repair, Major, which requires a Special Use Permit under the City of Billings Zoning Code. At the meeting we will discuss the plans for the site and there will be an opportunity to ask questions and hear more from project designers.

The project includes the construction of a two-story building including a retail showroom, 6 service bays, tire warehouse, second floor storage and a surface parking lot with access off of Shiloh Crossing Blvd. Site improvements will consist of parking, lighting, signage, new sidewalk and landscaping.

If you have any questions prior to the meeting, please reach out to the project consultant:

Nicole Olmstead

[nicoleolmstead@cushingterrell.com](mailto:nicoleolmstead@cushingterrell.com)



### Proposed Building:



### Proposed Site Plan:



**Property Location:** Lot 4E-3 Shiloh Crossing Subdivision Plat

**Current Zoning:** Corridor Mixed Use 2 (CM2)

**Proposed Use:** Vehicle Maintenance + Repair, Major

**Property Legal Description:** SHILOH CROSSING SUB (09), S14, T01 S, R25 E, BLOCK 1, LOT 4E3, AMD (13), CITY OF BILLINGS IN THE COUNTY OF YELLOWSTONE, IN THE STATE OF MONTANA

**Property Owner:** Central Holdings, LLC

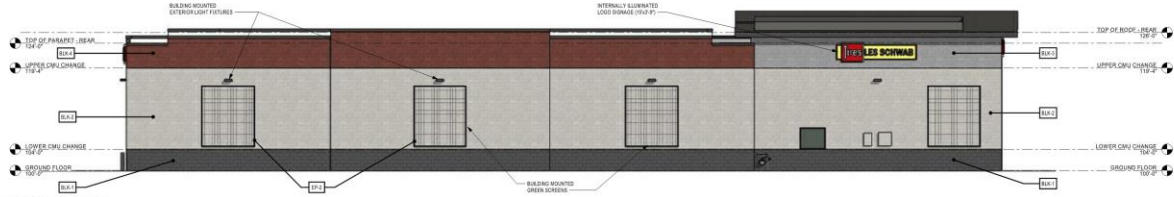
1612 Gold Avenue

Bozeman, MT 59715-2488

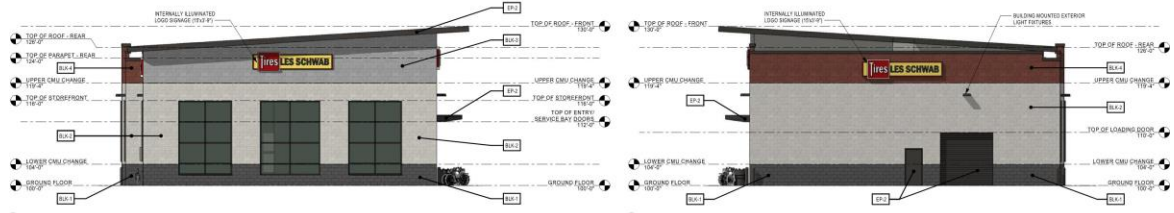
| <b>SUBJECT PROPERTY</b>                      | <b>Special Review</b> | <b>DATE</b> | <b>FOR</b>           | <b>APPROVED (Y/N)</b> | <b>ADDITIONAL DATA</b>                                      |
|----------------------------------------------|-----------------------|-------------|----------------------|-----------------------|-------------------------------------------------------------|
| None                                         |                       |             |                      |                       |                                                             |
|                                              |                       |             |                      |                       |                                                             |
| <b>SURROUNDING PROPERTY</b>                  | <b>Special Review</b> | <b>DATE</b> | <b>FOR</b>           | <b>APPROVED (Y/N)</b> | <b>ADDITIONAL DATA</b>                                      |
|                                              |                       |             |                      |                       |                                                             |
| 4121 Kari Ln (aka 4100 King Ave W)           | 823                   | 7/24/06     | Beer & Wine          | Y                     | With Gaming, Hollywood Casino                               |
| 4020 Montana Sapphire Dr (aka 920 Shiloh Rd) | 927                   | 7/27/15     | All beverage         | Y                     | No Gaming, The Divide Restaurant & Bar                      |
| 4010 Montana Sapphire Dr                     | 930                   | 8/24/15     | Beer & Wine          | Y                     | With Gaming, Dotty's Casino                                 |
| 4241 Kari Ln                                 | 832                   | 1/8/07      | All Beverage         | Y                     | Restaurant, Montecito Pizza                                 |
| 3189 King Ave W                              | 989                   | 1/5/21?     | All Beverage         | ?                     | With Gaming & Restaurant, Warden's Casino w/ Pie Guys Pizza |
| 741 24 <sup>th</sup> St West                 | 943                   | 6/27/16     | Auto Service Station | Y                     | Construction in a Neighborhood Commercial zone              |
| 4120 Kari Lane                               | 992                   | 11/22/21    | Auto Service         | Y                     | Auto collision repair Service over 5,000 sf                 |
|                                              |                       |             |                      |                       |                                                             |
|                                              |                       |             |                      |                       |                                                             |
|                                              |                       |             |                      |                       |                                                             |



1 FRONT ELEVATION  
SCALE: 1/8" = 1'-0"

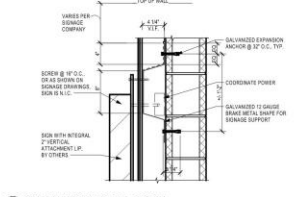


2 REAR ELEVATION  
SCALE: 1/8" = 1'-0"



4 SHOWROOM ELEVATION  
SCALE: 1/8" = 1'-0"

3 LOADING ELEVATION  
SCALE: 1/8" = 1'-0"



5 SIGN SUPPORT DETAIL @ CMU  
SCALE: 1/2" = 1'-0"

| ELEVATION GENERAL NOTES:                                                                                                               | MATERIAL LEGEND:                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| A. ANY SIGNAGE DEPICTED ON ELEVATIONS IS TO BE PERMITTED SEPARATELY BY OWNER.                                                          | BK.1 ANGLUS ONE SPLT FACE (DARK)                                                  |
| B. ALL VERTICAL DIMENSIONS ARE IN FEET AND INCHES.                                                                                     | BK.2 ANGLUS ONE BURNISHED BRASS (WHITE)                                           |
| C. ROOF COLL AND STRUCTURAL DRAWINGS FOR GABLE CHANGES AND RETAINING WALL DIMENSIONS AND LOCATION.                                     | BK.3 ANGLUS ONE PRECISION (SHEVTONS)                                              |
| D. CONSULT ALL ROOF DRAINAGE AND DOWNSPUTS TO SUBGRADE DRAINAGE SYSTEM REF. CIVIL DRAWINGS.                                            | BK.4 ANGLUS ONE SPLT FACE (LADENA RED)                                            |
| E. COORDINATE WITH SIGNAGE PLAN AND REQUIRED STRUCTURAL BACKUP IN METAL PANEL SYSTEM AND REQUIRED ELECTRICAL ROOM IN LOCATION.         | EP.1 SOFFIT PANEL 3/8" X 4" GROOVE PLANKS (WHITE OAK NATURAL)                     |
| F. PROVIDE ANCHORS AT ALL LOCATIONS WHERE EXTERIOR LIGHTS ARE SHOWN ON METAL PANEL SYSTEM.                                             | EP.2 SITE FURNISHING IN DARK BRONZE, TRASH RECEPTACLE AND BENCH                   |
| G. COORDINATE WITH LIGHT FIXTURE SCHEDULE (SEE SPECIFICATIONS AND REQUIREMENTS).                                                       | EP.3 EXTERIOR FLOOR SLIP-RESISTANT EXTERIOR ARCHITECTURAL GRANITE GRANITE (WHITE) |
| H. EXPOSED STEEL CONCRETE TO WALLS IN UNPROTECTED AREAS ARE TO HAVE WALK-ON GRAVING COVER ADHESIVE EXPOSED CONCRETE TO NEAR FINISHING. | EP.4 HANDBAR AND GRAB BARS, REF. SPEC                                             |
| I. REFER TO SHEET 0501 LIGHTING FIXTURE SCHEDULE FOR EXTERIOR LIGHT FIXTURE MOUNTING HEIGHTS.                                          |                                                                                   |
| J. VERIFY LOCAL FIRE DEPARTMENT REQUIREMENTS FOR ADDRESS NUMBER LOCATION.                                                              |                                                                                   |

Cushing Terrell

cushingterrell.com  
800.757.9522

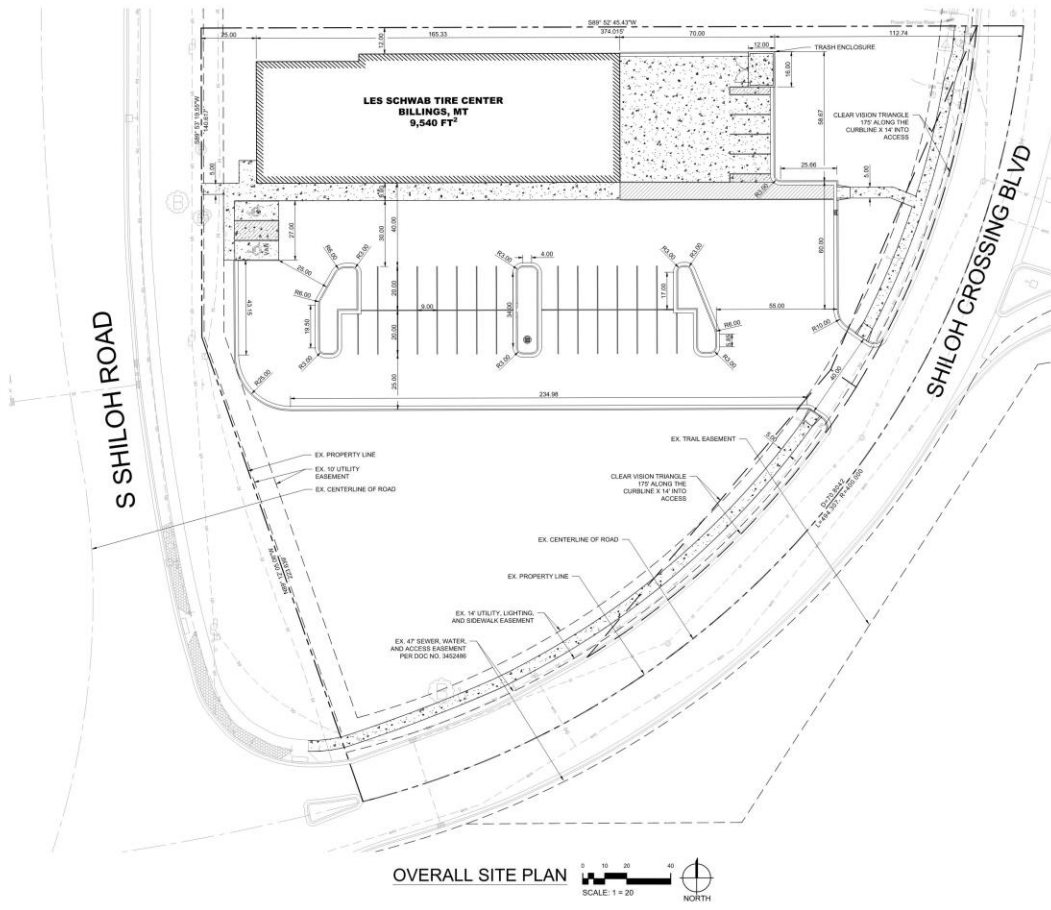


SHILOH CROSSING  
BILLINGS, MT 59102  
6 BAY LINEAR STORE  
LES SCHWAB TIRE CENTER - BILLINGS, MT

NOT FOR CONSTRUCTION - PRELIMINARY DESIGN  
SPECIAL REVIEW SET

02.10.2022  
DRAWN BY: J. NELSON  
REVISIONS:

EXTERIOR ELEVATIONS  
A2.1



OVERALL SITE PLAN  
SCALE: 1" = 20'  
NORTH

**FEASIBILITY ASSUMPTIONS**

1. PARKING REQUIREMENTS: 1 PER 250 SF GFA, (38)

**SITE DATA**

CURRENT ZONING: COMMERCIAL MIXED USE 2 (CMU2)  
 TOTAL AREA OF PROPERTY: 2.17 AC / 94,220 SF  
 BUILDING SQUARE FOOTAGE: 9,540 SF (FOOTPRINT)  
 (6 BAY WITH BULLPEN)

PROPERTY INFORMATION  
 PARCEL ID: 1500411  
 LEGAL DESCRIPTION: SHILOH CROSSING SUB (09), S14, T01 S, R25 E, BLOCK 1, LOT 4E3, AMD (13), CITY OF BILLINGS, IN THE COUNTY OF YELLOWSTONE, IN THE STATE OF MONTANA  
 TAX ID: A34626F  
 OWNER: CENTRAL HOLDINGS, LLC

**CODE DEVELOPMENT STANDARDS**

FRONT: 10 FT  
 SIDE: 5 FT  
 INTERIOR SIDE: 5 FT  
 REAR: 10 FT  
 MAX HEIGHT: 54 FT

REQUIRED 90° PARKING SPACE SIZE: 9' X 20'  
 MINIMUM AISLE WIDTH: 25' \*ASSUMED

**GENERAL NOTES**

SITE OFFSETS, PARKING, AND LAND DEVELOPMENT REQUIREMENTS DEVELOPED PER BILLINGS, MT MUNICIPAL CODE (M.C.).

CURRENT ZONING: COMMERCIAL MIXED USE 2 (CMU2)

SITE OFFSETS: BILLINGS, MT - M.C. 27-406  
 SITE PARKING: BILLINGS, MT - M.C. 27-1300  
 LANDSCAPING: BILLINGS, MT - M.C. 27-1200

**PARKING TABLE**

| BUILDING    | PROVIDED STALLS | ADA REQ SPACES |
|-------------|-----------------|----------------|
| TIRE CENTER | 38              | 2              |

**Cushing Terrell**

cushingterrell.com  
900.797.9622



SHILOH CROSSING  
 BILLINGS, MONTANA  
**LES SCHWAB TIRE CENTER**

NOT FOR CONSTRUCTION - PRELIMINARY DESIGN  
 SPECIAL REVIEW  
 SITE PLAN  
**C100**

PROJECT: 151811 - LES SCHWAB TIRE CENTER, BILLINGS, MONTANA - 20230810.DWG

**Date:** 03/28/2022  
**Title:** Public Hearing and First Reading Ordinance Amending the Revolving Loan Program  
**Presented by:** Andy Zoeller, Finance Director  
**Department:** Finance  
**Presentation:** Yes  
**Legal Review** Not Applicable

---

## RECOMMENDATION

Staff recommends City Council hold a public hearing and approve this ordinance on first reading, amending the revolving loan program.

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

The Billings Montana City Code Article 13-1100 established a revolving loan program for the City of Billings. In 1983, the City implemented a tax increment revolving loan program with increment from the Downtown Redevelopment District. At that time the City used approximately \$600,000 of tax increment moneys to make loans for eligible projects under the program. Principal of and interest received on the program loans were deposited in to the revolving loan fund as received.

In 1999, the ordinance was adopted, establishing the program in the Billings Montana City Code. In an effort to bolster the funds available for revolving loans, a consortium of local banks entered into an agreement with the city, whereby the banks made available to the city an additional \$1,600,000 for the program. The city was able to access the bank funds if there were no available moneys in the revolving fund from which to make a loan.

On October 2nd, 2000, the City and the bank pool entered into an inter-creditor agreement with a 5-year term. The original agreement was extended for an additional 5 year term on August 5, 2005, and again on September 14, 2010. Over this time the revolving loan program grew to an amount that no longer required the additional bank pool funds. The agreement expired on October 2, 2015 due to lack of need. The City made a final payment to the bank pool on February 21, 2012.

Since 1988, no additional tax increment money has been deposited in the fund and the city does not plan to or anticipate appropriating any additional revenues to the fund. As of June 30, 2021, there was approximately \$918,000 of cash in the fund available for loans. The fund had approximately \$1,804,748 in principal amount of loans outstanding. The total assets of the program were approximately \$2,719,814 on June 30, 2021.

After the expiration of the bank pool agreement, the downtown revolving loan committee continued with its original members and operating in the same manner that was established with the original ordinance. In 2021, the committee chair announced his planned retirement from banking and informed the committee that he would be stepping down. This change prompted a review of the current ordinance.

Upon review of the existing ordinance, it was determined that amendments to the ordinance are needed. City staff met with stakeholders to identify appropriate changes to the ordinance. A summary of the recommended changes are as follows:

**Recommendation:** Provide for the committee to establish specific loan policies and procedures, consistent with adopted criteria.

**Purpose:** Beyond what is available on the loan application, official policies of the committee have not been established, or are unable to be located.

**Recommendation:** Modify the four-person committee to remove a reference to the "bank pool" and replace it with a commercial lender from a local bank. Remove a representative from the "Yellowstone Regional Development Company" and replace it with a member or employee of the Big Sky Economic Development Authority. Finally, remove a member from the "Downtown Billings Property Owners Committee" and replace it with a member of the Downtown Billings Alliance.

**Purpose:** The original organizations are no longer in place or lack formal organization.

**Recommendation:** Expand the term from 2 years to 4 years, with no limitation on the maximum number of terms.

**Purpose:** As committee members change, it is very valuable to maintain historical knowledge. Meetings are held when needed, and are generally infrequent. A four-year term would provide for more consistency.

**Recommendation:** Remove in their entirety the bank pool section 13-1104, Notice of Public Hearing section 13-1109, and Recitals section 13-1101.

**Purpose:** These sections are no longer relevant to the revolving loan program or ordinance.

## **ALTERNATIVES**

City Council may:

- Approve the amendments to BMCC 13-1100 as recommended by staff; or,
- Modify the proposed amendments; or
- Not approve the recommended amendments to BMCC 13-1100.

## **FISCAL EFFECTS**

There is no fiscal impact to adopting the recommended amendments to BMCC 13-1100.

As of June 30, 2021, the revolving loan fund has approximately \$918,000 of cash available for loans. The fund had approximately \$1,804,748 in principal amount of loans outstanding. The total assets of the program were approximately \$2,719,814.

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## **Attachments**

Proposed Ordinance Amendments

**ORDINANCE NO. 22-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REPEALING PORTIONS OF SECTIONS 13-1102, 13-1105, 13-1107 AND REPEALING ALL OF SECTIONS 13-1101, 13-1104 AND 13-1109 TO MODIFY THE REVOLVING LOAN PROGRAM.**

WHEREAS, the city by Resolution No. 12303, adopted December 20, 1976, adopted the Billings, Montana, Downtown Redevelopment District Plan (the "plan") as an urban renewal plan for the Downtown Redevelopment District (the "district") and elected to exercise its urban renewal powers ("urban renewal powers") pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"). Pursuant to the Act and the procedures contained in the plan, as amended by Ordinance No. 84-4598, the city has established a procedure for approving urban renewal projects from time to time, and

WHEREAS, the plan contained a provision for tax increment financing. In 1983, the city implemented its tax increment revolving loan program (the "program"), pursuant to which the city has used approximately six hundred thousand dollars (\$600,000) of tax increment moneys to make loans for eligible projects under the program. Principal of and interest received on the program loans were deposited in to the revolving loan fund (the "fund") as received. Since 1988, no additional tax increment moneys have been deposited in the fund and the city does not plan to or anticipate appropriating any additional tax increment revenues to the fund. As of June 30, 2021, there was approximately nine hundred eighteen thousand dollars (\$918,000) of cash in the fund available for loans. The fund had approximately one million eight hundred four thousand seven hundred forty-eight dollars (\$1,804,748) in principal amount of loans outstanding. The total assets of the program are approximately two million seven hundred nineteen thousand eight hundred fourteen dollars (\$2,719,814), and

WHEREAS, the City of Billings, Yellowstone County, School District #2, Downtown Billings Association and the Big Sky Economic

Development Authority along with the business community and interested citizens have participated in the development of the Downtown Billings Framework Plan adopted in December 1997, which among other things identifies weaknesses of downtown Billings which includes the district as well as strategies, goals and objectives for strengthening and revitalizing the downtown area, and

WHEREAS, pursuant to Resolution No. 98-17412, adopted on September 28, 1998, the city council approved the Downtown Billings Improvement Plan as an urban renewal project, and

WHEREAS, the city has entered into an agreement with the Downtown Billings Partnership Inc. (the "partnership") pursuant to which the partnership will provide certain administrative services with respect to the implementation of the plan. The partnership has recommended that it play a greater role in the promotion and administration of the program and has made some recommendations for changes in the revolving loan program, and

WHEREAS, on the 2<sup>nd</sup> day of October, 2000, the City and bank pool entered into an Inter-Creditor Agreement, which provided that the commitments of all Banks which were a party to the Agreement would automatically terminate, if not previously terminated on the fifth anniversary of the Agreement, and

WHEREAS, on the 22<sup>nd</sup> day of August, 2005, the parties agreed to extend the term of the Agreement for an additional five (5) year term and that Agreement would automatically terminate, if not previously terminated, on the fifth anniversary of the extended Agreement, and

WHEREAS, on the 14<sup>th</sup> day of September, 2010, the parties agreed to amend parts of and extend the term of the Agreement for an additional five (5) year term and that Agreement would automatically terminate, if not previously terminated, on the fifth anniversary of the extended Agreement, and

WHEREAS, on the 21<sup>st</sup> day of February, 2012, the City made its final payment to the bank pool, and

WHEREAS, on the 2<sup>nd</sup> day of October, 2015, the intercreditor agreement expired due to lack of extension and need at the City.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

**Section 1.** That Section 13-1102 of the Billings, Montana City Code is renumbered and amended so that such section shall read as follows:

**Sec. 13-1102~~1~~ – ~~Recreation of r~~ Revolving loan program**

The council hereby ~~recreates and renames its tax increment revolving loan program as~~ modifies the City of Billings Downtown Revolving Loan Program. The city hereby establishes ~~within its trust and agency fund,~~ special a fund, to be known as the Downtown Revolving Loan Program Fund, and all funds and assets of the tax increment revolving loan program fund shall be credited to this fund.

**Section 2:** That Section 13-1105 of the Billings, Montana City Code is renumbered and amended so that such section shall read as follows:

**Sec. 13-1103~~5~~ – Applicant eligibility**

The fund shall be used to assist individuals, corporations, partnerships and other profit and non-profit groups for eligible projects ~~in the district~~ within the boundaries as established by the loan committee.

**Section 3:** That Section 13-1107 of the Billings, Montana City Code is renumbered and amended so that such section shall read as follows:

**Sec. 13-1105~~7~~ – Loan application and underwriting criteria**

- (a) The city administrator is authorized to develop program guidelines in conjunction with the Downtown Billings Partnership Inc., as may be required on the loan application and underwriting criteria for the program; ~~such guidelines will be approved by the city council.~~ All loans shall meet the following minimum conditions:
- (1) Borrowers are creditworthy;
  - (2) Projects are economically viable;
  - (3) Projects are consistent with the plan and objectives of the program;
  - (4) Additional real or personal property security interest may be required from a borrower—i.e. equity, etc. if recommended by the loan eligibility review committee;
  - (5) Requests are accepted up to two hundred fifty thousand dollars (\$250,000.00);
  - (6) Loans may not exceed twenty (20) years; and
  - (7) Loan repayment is guaranteed by relevant beneficiaries and/or collateralized.
- (b) A four-person loan eligibility review committee composed of one (1) ~~representative person~~ each from the city, ~~the bank pool~~ a commercial lender from a local bank, ~~the Yellowstone Regional Development Company (a 501(c)(3) non-profit Montana corporation)~~ a board member or employee of Big Sky Economic Development and ~~the~~ a member of the Downtown Billings Property Owners Committee Alliance will review the loan applications and make recommendations to the city council for approval of the loans.
- (c) The Mayor will receive applications ~~nominations~~ from each ~~organization named above~~ and shall appoint the members of the loan committee for a ~~terms~~ of two ~~four~~ (2) (4) years.
- ~~(c)~~(d) The Downtown Billings Partnership Inc. or its designee, will report to the city council regarding the use, status and particulars of the revolving loan fund on at least an annual basis.

**Section 4:** That Sections 13-1103, 13-1106, 13-1108 of the Billings, Montana City Code is renumbered so that such sections shall read as follows:

**Sec. 13-11023 – Purpose**

**Sec. 13-11046 – Eligible projects**

**Sec. 13-11068 – Authority of the city administrator**

**Section 5:** That Section 13-1101 is repealed in its entirety:

**Sec. 13-1101 – Recitals**

- (a) ~~The city by Resolution No. 12303, adopted December 20, 1976, adopted the Billings, Montana, Downtown Redevelopment District Plan (the "plan") as an urban renewal plan for the Downtown Redevelopment District (the "district") and elected to exercise its urban renewal powers ("urban renewal powers") pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"). Pursuant to the Act and the procedures contained in the plan, as amended by Ordinance No. 84-4598, the city has established a procedure for approving urban renewal projects from time to time.~~
- (b) ~~The plan contained a provision for tax increment financing. In 1983, the city implemented its tax increment revolving loan program (the "program"), pursuant to which the city has used approximately six hundred thousand dollars (\$600,000) of tax increment moneys to make loans for eligible projects under the program. Principal of and interest received on the program loans were deposited in to the revolving loan fund (the "fund") as received. Since 1988, no additional tax increment moneys have been deposited in the fund and the city does not plan to or anticipate appropriating any additional tax increment revenues to the fund. As of January 1, 1999, there was approximately eight hundred twenty-five thousand dollars (\$825,000) of cash in the fund available for loans. The fund has approximately~~

~~eight hundred forty thousand dollars (\$840,000) in principal amount of loans outstanding. As of this date, the assets of the program are approximately one million six hundred fifty-eight thousand five hundred seventeen dollars (\$1,658,517).~~

- ~~(c) Under the Act, as existing, the city's ability to use tax increment financing will terminate on the date that the last principal of and interest on the city's urban renewal tax increment bonds outstanding on the date hereof are paid, which is scheduled to be March 1, 2008. Under the Act, the city is authorized to exercise urban renewal powers without the adoption of tax increment financing or beyond the expiration of tax increment financing.~~
- ~~(d) The City of Billings, Yellowstone County, School District #2, Downtown Billings Association and the Big Sky Economic Development Authority along with the business community and interested citizens have participated in the development of the Downtown Billings Framework Plan adopted in December 1997, which among other things identifies weaknesses of downtown Billings which includes the district as well as strategies, goals and objectives for strengthening and revitalizing the downtown area.~~
- ~~(e) Pursuant to Resolution No. 98-17412, adopted on September 28, 1998, the city council approved the Downtown Billings Improvement Plan as an urban renewal project.~~
- ~~(f) The city has entered into an agreement with the Downtown Billings Partnership Inc. (the "partnership") pursuant to which the partnership will provide certain administrative services with respect to the implementation of the plan. The partnership has recommended that it play a greater role in the promotion and administration of the program and has made some recommendations for changes in the revolving loan program.~~
- ~~(g) Based on the recommendation of the partnership, city staff and the Yellowstone Regional Development Company, the city believes that the objectives of the plan will not be fully realized by the termination~~

~~date of tax increment financing and believes that it is the best interest of the city, the plan and the Billings Downtown Framework Plan to establish a funding mechanism to secure and grow the revolving loan fund so that funds other than tax increment funds will be available for the city to promote and foster the objectives of the plan and the downtown framework plan.~~

~~(h) The purpose of this resolution is to modify and reestablish the city's revolving loan program to meet those objectives.~~

**Section 6:** That Section 13-1104 is repealed in its entirety:

**Sec. 13-1104 – Source of funding of the loan program; conditions**

~~(a) A consortium of local banks (the "banks") will enter into agreement whereby the banks will make available to the city an additional one million six hundred thousand dollars (\$1,600,000.00) for the revolving loan program (the "Bank pool").~~

~~(b) The funds in the bank pool will be made available to the city in the form of loans to the city from the bank pool at an interest rate below market rate to be agreed upon by the bank pool and city. The city will use the proceeds of its loan to make direct loans to eligible borrowers for eligible projects at an interest rate one (1) percent above the interest rate on the city's loan.~~

~~(c) Loans may be made for acquisition or construction of buildings, renovation and rehabilitation therefor, interior and exterior tenant improvements, equipment and related improvements.~~

~~(d) The city can only access the bank pool if there are no available moneys in the revolving fund from which to make a loan for an eligible project and the city has entered into a commitment to make such a loan.~~

~~(e) The city will grant the bank a first security interest in the assets of the revolving fund as security for the banks' loan to the city.~~

**Section 7:** That Section 13-1109 is repealed in its entirety:

**~~Sec. 13-1109 Notice of public hearing.~~**

~~A public hearing is hereby called and shall be held on July 12, 1999 at 7:30 p.m. in the council chambers on the proposed modifications. Notice of the public hearing shall be published in the Billings Times on July 1 and July 8, 1999 in substantially the form attached as Exhibit A hereto.~~

PASSED by the City Council on first reading this \_\_\_\_ day of \_\_\_\_\_, 2022.

PASSED, ADOPTED and APPROVED on second reading this \_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF BILLINGS**

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William A. Cole, Mayor

ATTEST:

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Denise Bohlman, City Clerk

**City Council Regular**

**Date:** 03/28/2022  
**Title:** City Zone Change 1010 - 2204 Bench Blvd - Neighborhood Office to CMU1  
**Presented by:** Karen Husman  
**Department:** Planning & Community Services  
**Presentation:** Yes  
**Legal Review** Not Applicable

**RECOMMENDATION**

City Zoning Commission is recommending approval based on the findings of the 10 criteria for Zone Change 1010.

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

City Zone Change 1010 -- 2204 Bench Blvd- NO to CMU1 - A zone change request from Neighborhood Office (NO) to Corridor Mixed Use 1 (CMU1) on Lot 8, Holling Ranch Subdivision, a 1.808 acre parcel of land. A pre-application neighborhood meeting was held on January 23, 2022 at 6:00 p.m., at 2204 Bench Blvd. The purpose of the request is to allow an existing pet center, formerly a veterinary clinic, to be used as a dog grooming and pet sitting location.

This is a zone change request from Neighborhood Office (NO) to Corridor Mixed Use 1 (CMU1) to allow an existing dog grooming and pet sitting business to continue on this parcel. The property had previously been a veterinary clinic and is allowed under the current zoning of NO, however the current use of dog grooming and pet sitting is not allowed in the NO district. The proposed zoning would allow an existing business to continue using the location for the dog daycare and grooming. The zone change request is a result of the applicant applying for a business license for the location. During staff review of the license, it was determined that a zone change would be required in order to obtain a business license. The business had already been operating prior to discovery of the zoning conflict. They have temporarily closed the business until the zone change is approved. The proposed zoning and use is compatible with the adjacent zoning and existing surrounding development.

**APPLICATION DATA**

**OWNER:** Michael Haaland  
**AGENT:** Lucas Haaland  
**LEGAL DESCRIPTION:** Lot 8, Holling Ranch Subdivision  
**ADDRESS:** 2204 Bench Blvd  
**CURRENT ZONING:** NO  
**EXISTING LAND USE:** Dog Grooming and Dog Daycare  
**PROPOSED USE:** Dog Grooming and Dog Daycare  
**SIZE OF PARCEL:** 1.808 acres  
**CONCURRENT APPLICATIONS**

None

**SURROUNDING LAND USE & ZONING**

**NORTH:** Zoning: CX Land Use: Mini Storage  
**SOUTH:** Zoning: NX1 Land Use: Residential  
**EAST:** Zoning: N2 Land Use: Residential  
**WEST:** Zoning: CX Land Use: Mini storage

**STAKEHOLDERS**

The applicant conducted a pre-application meeting at the subject property on January 23, 2022, there were three members of the public in attendance. The synopsis of the meeting and the attendance list are attached to this report. Also attached is a letter in support of the zone change from the Billings Heights Task Force. The Zoning Commission held a public hearing on March 1, 2022. Planning staff gave a brief presentation and recommendation of approval to the Zoning Commission. The property owner and business owner concurred with staff recommendation and asked the Commission approve the zone change. Resident Bob Mcguire also spoke in favor of the zone change to allow the pet center to locate at the subject property. The Zoning Commission voted unanimously to recommend approval to the City Council.

## ALTERNATIVES

The City Council may:

- Recommend Approval of the Zone Change and adopt the findings of the 10 review criteria; or,
- Recommend Denial of the Zone Change and adopt different findings of the 10 review criteria; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the application.

## FISCAL EFFECTS

Approval or denial of the proposed zone change should not have an effect on the Planning Division budget.

## SUMMARY

Prior to any recommendation 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:

#### **Prosperity** (promoting equal opportunity and economic advancement)

- Predictable, reasonable City taxes and assessments are important to Billings' taxpayers
- A diversity of available jobs can ensure a strong Billings' economy
- Successful businesses that provide local jobs benefit the community
- Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses
- Retaining and supporting existing businesses helps sustain a healthy economy

The proposed zoning would allow an existing veterinary clinic location to be used for dog grooming and pet sitting. The previous use as a veterinary clinic would have had the same type of minimal impact on neighboring properties. A diversity of available jobs will help Billings economy and small, locally owned businesses support Billings residents.

### 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. This is an already constructed and established business location and it appears to meet the separation requirements for the district.

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

The proposed zoning (CMU1) would allow the owner to ensure the existing business operation at this location and should not have negative affects on the public health, safety and welfare. The building has been periodically checked by the Fire Marshall and is up-to-date with fire code.

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

Transportation: The proposed zoning itself will not increase the traffic at this location. It is a comparable use as the previous use of Veterinary clinic and would have similar vehicle trips.

Water and Sewer: Water is provided by the Heights Water District and sewer is provided by the City of Billings.

Schools and Parks: Schools and parks should not be negatively affected by the proposed zoning. The proposed use does not include residential uses.

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. The existing building is sited in a way which also provides adequate light and air.

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

Traffic generation for an animal care facility such as pet sitting and grooming would not affect the vehicle or pedestrian traffic. The previous veterinary clinic use would have had similar traffic generation patterns. Bench Blvd was reconstructed a few years ago with a turning lane to ensure there is no traffic backup entering or exiting the property.

### 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. Heavy commercial businesses border three sides of the property, making it suitable for dog grooming and dog daycare.

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

This is a suitable use for this parcel of land and the zoning is appropriate in this situation. The Heights Vet Clinic was established in 1976. Dr. Haaland practiced for 43 years until October 1, 2019. During that time the property was zoned HC. If the property goes back to the closest compatible district to the surrounding neighborhood, CMU1, there would be more options to allow the pet business.

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. It is not known if its proximity to residential property in the area will affect the value of residential buildings. Due to the previous type of business at this location the similarity in use should not affect value of adjacent or neighboring properties.

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

The proposed zoning will allow the property a use that is very similar to the previous use and is suitable for the location.

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### Attachments

Zoning Map & Site Photos  
Application & Applicant Letter  
Zoning History  
Preapplication Meeting Held  
Ordinance

# Zoning Map & Site Photos





Looking North on Bench



Looking South on Bench



East across Bench



### APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # \_\_\_\_\_ - Project # PZX-22-00011

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 NO

Proposed Zoning: ~~NO~~ CMU1 + see email

TAX ID# D05193 CITY ELECTION WARD 2

Legal Description of Property: HOLLING RANCH SUBD, LOT 8, FRAC W OF BENCH BLVD (LESS 1569 SF ROW)

Address or General Location (If unknown, contact City Engineering): 2204 Bench Blvd

Size of Parcel (Area & Dimensions): 1.808 acres

Present Land-Use: veterinary office (vacant)

Proposed Land-Use: Dog grooming + Daycare

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): Michael J Haaland

(Recorded Owner)  
1852 Three Stars Trail Billings, MT 59105  
(Address)  
406 259 0370  
(Phone Number) (email) Hvclinic43@gmail.com

Agent(s): Lucas Haaland

(Name)  
1852 Three Stars Trail Billings MT 59105  
(Address)  
406 794 4864  
(Phone Number) (email) Hvclinic43@gmail.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: Michael J Haaland Date: 1/18/2022  
(Recorded Owner)



Synopsis  
**Zone change of NO to CMU1**  
2204 Bench Blvd  
Billings MT, 59105

This is a synopsis of why a zone change from Neighborhood Office (NO) to Commercial Mixed Use 1 (CMU1) at 2204 Bench Blvd is beneficial to the city of Billings, MT. The ten following reasons are answers in regard to the 10 zone change criteria demonstrating the benefit of the aforementioned property.

**1) Whether the new zoning is designed with the growth policy:**

There are more business coming to Bench Blvd and a growing Mary St development because of the Johnson Lane Interstate project. The continuation of a thriving business will help with the development of the area going forward after the trucking route connecting Johnson Lane Interstate exit and the Roundup Road (87 N) comes in. A growing flourishing business area in this part of the Heights is of benefit to the city of Billings and the adjacent business properties to the north and west neighboring this parcel currently zoned Heavy Commercial.

**2) Whether the new zoning is designed to secure from fire and other dangers:**

The property of 2204 Bench Blvd is fully insured. The building has been periodically checked by the Fire Marshall and we are up to date with the fire code.

**3) Whether the new zoning will promote public health, public safety and general welfare:**

The proposed zone change will allow for a Dog Grooming and Doggie Day Care business to operate. Healthier pets equal healthy owners which lead to a healthier economy and a more robust town of Billings, MT. Having the business Petatlantis will create opportunities for employment.

**4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements:**

By allowing a more versatile business to thrive in this area, there will be more tax revenues at the local, state and federal levels. This property was zoned Highway Commercial for 43 years. We would rather have a flourishing business rather than an derelict building. The newly designed Bench Blvd facilities improved traffic flow, improved utilities and created safer access to the New Medicine Crow and Bitterroot school. With the expansion of Bench Blvd, sidewalks were added to Bench Blvd. With the building of Medicine Crow School and Bitterroot School nearby, there are a lot of children on the sidewalks. Having drop off traffic and not large trucks entering 2204 Bench Blvd, traffic would be less and safer for children while keeping a business open to generate development.

**5) Whether the new zoning will provide adequate light and air:**

There is ample indoor, outdoor and covered outdoor area for dogs to roam when not being groomed. There are skylights to bring in light so as to keep electric usage down on sunny days.

**6) Whether the new zoning will effect motorized and non motorized transportation:**

The road on Bench Blvd was beautifully reconstructed a few years ago with a turning lane so there is no blockage in or out of the property off of Bench Blvd. Along with the widening of Bench Blvd a sidewalk was built. We keep the sidewalk snow free in the winter and cleanup trash the rest of the year. We water the trees planted by the city. The new zoning of CMU1 will allow drop off traffic to continue a business while keeping heavy traffic down such as trucks and trailers so as to keep the safety maximized for the children on the sidewalks going to and from both Medicine Crow and Bitterroot schools.

**7) Whether the new zoning will promote compatible urban growth:**

Heavy Commercial businesses border three sides of the property making it suitable for Dog Grooming and Doggie Day Care.

**8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses:**

Heights Veterinary Clinic was established in 1976. Dr. Haaland practiced 43 years until October

1, 2019. During that time the property was zoned Highway Commercial. If the property goes back to being zoned Highway Commercial (now known as Commercial Mixed Use 1) we would have more options to open another pet business without very large investments by the owners.

9) Whether the new zoning will conserve the value of buildings:

The Dog grooming and Doggie Day Care will improve the value of the building.

10) Whether the new zoning will encourage the most appropriate use of land through out Billings:

A Dog Grooming facility and Doggie Day Care is a natural projection forward from a Veterinary Clinic.

One of the main reasons that the Neighborhood Office Zoning code was assigned to this parcel was because of the current use at the time of the project recode, which was Heights Veterinary Clinic. Since the office has been closed since October 1, 2019 and there is no plan for another Veterinary Office, the property is already setup perfectly for a pet related business, and the established Dog Grooming and Doggie Day Care business Petlantis (currently operates one location on the west end) would like to expand business to this location. The CMU1 allows all pet related businesses and would allow the currently proposed tenant to expand the business and offer new employment and opportunities to residents.

We hope that you agree with us that a Dog Grooming and Doggie Day care facility will not only improve the property but the neighborhood of the Heights which in turn will only improve our town of Billings. Thank you for your consideration of the zone change from Neighborhood Office to Commercial Mixed Use 1.

Thank you,  
Mike and Lea Haaland

| <b>SUBJECT PROPERTY</b>     | <b>Zone Change</b> | <b>DATE</b>   | <b>FOR</b>    | <b>APPROVED (Y/N)</b> | <b>ADDITIONAL DATA</b> |
|-----------------------------|--------------------|---------------|---------------|-----------------------|------------------------|
| None                        |                    |               |               |                       |                        |
|                             |                    |               |               |                       |                        |
| <b>SURROUNDING PROPERTY</b> | <b>Zone Change</b> | <b>DATE</b>   | <b>FOR</b>    | <b>APPROVED (Y/N)</b> | <b>ADDITIONAL DATA</b> |
| <b>2347 Main St</b>         | <b>2 (County)</b>  | <b>4/1/74</b> | <b>R96-CC</b> | <b>Y</b>              |                        |
| 514 Laurie Lane             | 137 (County)       | 9/19/77       | R72-CC        | Y                     |                        |
| 2244 Main St                | 171 (County)       | 2/28/78       | RMH-HC        | Y                     |                        |
| 1931 Main St                | 267 (County)       | 12/31/79      | R60-HC        | Y                     |                        |
| 2050 Main St                | 313 (County)       | 10/1981       | RMH-HC        | Y                     |                        |
| 1602 Main St                | 314 (County)       | 3/18/82       | NC-HC         | Y                     |                        |
| 8068 Laurie Lane            | 454                | 1/28/85       | NC-HC         | Y                     |                        |
| 1710 Main St                | 597                | 7/10/95       | NC-HC         | Y                     |                        |
| 2202 Main St                | 602                | 10/10/95      | RMH-HC        | Y                     |                        |
| 636Pemberton &2318Main      | 639                | 10/13/98      | RMH-HC        | Y                     |                        |
| 525 Jerrie Lane             | 726                | 3/8/04        | RMH-HC        | Y                     |                        |
| 2200 Main St                | 760                | 8/8/05        | RMH-HC        | Y                     |                        |
| 2302 Lake Elmo              | 770                | 12/12/05      | RMH-R60       | Y                     |                        |
| 406 Roxy Lane               | 772                | 1/23/06       | RMH-R60       | Y                     |                        |
| 2100 Main St                | 859                | 12/21/09      | RMH-HC        | Y                     |                        |
|                             |                    |               |               |                       |                        |

**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:** NO (Neighborhood Office)
2. **Written description of the Zone Change Plan** including existing and proposed new zoning:  
Change to EX (Heavy Commercial)  
CMU1 (Corridor Mixed Use 1) \*See email
3. **Subject Property Map:** please attach to this form
4. **Legal Description of Property:**  
HOLLINGRANCH SUBD, LOTS 8, FRAC W OF BENCH  
BLVD (LESS 1569 SF ROW)
5. **Neighborhood Task Force Area:** Yes // No . If Yes, Name of Task Force and mailing address of Chairperson:  
Heights task force, Ming Cabera - Chair  
1734 POLY DR, BILLINGS 59102
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 23, day of January, 2022
  - 2) The zone change application is based on materials presented at the meeting.

**Owner (s):** Michael Hoaland Telephone: 406 259 0370  
**Address:** 1852 Three Bars Trail Email: Huclinic43@gmail.com  
Billings, MT 59105

**Agent (s):** Lucas Hoaland Telephone: 406 794 4864  
**Address:** 1852 Three Bars Trail Email: Huclinic43@gmail.com  
Billings, MT 59105



# Sign -In Sheet

Zoning Change for 2204 Bench Blvd  
Billings, MT 59105

January 23, 2022 at 6:00pm

Name (Please Print)

Lucas Haaland  
Michael Haaland  
Dale Smith

Signature

Lucas Haaland  
Michael Haaland  
Dale Smith

January 23, 2022 6:00pm

Pre Application Meeting notes

Zoning change from NO to CMU1

The meeting is about a zone change of 2204 Bench Blvd from Neighborhood Office to Heavy Commercial.

Before the meeting and speaking with planners Erin Keith and The Chairman of the Heights Task Force Ming Cabrera, it became clear that a CMU1 was a better zone designation for 2204 Bench Blvd.

At the meeting Dale Smith said Heavy Commercial would bring heavy Large truck and trailer traffic to Bench which has residential zoning nearby. Now that there are two schools, Medicine Crow and Bitterroot School, there is a lot of children on the sidewalks going to and from school. Keeping large trucks away from this area would maintain a safer traffic flow for the children.

He also commented that he has no problem with a Dog Grooming and Doggie Day Care business at 2204 Bench Blvd.

It was agreed by all 3 people at the meeting, Dale Smith, Lucas Haaland and Michael Haland that a zoning of CMU1 is the best zone designation to continue a business at 2204 Bench for business and employment opportunities while maintaining the safety of children in keeping the business to drop-off traffic.

Dear Neighbor,

This letter concerns the property located at 2204 Bench Blvd, Billings MT 59105. Also legally known as HOLLING RANCH SUBD, LOT 8, FRAC W OF BENCH BLVD ( LESS 1569 SF ROW) .

The owners of this property, Michael and Lea Haaland are requesting a zone change from Neighborhood Office to Heavy Commercial. The zone change is to allow the property to be used for Dog Grooming and Doggie Day Care.

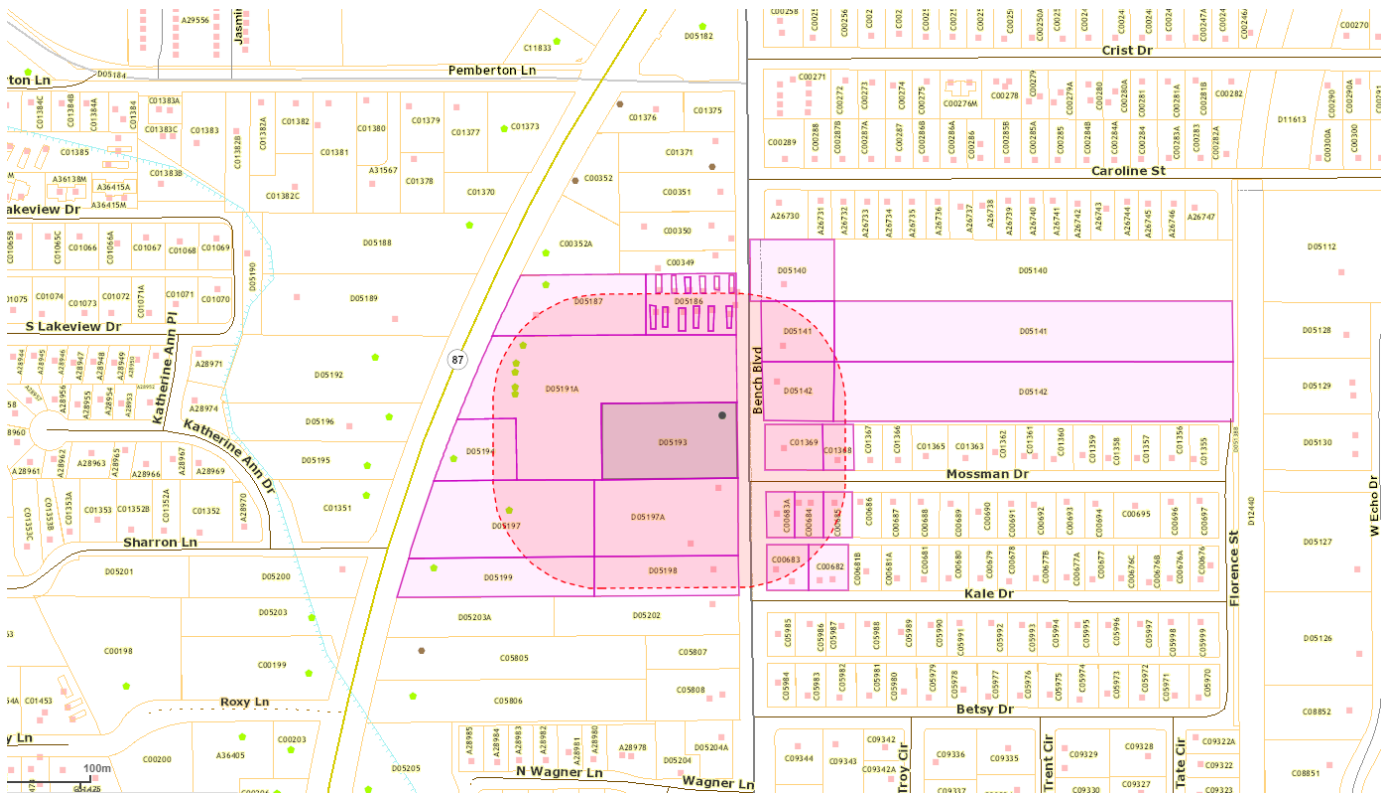
There will be a meeting at the property 2204 Bench Blvd Billings MT 59105 at 6:00pm on Sunday January 23, 2022. Feel free to come to voice any concerns.

You may also get in contact with us at:  
Michael and Lea Haaland  
2204 Bench Blvd  
Billings MT 59105  
(406) 259-0370  
Hvclinic43@gmail.com

Thank you,

Mike and Lea Haaland





ton Ln

Pemberton Ln

akeview Dr

S Lakeview Dr

Sharron Ln

y Ln

Roxy Ln

N Wagner Ln

Wagner Ln

Krist Dr

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**Keith, Erin**

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**From:** Doc Vet <hvclinic43@gmail.com>  
**Sent:** Wednesday, January 26, 2022 11:07 AM  
**To:** Keith, Erin  
**Subject:** [EXTERNAL] Fwd: presentation by Dr. Haaland zone change to Heights Task Force

----- Forwarded message -----

**From:** Pam Ellis <pamellis50@gmail.com>  
**Date:** Wed, Jan 26, 2022, 9:30 AM  
**Subject:** Re: presentation by Dr. Haaland zone change to Heights Task Force  
**To:** Ming Cabrera <mingformontana@gmail.com>  
**Cc:** Bartley, Robbin <bartleyr@ci.billings.mt.us>, Doc Vet <hvclinic43@gmail.com>, Steven Herron <seherron@yahoo.com>, Ed Arnold <seaboats1951@gmail.com>, Laura Drager <lauradrager@remax.net>

Thank you for the update.

On Wed, Jan 26, 2022 at 9:02 AM Ming Cabrera <mingformontana@gmail.com> wrote:

Dear City and County Planning Committee

On January 25, 2022 at the Billings Heights Task Force meeting, Dr. Haaland and son (Luke) discussed publicly their desire to be re-zoned at the business 2204 Bench Blvd from Neighborhood Office to Mixed Use Commercial zoning. A neighbor across the street agreed with this assessment rather than a zone previously submitted as Heavy Commercial zoning.

A vote was taken at the Heights Task Force to let the planning department know a public meeting was acknowledged and set forth this letter to agree to the Haaland planned development as stated above.

The notes were taken and recorded at the Height's Task Force meeting for further substantiation. I would like to thank Dr. Haaland and family for participation and cordial discussion to continue their need to restructure their business plan to accommodate a dog care salon and boarding.

Sincerely  
Ming Cabrera  
Chair Height's Task Force

ORDINANCE 22-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS,  
PROVIDING THE ZONE CLASSIFICATION ON Lot 8,  
Holling Ranch 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 8, Holling Ranch Subdivision,** is presently zoned **Neighborhood Office (NO)** 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 **Lot 8, Holling Ranch Subdivision,** is hereby changed from **Neighborhood Office (NO) to Corridor Mixed Use 1 (CMU1),** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining **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 28<sup>th</sup> day of March, 2022.

PASSED, ADOPTED and APPROVED on second reading this 11<sup>th</sup> day of April,  
2022

CITY OF BILLINGS

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

William A. Cole, Mayor

Attest:

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

Denise R. Bohlman, City Clerk  
Zone Change 1010, 2204 Bench Blvd

**City Council Regular**

**Date:** 03/28/2022  
**Title:** Joint Public Hearing and Resolution- Annexation 22-03  
**Presented by:** Monica Plecker  
**Department:** Planning & Community Services  
**Presentation:** Yes  
**Legal Review** Not Applicable

**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)**

WWC Engineering on behalf of Buffalo Crossing LLC submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located south of Grand Avenue and 60th Street West. The land being annexed is described as Being Tract 4-A of Amended Tract 4, Certificate of Survey 2735, recorded February 2, 2010, under Document No. 3539423; Also including all adjacent Right-Of-Way of Grand Avenue. Said annexation containing 33.812 gross and 33.187 net acres.

The property is zoned Rural Residential 3 (RR3). This is a zoning district not recognized by the City. The accompanying zoning application proposes to change the property to a Planned Neighborhood Development (PND), incorporating multiple zones and open space. The 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 1011 is an accompanying application that the Council will review. A joint public hearing to consider both the annexation and zone change will be held on March 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. The Developer will be required to extend an 18-inch sanitary sewer from the existing manhole located at the intersection of 60th Street West and Grand Avenue to the northwest corner of the Developer Tract. Further, the Developer is required to extend a 20-inch water main located at the intersection of 60th Street West and Grand Avenue to the northwest corner of the Developer Tract
- **Storm water:** Any development will be compliant with the adopted Stormwater Management Manual.
- **Transportation:** The subject property will be accessed from one proposed approach along Grand Avenue and a street connection to Stockman Avenue to the south. Stockman Avenue shall be constructed and extended across the entire width of subject parcel.
- **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 Station # 7, located at 1501 54th Street West, about 1 road

mile or 2 minutes driving time to the subject property.

- Parks: Public 1 (P1) zones are being created with the zone change, if subdivision occurs in the future, parkland dedication or cash-in-lieu will be required. The Developer will be required to construct a 10' wide trail along Grand Avenue
- 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: MET fixed-route buses do not currently serve the area; the closest routes are 5A/5B-Grand and 24 Poly, all traveling northbound and southbound on Shiloh Rd, approximately 2.3 miles to the east. MET does not foresee that fixed-route transit service will be available in the area in the near future; MET-Plus (ADA paratransit) service will continue to serve all areas within the Billings city limits as time and space allows.
- Police: There is adequate ingress/egress to this area and it is already close to an established patrol area so no issues in those areas. Despite recent passage of a Public Safety Mill Levy, continued development and annexation without adding commensurate resources will adversely affect ability to deliver service.
- 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 the criteria of the annexation policy has been met. Further, coordination with other departments does not raise concerns that cannot be mitigated. Therefore, City Council is being provided with a recommendation of approval.

## 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, conditionally 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 February 9, 2022, the annexation petition was submitted to the Planning Division by the owner's agent. On March 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.

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## 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 NE 1/4 of Section 5, T.1S., R.25E, P.M.M., and the SW 1/4 of Section 31, T.1N., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:

Being Tract 4-A of Amended Tract 4, Certificate of Survey 2735, recorded February 2, 2010, under Document No. 3539423;  
Also including all adjacent Right-Of-Way of Grand Avenue.

Said annexation containing 33.812 gross and 33.187 net acres, more or less.

(# 22-03) 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 March, 2022.

CITY OF BILLINGS:

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

William A. Cole, Mayor

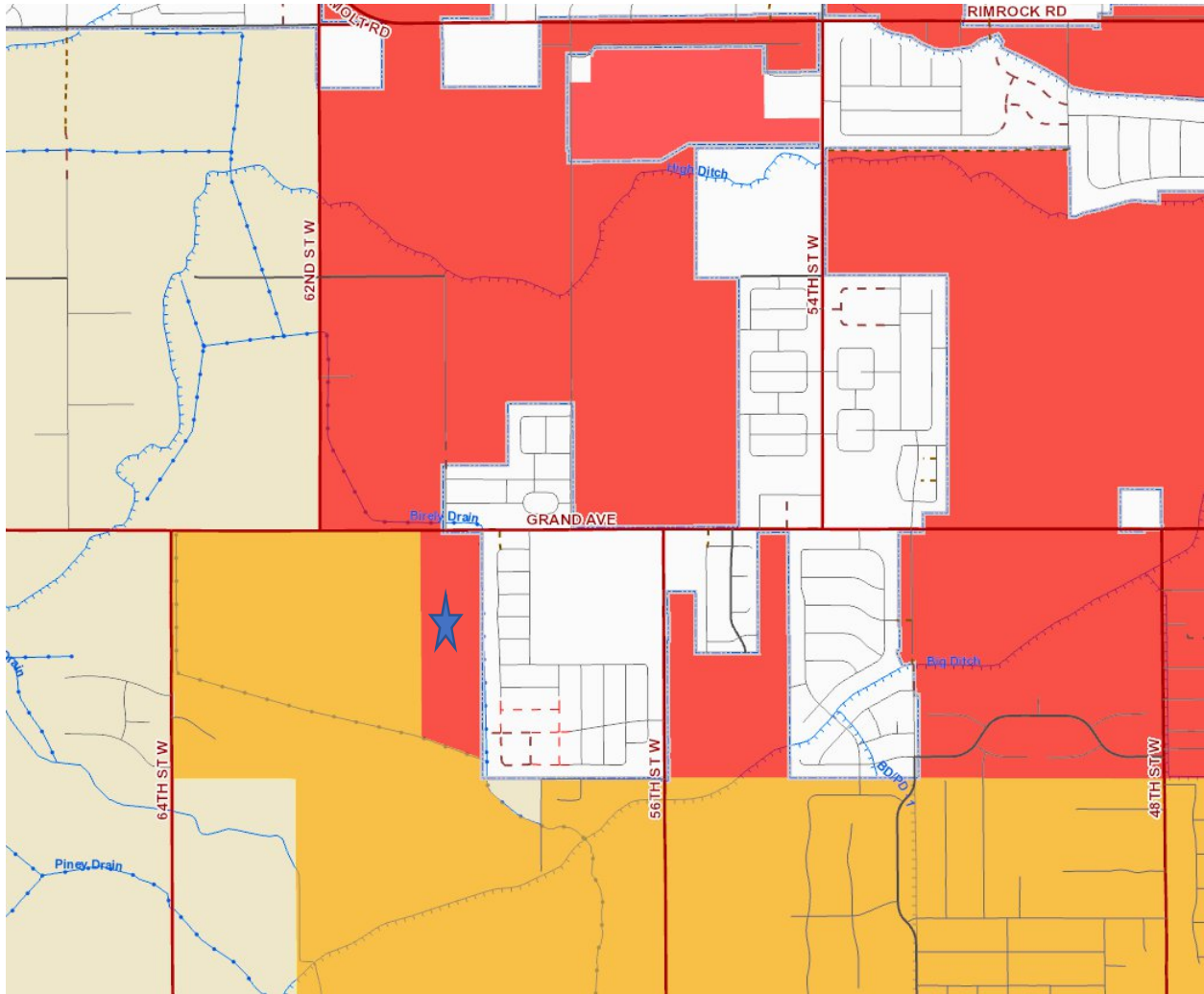
ATTEST:

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

Denise R. Bohlman, City Clerk  
(# 22-03)

# EXHIBIT "A"





Limits of Annexation Map

**City Council Regular**

**Date:** 03/28/2022  
**Title:** Zone Change 1011- 60th St West and Grand Avenue - Mixed Residential PND - From RR3 to N2, N3, NX2 and Public 1  
**Presented by:** Nicole Cromwell  
**Department:** Planning & Community Services  
**Presentation:** Yes  
**Legal Review** Not Applicable

**RECOMMENDATION**

Zoning Commission recommends approval and adoption of the findings of the 10 review criteria for Zone Change 1011.

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

This is a zone change request using the Planned Neighborhood Development zone change process for a proposed annexation of a 33.64 acre parcel located south of Grand Avenue and 60th St West. Trails West Subdivision is adjacent to the east and Foxtail Village Subdivision is north across Grand Avenue. The proposed Mixed Residential PND will include 5 acres of N2, 19 acres of N3, 3.6 acres of NX2 and about 5 acres of open space (P1). The PND regulations require either a Mixed Residential zone or commercial/mixed use zone for any arterial street frontage. This ensures the most efficient use of the valuable arterial street frontage.

The PND is a new zoning tool to help guide the coordination of annexation, subdivisions, and master planning for new city neighborhoods. The previous zoning code allowed urban-type zoning districts in both the city and the county. In many cases, developers were "pre-zoning" parcels in the county prior to annexation. The new PND process is allowing developers to process all the zoning with the City Council, phase the annexation of the property (if necessary), and coordinate both of these processes with subdivision or master site plan review. The new tool applies a level of certainty to all stakeholders, including the surrounding property owners.

This zone change is for a Mixed Residential PND process and includes mixed residential zoning (NX2), N2 and N3 zoned areas along with the minimum required Public 1 zoning of at least 2% of the net area.

**APPLICATION DATA**

**OWNER:** Buffalo Crossing LLC, Doug Wild  
**AGENT:** WWC Engineering, Aaron Redland and Greg Reid  
**LEGAL DESCRIPTION:** Tracts 4A of C/S 2735  
**CURRENT ZONING:** Rural residential 3 (RR3 - 3 to 9.9 acre lots)  
**EXISTING LAND USE:** Agriculture  
**PROPOSED USE:** Mixed Residential development with 1-2 family as well as multifamily residences  
**SIZE OF PARCEL:** 33.64 acres

**CONCURRENT APPLICATIONS:**

Petition for Annexation 22-03

**SURROUNDING ZONING AND LAND USE:**

**NORTH:** Zoning: N2 - Mid-Century Neighborhood and RR3  
 Land Use: Two-family dwellings and agricultural land  
**SOUTH:** Zoning: Agriculture (A)  
 Land Use: Agricultural  
**EAST:** Zoning: N3 - Suburban Neighborhood  
 Land Use: Medium density single family dwellings (6 to 8 dwellings per acre)  
**WEST:** Zoning: RR3  
 Land Use: Agricultural

This area of Billings has experienced a great deal of growth and development in the past decade. This includes one Planned Development zone (Mont Vista), a new subdivision using the PND process (Sweetgrass Creek), Trails West, Foxtail Village, Vintage Estates, Cottonwood Grove, a new middle school (Ben Steele Middle School), a new church on 54th St West, and several new commercial developments including the Den, Diamond X Brewery and an Albertson's grocery store/pharmacy under construction on the northeast corner of 54th St West and Grand Avenue.

There has also been a number of new County residential subdivisions including Fire Rock (64th St W), Black Rock (Central and 52nd St W), and Creekside Estates (62nd St W). Demand in this area north and west of Shiloh Road and Central Avenue continues to be higher than other areas of Billings.

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 multifamily products. Developers have made robust investments in multifamily dwelling choices in other areas of west Billings but primarily south of Central Avenue in areas around Broadwater Avenue, Monad Road and King Avenue West. There are a few townhomes in Grand Peaks (50th St W and Grand Ave), a few in Falcon Ridge (62nd St W north of Rimrock), and one newer apartment development at 41st St W and Avenue B.

There are challenges to an area of urban development that is on the edge of the city limits. These challenges include ensuring the adjacent county property owners and uses are acknowledged as much as possible in these transitional areas with the new urban neighborhood residents and uses. This is not meant to ensure similarity or homogenous development patterns between the city and county, but the development plan includes buffering, 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 Mixed Residential PND zoning process to achieve a broader mix of housing types. 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 January 22, 2022 at the subject property. Thirty-two persons attended the meeting including the applicants and agents, Doug Wild, for the applicant and Greg Reid and Aaron Redland for WWC Engineering. The required notification area for all new PND zone changes is 1/4-mile from the property boundary. In this case, 298 individual property owners and interested parties were notified of the pending zoning application. The summary of the meeting is included in the attachments.

In general, the questions from the surrounding owners included interest in connection to existing streets, traffic, dwelling unit designs and the potential for commercial development. Traffic conditions and impacts from the development will be required to be addressed via the annexation and subdivision agreement with the City. The annexation will precede the subdivision application so this property requires a Development Agreement for the annexation and a Subdivision Improvement Agreement (SIA) when the subdivision is finalized. Both documents cover similar issues such as traffic impacts and mitigation, construction of infrastructure and any waivers for future improvements that benefit the development. Zone changes, in no circumstance, can be approved with conditions, but annexations and subdivision are able to be conditionally approved.

Planning staff did receive one comment letter from the surrounding owners prior to Zoning Commission hearing. City staff and departments had no negative comments on the proposed annexation and zoning plan.

## **Zoning Commission Hearing**

The Zoning Commission held its hearing on March 1, 2022, and received the staff recommendation, testimony from the applicant and agent as well as testimony from interested parties including the following: Greg Reid, agent for Buffalo Crossing LLC, Doug Wild, the applicant, Brian Kurth of 5706 Central Ave, Don Lorenz of 1705 60th ST W, Adriaan Overbeeke of 1104 Blackberry Way and President of the Trails West Homeowners Association, Shirley McDermott of 5943 Foxtail Lane, Tracie Morgan of 1341 Blackberry Way, Rod Wilson, developer of Trails West Subdivision, Bruce Aafedt of 802 Bitterbrush, Laron Pluhar of 1720 60th St W, Chet Blotske of 1700 60th St W, and Steve Powell of 5935 Colton Blvd.

Mr. Reid stated WWC Engineering was representing the client on the zoning, annexation and subdivision applications to the city. He stated there was a lot of interest and attendance at the pre-application neighborhood meeting. He stated the overwhelming concern from the neighbors was the proposed mixed residential zoning on the Grand Avenue frontage. He stated while the mixed residential zoning is required along the arterial frontage the reason from continuing this zone along the east side of the property was to allow additional rear-loading garages off the required access easement driveway to the in-holding parcel. Mr. Reid stated the owner of this in-holding parcel has been approached by the owner of this parcel to purchase the property. This owner is not interested. This in-holding will be wholly surrounded by the city when this parcel is annexed. The developer will make contributions to the surrounding

intersection improvement funds collected by the city through the subdivision process. Mr. Reid stated the property will need to cross the Birely Drain in at least two locations to complete the street network planned between Grand Avenue and Central Avenue and to provide two full access points to this subdivision. He stated Northwestern Energy has non-residential transmission lines across the Grand Avenue frontage. These poles will be relocated further south adjacent to the new multi-use path to be installed. He stated the Public 1 (P1) zoning for the access paths on the north, east and south side of the property will be at least 50 feet in width. He stated these areas will be developed and maintained by the developer.

Mr. Wild stated he is the owner of the property and is excited to start this new project. He stated he has built many homes in West Billings over the past decade and has done entire subdivisions as well as individual homes. He stated the plan is to make most of the area similar to other subdivisions in the neighborhood and still comply with the city's new zoning code for mixed residential along the arterial frontage. He stated code also allows a developer to choose a commercial or mixed use zone for the arterial frontage but this would not fit with this location on Grand. He stated he is finishing up in some subdivisions close by and hopes to be building on this ground some time next year.

Mr. Kurth stated the subdivision needs to provide a connection to his land south of the Birely Drain. He stated the transportation map shows this connection. He stated that is also the only way water and sewer could be connected in the future.

Mr. Lorenz stated he agrees with the proposed neighborhood districts but not the mixed residential zoning on Grand Avenue. He stated there are no 8-plexes in the area and they would be out of place in this area. He stated the owner has not indicated whether these would be rented or sold to individuals. He stated any new traffic would impact a larger area than just Grand from 54th St W to 62nd St W. He stated he did not agree with the proposed size and purpose of the public zoning. He stated there would be a boatload of kids here with no place to play.

Mr. Overbeeke stated he was here representing over 200 homeowners from Trails West Subdivision. He stated there is a large concern with the proposed mixed residential zone on Grand Avenue and part way down the west side of the property. He stated this zoning is not compatible with their homes and the allowed height and density of the zone would be out of place here. He stated the public zoning along the east property line will not be a very nice open area because the ditch company will need to drive over this area continuously to maintain the drain. He stated the impact of denser housing on Trails West would be too great. He stated the traffic impact would be too much for Grand Avenue.

Mrs. McDermott stated she would be interested in knowing more about the relationship between Buffalo Crossing LLC and the Fort Belknap Tribe. She stated she looked up the corporation but could find very little information other than it was owned by the tribe. She stated she was an enrolled member of a tribe and is concerned that financing a large project like this could be precarious. She stated she has no concern with Mr. Wild as a builder but was concerned about the owner's ability to finance the development.

Ms. Morgan stated she is opposed to the mixed residential zoning. She stated 2-8 unit building 2-3 stories tall would be too out of character for the area. She stated she understands the city requirement for the frontage on Grand but the zoning does not need to continue down the east property line. She stated the Birely Drain between Trails West and this new development will not be a very nice open space area due to drain maintenance.

Mr. Wilson stated he is working on the last two filings of Trails West that will create about 60 final lots in the subdivision. The total subdivision will have about 290 lots. He stated he is the landowner and developer in Trails West. He stated he learned a long time ago that developers are not in charge of the land - the land is in control. He stated the stormwater cannot just be discharged to the drain. He stated this developer will have to do as they did and put in a lot of water quality infrastructure before any of the runoff can go into the drain. He stated Trails West has spent about \$500,000 dollars on stormwater treatment facilities. He stated there is another ditch running to the south that will need to be crossed. He stated the Trails West sewer system is a closed low-pressure system and this new development will not tie into this system. The new development will need the same sort of low-pressure system. He stated the mixed residential on the frontage is not what he believes is compatible with Trails West. He stated Grand is not just an arterial street it is a major arterial street. He stated he would be surprised if the city allows the private easement to have a separate drive approach off Grand so close to the new subdivision road. He stated the ditch company will have a lot to say about this development.

Mr. Aafedt stated he is opposed to the mixed residential zoning and believes the traffic impacts will be too much for the current condition of Grand Avenue.

Mr. Pluhar stated he was concerned mostly with public safety in this area especially fire protection. He stated there is only one fire station west of Shiloh Road and many homes to protect. He was concerned when multiple calls for fire service come in, how long other fire stations would take to respond. He stated he could easily see a similar situation

to the wildfire in Boulder Colorado happening in West Billings. He stated there are also a lot of other safety deficits in the area including animal control, police and traffic control. He stated people do not often stop at stop signs or observe the posted speed limits in this part of Billings and there is little traffic enforcement.

Mr. Blotske stated he moved out to West Billings about 1 1/2 years ago and has enjoyed the area. He stated allowing multifamily in the area is not a good idea, although he owns rental properties himself. He stated it does not belong in West Billings.

Mr. Powell stated the city should just deny the zoning proposed. He stated there should be no more subdivisions or building in West Billings until Grand Avenue is improved from Shiloh Road to at least 62nd St West.

Mr. Wild provided some response to the comments. He stated Buffalo Crossing and Classic Design Homes are subsidiaries of Island Mountain Development which is part of the Fort Belknap Tribe. He stated Classic Design Homes was purchased about two years ago and he is the general manager. He stated there should be no financial concerns with the development since the city requires bonding and surety whenever a new subdivision is started. He stated the company is interested in giving back to the community and did a St. Jude home last year and works to build better communities. He stated he lives not far from this development and understands the concerns of the neighbors. He stated the mixed residential zone and the units he intends to build here will be unit owned. He stated his intention is to build the same sort of multifamily condos as are in Grand Peaks at 52nd St W and Grand Avenue. He stated these would not be apartment buildings and each unit would be owned. He stated this subdivision will be about 1/2 the size of Trails West. He stated they will be doing a variety of housing choices for sale. He stated whether owners live in their dwellings is not something zoning controls.

Mr. Reid stated the subdivision absolutely will connect to Mr. Kurth's property and the owner recognizes and is planning for all the stormwater infrastructure and for proper design of the drainage systems. He stated he is aware of the low pressure sewer system requirement and the system will be similar to Trails West. He stated Mr. Wild has done a lot of building in the area including Legacy Subdivision.

Vice Chair Greg McCall closed the public hearing. He reminded the attendees the Zoning Commission is not approving a subdivision so the complex details of stormwater treatment, sewer, water, trails, street connections, traffic and street improvements are not within the scope of a zoning change. He stated all of this information helps inform the process but the zoning itself is not a final development plan. The subdivision plan will be reviewed by the Planning Board and conditions of approval will be considered at that hearing and recommendations sent to the City Council. These conditions will address all the actual impacts of the subdivision plan. He stated he shares the neighbors concerns about public safety and traffic management.

Commission member Dan Brooks made a motion to recommend approval and adoption of the findings of the 10 review criteria. The motion was seconded by Commission member David Goss. Mr. Goss stated he shares the neighbors concerns about Grand Avenue as he also lives nearby. He stated the road needs extreme attention from both the City and County. He stated years ago he also served in Billings city government and attempted to keep the city and county working together to solve similar issues. He stated this is not always an easy task. He stated the city should step up on the Grand Avenue situation and try to bring the county along in these discussions about road improvements. Mr. Goss stated the Zoning Commission must react and make a recommendation on this application. Mr. Brooks stated he was encouraged the owners is working with the ditch company and likes the flexibility demonstrated in the design. Mr. McCall stated a modest increase in density can bring about a more sustainable tax base for the city. He stated these types of small to medium size multi-unit dwellings were all but abandoned in the 1960s. This deficit in housing choice is known as the "missing middle". He stated he agrees the 4-unit dwellings in Grand Peaks are a good example of this missing middle housing choice. He stated the mixed residential zoning allows this missing piece to be built again in Billings.

The Commission voted 3 in favor, none opposed, and Commission member Trina White abstained due to a conflict of interest.

## ALTERNATIVES

The City Council may:

- Approve the zone change and adoption of the recommended findings of the ten review criteria for Zone Change 1011; or,
- Deny the zone change and adopt different findings of the ten review criteria for Zone Change 1011; 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 Zoning Commission recommended findings of the ten review criteria:

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

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy 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 Mixed Residential PND process for the Buffalo Crossing property is consistent with the following adopted Policies of Planned Growth Goal 1: Establish Development Patterns that Use Land More Efficiently

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 mixed-residential environment. The proposed development will also have good access to outdoor activities and is in proximity to developing commercial activity and transportation options.

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

The proposed layout for the Buffalo Crossing property will allow the mixed residential housing to be located adjacent to the arterial street frontage to make the most effective use of this valuable street frontage. The N2 and N3 zone districts are further south and will be compatible with the adjacent city and county land uses. The layout of the linear parkland across the Grand Avenue frontage, south along the easterly property line and across the south property line will provide benefits both for recreation (walking, biking access) and for maintenance of agricultural infrastructure for irrigation and drainage. The Birely Drain runs north to south along the eastern property line, and another leg of the drain runs west to east across the southern property line. An unnamed drain runs along the southern 700 feet of the west property line. This drain joins with the Birely Drain on the south property line. There is active agriculture in the surrounding area so maintaining the integrity of these drains is important even in a new city subdivision.

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 assembly and street layout 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 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.

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

**Transportation:** The applicant has started the process of developing a traffic impact study and will coordinate with the City Engineering Division. Grand Avenue is a checkerboard of jurisdiction between the city and county west of Shiloh Road. The West Billings Multi-Modal Traffic Planning Study identified the Grand Avenue corridor for street improvements to increase safety. This study indicated the corridor improvements from Shiloh to 52nd St West would be between 2.8 and 4.5 million dollars (2016). The city and county have not yet agreed to begin design for the corridor improvements. Individual intersection improvements - the traffic signal at 54th St W and Grand Avenue for example - have been completed. Two other intersections were identified for improvements in the study - 48th St West and Grand Avenue and 56th St West and Grand Avenue. These intersection improvements were separate from the corridor improvements. Each intersection was estimated to cost between one-half million and 1.5 million dollars. The city has been collecting intersection and corridor improvement payments from developments in this area for over a decade. These funds are set aside to fund these improvements in the future. For example, the traffic signal at Grand Ave and 54th St West was funded by these set-aside dollars provided by adjacent developments. The traffic study for this development 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.

**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 affected 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. Pedestrian connections will be ensured through the development. There is a partially completed multi-use trail east of the subject property on Grand Avenue that is expected to continue along the corridor. Traffic counts in the area on Grand Ave are well below the expected volume on a principal arterial street. Although counts on Grand Avenue average less 6,000 vehicle trips per day, the twice daily pulse of traffic at Ben Steel Middle School is not included in the "average" traffic volume. Ben Steele school opened in the fall of 2017 and has a current student population of 815. As noted above, the West Billings Multi-Modal Planning study from 2016 identified the Grand Avenue Corridor and two intersections in need of improvements for traffic safety in the short term project list. Additional development along this corridor will increase the need for these recommended improvements.

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 Grand Avenue and Rimrock Road, from Shiloh Road to 64th St West is undergoing rapid urban development and growth. Demand for new housing choices including townhomes and apartments is increasing. Providing a wide range of housing choices is suitable for this area.

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?

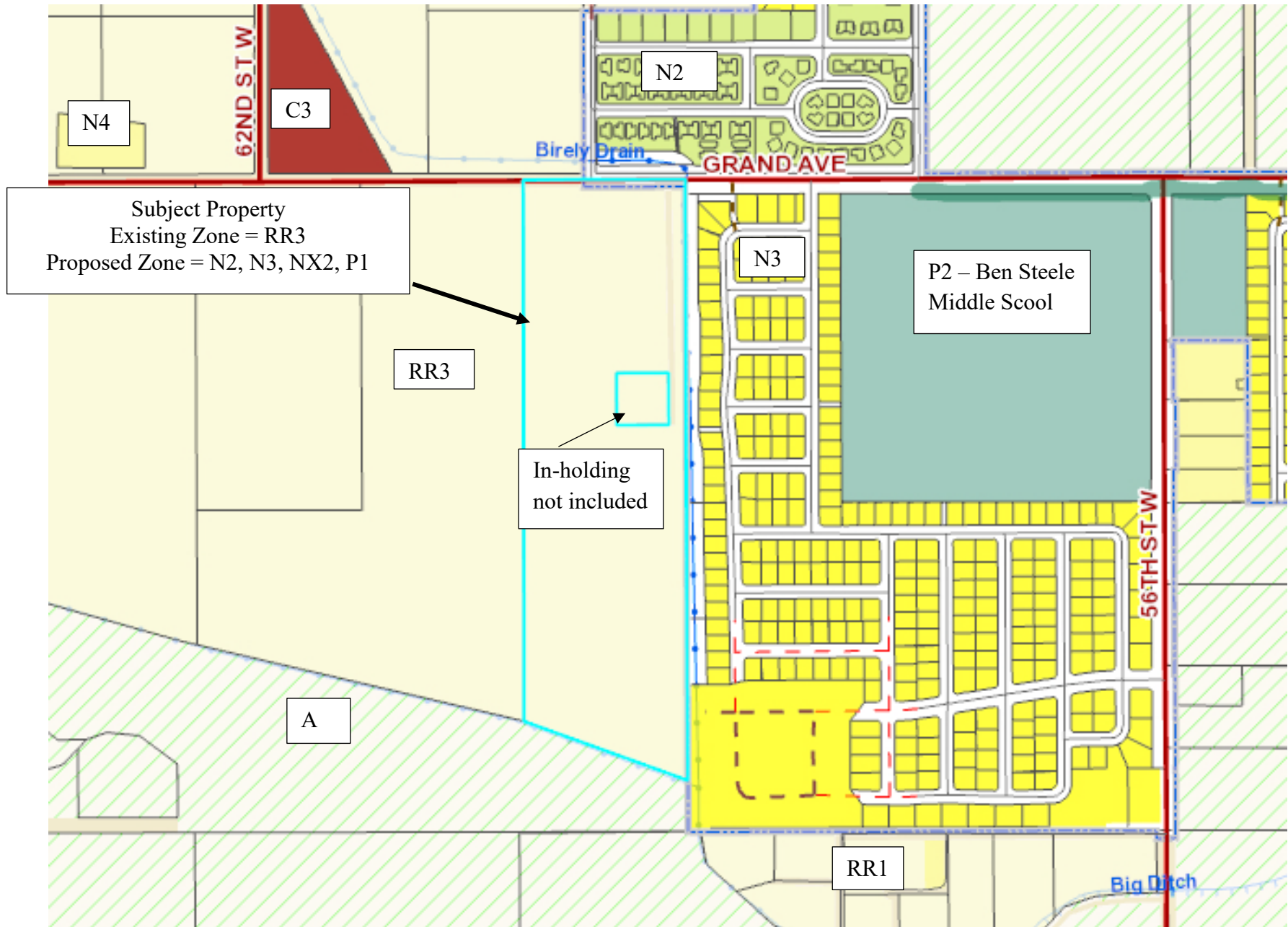
The proposed Mixed Residential PND zone change process with N2, N3, NX2, and Public 1 zoning will encourage the most appropriate use of this land in Billings.

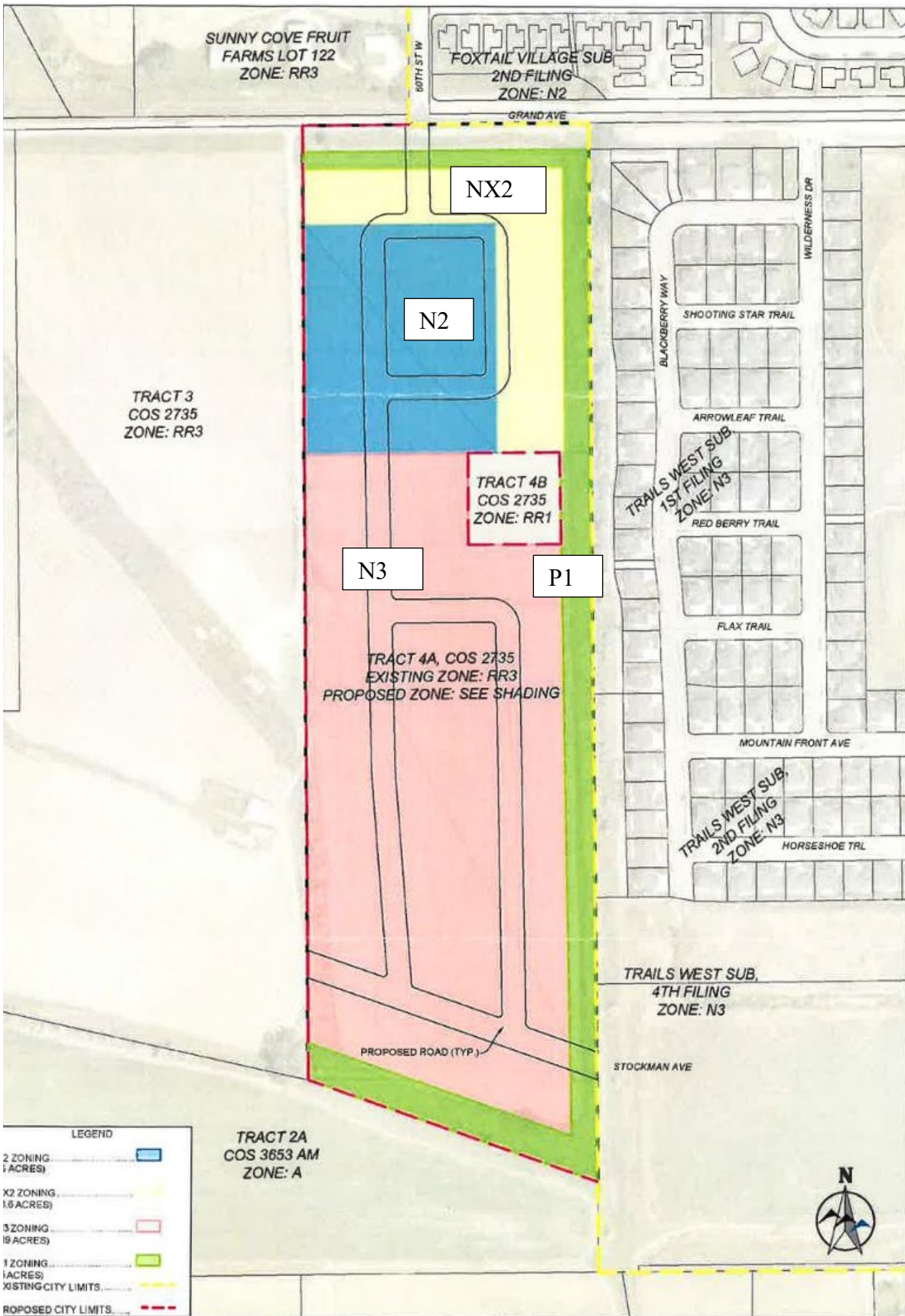
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## Attachments

Zoning Map and Site Photos  
Application and Letter  
Pre application meeting notes  
West End Multi Modal Traffic Study  
Zoning History  
Public Comment  
Ordinance ZC 1011

City Zone Change 1011 – Buffalo Crossing LLC  
Zoning Map and Site Photos





TRACT 3  
COS 2735  
ZONE: RR3

SUNNY COVE FRUIT  
FARMS LOT 122  
ZONE: RR3

FOXTAIL VILLAGE SUB  
2ND FILING  
ZONE: N2

NX2

N2

TRACT 4B  
COS 2735  
ZONE: RR1

N3

P1

TRACT 4A, COS 2735  
EXISTING ZONE: RR3  
PROPOSED ZONE: SEE SHADING

TRAILS WEST SUB  
1ST FILING  
ZONE: N3

TRAILS WEST SUB  
2ND FILING  
ZONE: N3

TRAILS WEST SUB,  
4TH FILING  
ZONE: N3

TRACT 2A  
COS 3653 AM  
ZONE: A

**LEGEND**

|                          |  |
|--------------------------|--|
| 2 ZONING<br>(1 ACRES)    |  |
| X2 ZONING<br>(1.5 ACRES) |  |
| 3 ZONING<br>(9 ACRES)    |  |
| 1 ZONING<br>(1 ACRES)    |  |
| EXISTING CITY LIMITS     |  |
| PROPOSED CITY LIMITS     |  |



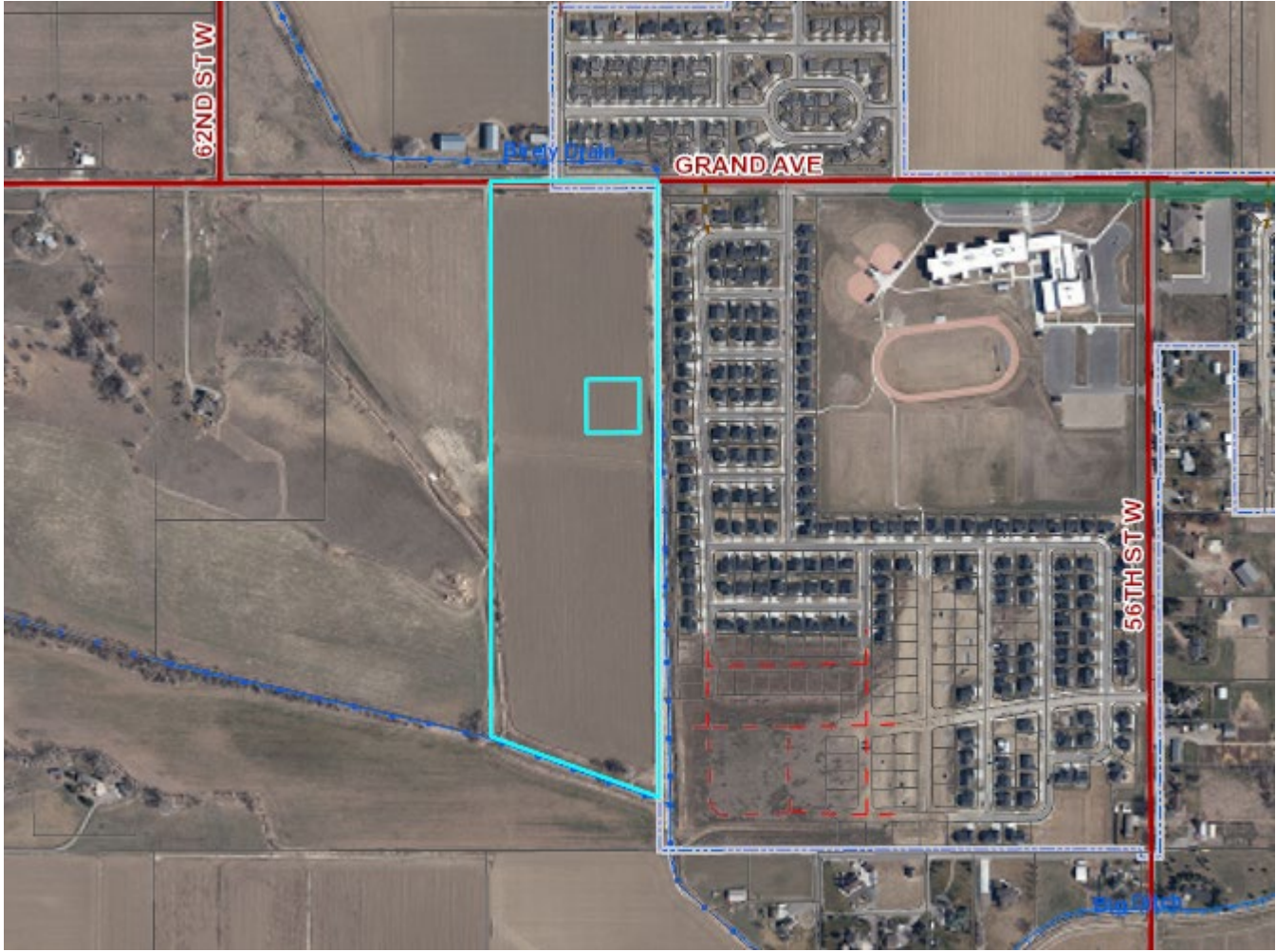
DESIGNED BY: EAC  
DRAWN BY: JAC  
CHECKED BY: JAC  
DATE: 07/20/2022  
SHEET 07

ISLAND MOUNTAIN DEVELOPMENT  
COS 2735 TRACT 4-A  
**PROPOSED ZONING**  
YELLOWSTONE COUNTY, MT

PREPARED BY  
**WWC** ENGINEERING  
660 S. 24TH ST., W. SUITE 201  
BILLINGS, MT 59102  
(406) 264-2213  
www.wwcengineering.com

| NO. | REVISION | BY | DATE |
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|     |          |    |      |

PROJECT NO. 2021577







View south and east across Grand Avenue





View east on Grand Avenue



# APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # 1011 - Project # P2x22 - 00032

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 Rural Residential (RR-3)

Proposed Zoning: Mixed Residential Planned Neighborhood Developement (MR-PND)

TAX ID# D11914A CITY ELECTION WARD N/A

Legal Description of Property: Tract 4 of Certificate of Survey No. 2735

Address or General Location (If unknown, contact City Engineering): 60th Street W/Grand Ave

Size of Parcel (Area & Dimensions): Tract 4 = 33.64 acres

Present Land-Use: Vacant

Proposed Land-Use: residential subdivision development

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): Buffalo Crossing, LLC

(Recorded Owner) 353 Old Hays Road, Hays, MT 59527

(Address) 406-670-2242 doug.wild@cdhmontana.com

(Phone Number) (email)

Agent(s): WWC Engineering - Aaron Redland

(Name) 550 S. 24th Street W, Billings, MT 59102

(Address) 406-894-2210 aredland@wwcengineering.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:  Date: 01/28/2022

(Recorded Owner) Representative for Buffalo Crossing, LLC



**(1) Whether the new zoning is designed in accordance with the growth policy;**

The 2016 City of Billings Growth Policy, states that growth will be managed by "encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development." The proposed zone change would provide additional tax revenue to the city and provide an expansion of city services onto the adjacent infill lot that is bordering existing residential development.

**(2) Whether the new zoning is designed to secure from fire and other dangers;**

The change of Rural Residential (RR-3) to Mix Residential-Planned Neighborhood Development (MR-PND) that will include a mix of N-2, N-3, and NX-2 zoning would not create any dangers within the neighborhood. With the zone change, the developer intends to develop residential properties. There are existing fire hydrants located at the intersection of 60<sup>th</sup> Street West and Grand Avenue, and Wilderness Drive and Grand Avenue, therefore there are no anticipated dangers of fire protection with the development. Further, development of the property as MR-PND City Development in lieu of RR-3 County development will include additional fire hydrants for protection of residences in the area.

**(3) Whether the new zoning will promote public health, public safety and general welfare;**

The proposed zone change from RR-3 to MR-PND would allow for the developer to expand existing residential development within the area. The developer will be required to improve existing infrastructure adjacent to the property and install new infrastructure within the development such as water, sewer, and stormwater retention. These extensions will allow additional properties to the west to be developable properties within the City of Billings. The required improvements within the development will include curb/gutter, sidewalk, and improvements on Grand Avenue along the subject property. When new roads are installed within the development, they will be required to meet the City of Billings standards for curb/gutter, boulevard, sidewalk, and roads. The expansion will improve the property value in the neighborhood and eliminate vacant property within the city limits.

**(4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;**

The proposed zone change from RR-3 to MR-PND will positively impact transportation surrounding the property. The development will require improvements on the southerly portion of Grand Avenue along the developer's property which will include curb/gutter and sidewalk.

The City of Billings will be providing the water service. With an existing main along Grand Avenue, there is an immediate access to water service for the development. The property may also be served by the gravity sanitary main within Grand Avenue, as far as practical while maintaining burial depths on the sanitary main. The southerly half of the proposed development is anticipated to be designed with a low pressure sanitary sewer system connecting to a manhole located in the northly half of the development .

Since the development will be residential, the neighborhood schools and parks may be impacted by this zone change. This will depend on the types of individuals that purchase property within the development.

**(5) Whether the new zoning will provide adequate light and air;**

RR-3 development and N-2, N-3, and NX-2 development are all to be residential development, with the exception that N-2, N-3, and NX-2 development are in the City and would require an area for stormwater to be ponded as open space. As such, the city developments would be expected to have an increase of structures with open space maintained resulting an increase in the impacts to light and air.

**(6) Whether the new zoning will effect motorized and nonmotorized transportation;**

The proposed zoning will not have a negative effect on motorized and nonmotorized transportation. The motorized transportation will be entering the property from either Grand Avenue or from Stockman Avenue with the new development. As part of the subdivision development requirements, the southerly portion of Grand Avenue along the subject property will need to be widened with installation of new curb/gutter and sidewalk based on the City of Billings standards. Those improvements will allow nonmotorized transportation to travel safely outside the property.

**(7) Whether the new zoning will promote compatible urban growth;**

The proposed zoning will allow the developer to expand the residential development within the area. The development will be required to satisfy the City of Billings regulations for residential development on the street, sidewalks, water, sewer, and stormwater. The residential expansion is on vacant property immediately adjacent to a City of Billings residential neighborhood. Development of this property minimally expands City services while significantly expanding the city limits. Additionally, the required property improvements such as improvements for stormwater, Stockman Avenue as a collector roadway, and pedestrian pathways, will increase the value of property within that area.

**(8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;**

The character of the district surrounding the subject property, is a mix of residential and agricultural. The proposed zone change from RR-3 to MR-PND would allow the property to stay consistent with the adjacent development to the east which is also zoned for N-3 and the development to the north is zoned N-2. For completion of the residential development, the developer will be required to comply with the requirements for residential development such as (but not limited to) infrastructure improvements.

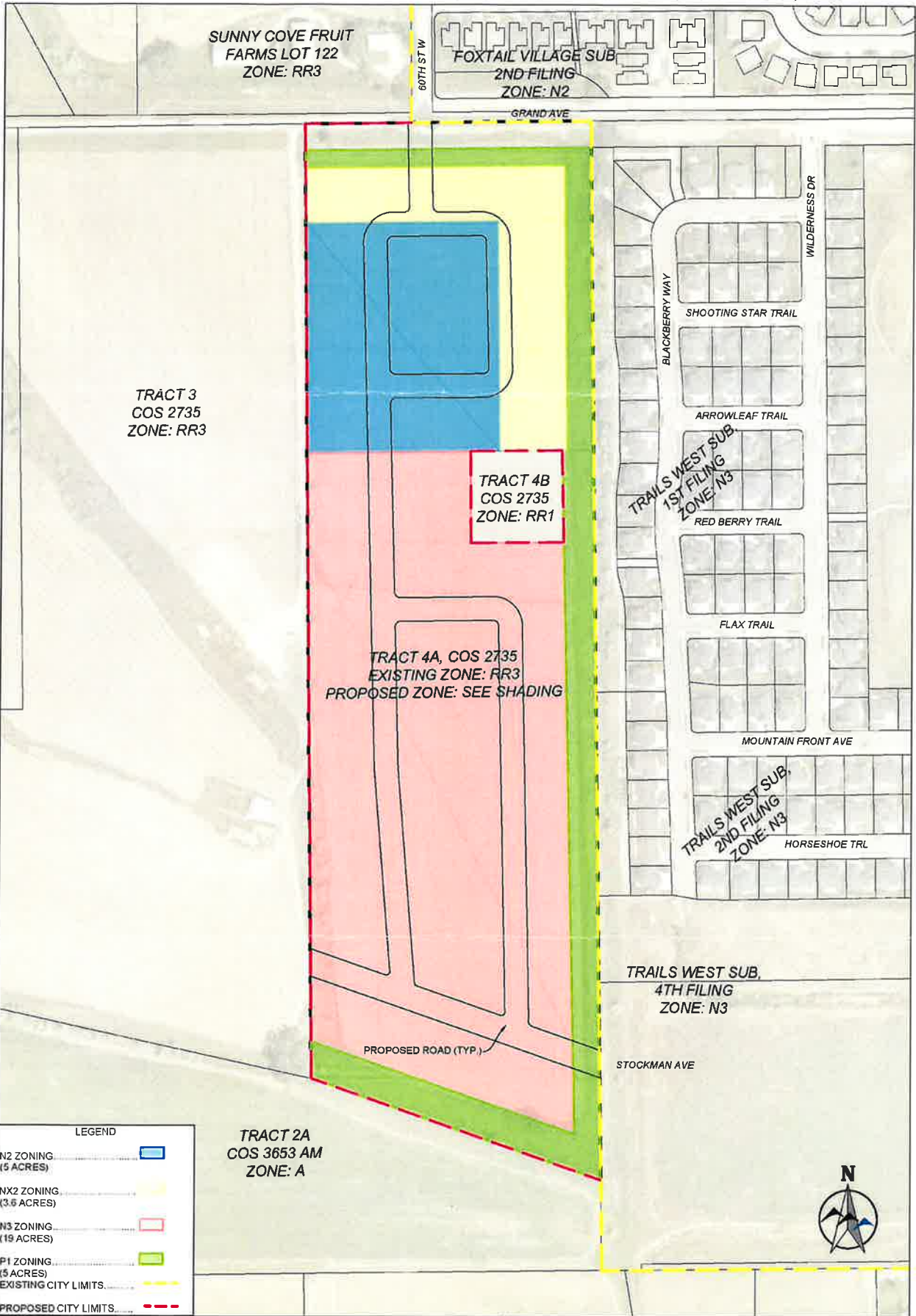
**(9) Whether the new zoning will conserve the value of buildings; and**

Immediately adjacent to the proposed development is an existing N-2 and N-3 development, Foxtail Village Subdivision and Trails West Subdivision, respectfully. As such, this development would not be changing the type of residential development that exists within the neighborhood. Further, the vacant property will be developed by changing the zoning to allow the extension of residential development, which will remove vacant property from the area and improve it to City of Billings standards with a widened roadway and sidewalks in the public right-of-way adjacent to the property.

**(10) Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.**

Given the demand of residential development within Billings, this proposed zone would allow the developer to provide additional residential property. The development of residential property would generate a return on investment for the City of Billings due to the minimal extension of services to the property. The property is located adjacent to an arterial street and is in an area of significant other residential expansion of the City of Billings. Continued growth of this area as residential property increases the return on investment of the City for all improvements previously done in Grand Avenue (intersection improvements, water/sewer/storm utilities, and roadway improvements). Further, the property is located immediately adjacent to several legs of the Birely Drain, which is the prominent storm drainage facility within the West End of Billings.

The current zoning, (RR-3), of the subject properties is a county zoning district. The developer has also submitted the petition for annexation to the City of Billings and the proposed zone, MR-PND, will be an extension of the current zoning north and east of the subject property including the required NX-2 zoning.



DESIGNED BY: SMC  
DRAWN BY: SMC  
CHECKED BY: JAM  
DATE: 07/27/2022

**PZ**  
SHEET

ISLAND MOUNTAIN DEVELOPMENT  
**COS 2735 TRACT 4-A**  
**PROPOSED ZONING**  
YELLOWSTONE COUNTY, MT

PREPARED BY  
**WWC ENGINEERING**  
650 S. 24TH ST. W. SUITE 201  
BILLINGS, MT 59102  
(406) 804-2210  
www.wwcengineering.com

| NO. | REVISION | BY | DATE |
|-----|----------|----|------|
|     |          |    |      |

PROJECT NO. 2021577

Pre-Application Neighborhood Zone Change Meeting - Buffalo Crossing LLC  
January 22, 2022 at 10:00 am

|    | Name                                   | Address                       | Phone no.    |
|----|----------------------------------------|-------------------------------|--------------|
| 1  | B HAFEDT                               | 802 Bitterbrush               | 868-4277     |
| 2  | Jenny & Jerry<br>Ceri Robinson         | 801 Bitterbrush St            | 406-240-4200 |
| 3  | Ann Palmer                             | 5727 Horseshoe                | 406-698-0915 |
| 4  | Larry Palmer                           | " "                           |              |
| 5  | Dan Sloan                              | 1805 60th Str. west           | 406-839-6289 |
| 6  | Dobbie Pezoldt                         | 931 Ninebark St               | 406-451-4668 |
| 7  | Doug Pezoldt                           | "                             | "            |
| 8  | Howard Holz                            | 1120 Blackberry Way           | 406-534-4340 |
| 9  | Philip & Lauren Swain                  | 938 Blackberry Way            | 832 928 0501 |
| 10 | George Jarovich                        | 3647 Donna Drive              | 406-652-1121 |
| 11 | Troy & Taylor Schlehober               | 804 Grouseberry St.           | 406-694-2698 |
| 12 | Tony Golden For M: School A.<br>P: MHA | 1008 Phil. Circle Lorelei, MT | 406-360-6364 |
| 13 | Carolyn Pluhar                         | 922 N Fork TFI Bluffs         | 406-670-4414 |
| 14 | Larry & Doreen                         | 2946 Foxtail Loop W           | 406 698-2557 |
| 15 | Nicki Soekwall                         | 5940 Foxtail Loop W           | 405-622-5732 |

Pre-Application Neighborhood Zone Change Meeting - Buffalo Crossing LLC  
January 22, 2022 at 10:00 am

|    | Name               | Address                                | Phone no.      |
|----|--------------------|----------------------------------------|----------------|
| 16 | LARON PLUHAR       | 1720 60TH ST W                         | (406) 860-1956 |
| 17 | Shirley Mohr       | 5726 Horseshoe Tr                      | 406 939-0082   |
| 18 | CHARLES MOHR       | 5726 Horseshoe Tr                      | 406 939-0082   |
| 19 | Chet Blotske       | 1700 60th St. W                        | 406-694-3065   |
| 20 | Brad Wilson        | 422 SHAMROCK LANE Business Mt<br>59102 | 406-855-4755   |
| 21 | TRACEY MORGAN      | 1341 BLACKBERRY WAY                    | (406) 697-2077 |
| 22 | DON LOHRENTZ       | 1705 60th ST W                         | 406-698-6633   |
| 23 | CHRISTOPHER FADLEY | 1202 Blackberry way                    | 406 671-2618   |
| 24 | S. McDermit        | 5747 Foxtail Lane                      | 406-702-1772   |
| 25 | K. Wyrcas          | 5824 Mountain Front Ave                | 406-861-2453   |
| 26 | MIKE WYRCAS        | 5824 Mountain Front Ave                | 406 855-8856   |
| 27 | Troy Kelly         | 5823 Flax Tail                         | 206-755-9991   |
| 28 | Chad Kiernan       | 1126 Blackberry way                    | 406-927-8367   |
| 29 |                    |                                        |                |
| 30 |                    |                                        |                |

## 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:** RR-3, Rural Residential \_\_\_\_\_
2. **Written description of the Zone Change Plan** including existing and proposed new zoning:

The existing zoning is Rural Residential (RR-3) and the proposed zoning for the property is Mixed Residential Planned Neighborhood Development (MR-PND with NX-2, N-2, and N-3.

3. **Subject Property Map:** See attached
4. **Legal Description of Property:** Tract 4A of Certificate of Survey No. 2735,
5. **Neighborhood Task Force Area:**  Yes  No . If Yes, Name of Task Force and mailing address of Chairperson: Howard Holz  
billingswetf@gmail.com \_\_\_\_\_
6. **Roster of persons who attended the pre-application neighborhood meeting:** See attached
7. **A copy of the meeting notice.** See attached
8. **A brief synopsis of the meeting results including any written minutes or audio recording.**  
See attached
9. **The undersigned affirm the following:**
  - 1) The pre-application neighborhood meeting was held on the 22nd day of January, 2022.
  - 2) The zone change application is based on materials presented at the meeting.

**Owner (s):** Buffalo Crossing, LLC Telephone: 406-670-2242  
Address: 353 Old Hays Road, Hays, MT 59527 Email: doug.wild@cdhmontana.com

**Agent (s):** WWC Engineering Telephone: 406-894-2210  
Address: 550 S. 24th Street W, Billings, MT 59102 Email: aredland@wwcengineering.com

## Buffalo Crossing LLC Zone Change Pre-Application Neighborhood Meeting Minutes

January 22<sup>nd</sup>, 2022 at 10:00 am

### Attendance:

Greg Reid – WWC Engineering

Aaron Redland – WWC Engineering

Doug Wild – Owner's Representative

See attached sign-in sheet and emails received

The meeting was opened by WWC Engineering (WWC) giving a description of the current zoning and the proposed zoning. WWC also explained the zone change process along with the Zoning and Council meetings that are required for the zone change to be completed. Doug provided information on the future development plan of the property.

The area residents were then asked to provide comments or concerns regarding the zone change. The following list summarizes the comments received. Additional comments unrelated to zoning of the property were made and those were not included within the list below, such as asking how sanitary sewer would be provided to lots within the subdivision.

- Is the development anticipated to provide connection to Stockman Avenue?
  - Yes.
- What improvements will be made to the roads for increased vehicle and pedestrian traffic?
  - The roads will be designed and constructed according to the current Subdivision Regulations and City of Billings Public Works Standards.
- What building standards will be implemented with potential groundwater?
  - That will be determined by foundation design as part of building permits.
- How many multi-family units will be constructed?
  - That will be determined when we progress into the engineering design of the subdivision.
- Is the NX zoning required to be located adjacent to Birely Drain as well?
  - No, but it is preferred as the existing access easement is along the drain could serve a dual purpose.
- Is the N2 zoning required as part of the PND?
  - Per the current City of Billings Zoning Code, "One NX-category zone district is required, and one N-category zone is required in the MR-PND. The owner has selected to use N-2 and N-3.
- Why are the garages on the multi-family units facing the rear of the property?
  - Per the current City of Billings Zoning Code, garage location and entrance is required on the rear half of the building within NX-2 zoning.
- Who are the entities of Buffalo Crossing LLC?
  - They are a branch of Island Mountain Development Group.
- How will the Birely Drain affect setbacks with the access easement on the property?

- The access easement to the 1-acre parcel is separate from Birely Drain easement. The Birely Drain has been contacted and we are aware of their access needs.
- Is the separate one-acre parcel included within the zone change/annexation?
  - No.
- How can we be certain that this does not turn out similar to the Den situation?
  - The owner is requesting for a residential zone change, not a commercial.
- There were general statements about this development de-valuing the adjacent properties and subdivisions.

# EXECUTIVE SUMMARY

The West End Multi-Model Planning Study is the result of a collaborative effort between the Billings-Yellowstone County Metropolitan Planning Organization (MPO), the City of Billings, Yellowstone County and the consultant Project Team (Sanderson Stewart and Fehr & Peers). The purpose statement for the study is as follows:

To evaluate the cumulative effect of ongoing and projected future land development and population growth on the multi-modal transportation system for the area of Billings west of Shiloh Road

This document provides guidance in terms of cost and prioritization for multi-modal transportation system projects in the study area based on a pair of land development projection scenarios for the 20-year period leading up to the study Horizon Year of 2035.

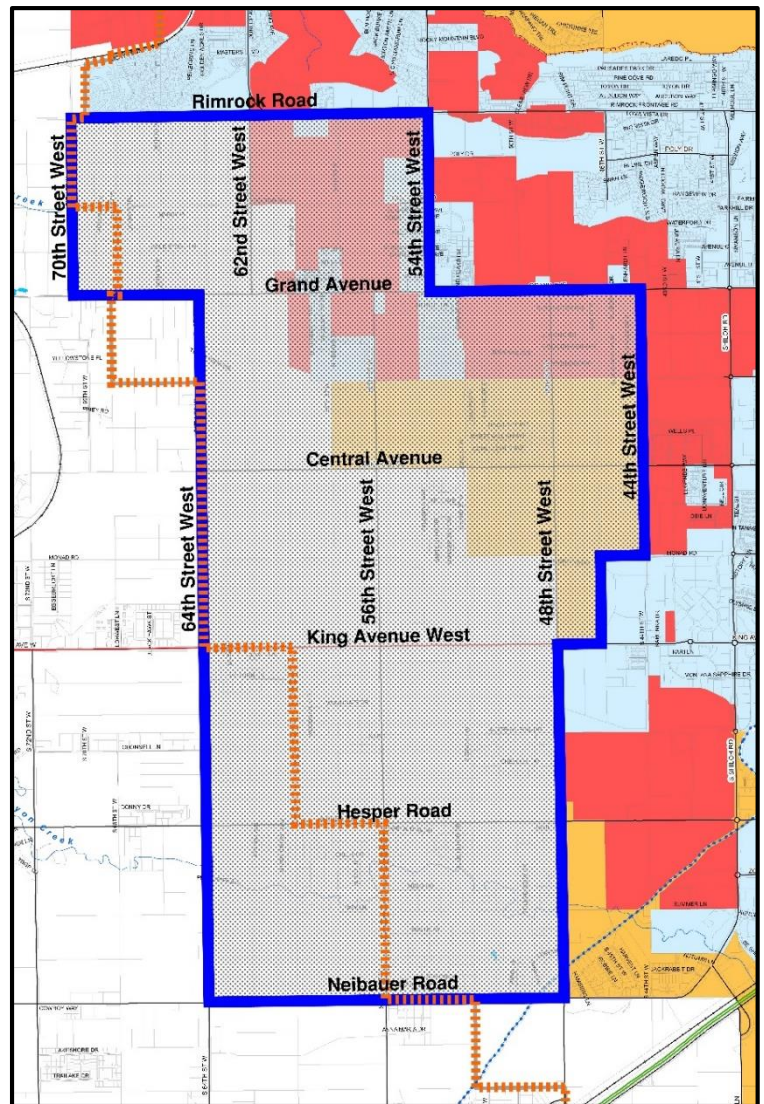
## Study Area

The study area for the West End Multi-Modal Planning Study is depicted at right in **Figure ES1**. The areas shown in light blue are in the City of Billings, while all other areas have not yet been annexed. The areas shaded in red have been identified for potential annexation by 2018, while the areas in yellow-orange have been identified for potential longer-term annexation. The orange dotted line represents the MPO planning jurisdictional boundary.

## Methodology

The Project Team inventoried existing multi-modal transportation system features within the study area, collected traffic counts and crash history data and performed a comprehensive analysis of existing conditions to utilize as a baseline for the study. In addition to evaluating operations and safety for vehicular travel, the team evaluated conditions for the bicycle and pedestrian environment using latent demand and level of traffic stress (LTS) metrics.

Two (2) Horizon Year (2035) land development projection scenarios were calculated; one that approximated a continuation of recent historical development in the area, including a mixture of City and County subdivisions; and a second scenario that projected more aggressive annexation of study area property, thereby resulting in denser development and growth.



**FIGURE ES1. STUDY AREA**

The parameters for the two growth scenarios were provided to the Montana Department of Transportation (MDT) for analysis in the Transcad transportation model for Yellowstone County. MDT returned link-specific average daily traffic (ADT) volume projections for both scenarios to be utilized for the Horizon Year (2035) analyses.

The Project Team analyzed future multi-modal operations for both of the growth scenarios. Based on the results of those efforts and the crash history analysis for the study area, the team developed a series of prioritized short-term and long-term project recommendations with high-level approximate construction cost ranges estimates.

## Analysis Results

### Existing Conditions

For the Existing Conditions (2015) scenario, all of the study area intersections and street corridor segments were found to operate at acceptable levels of service (LOS) during all periods of a typical day. However, an evaluation of crash history for study area intersections for the 5-year period from 2010-2014 revealed that there are seven (7) intersections with crash rates higher than 1.0 crashes/million vehicles entering (MVE), which is a threshold number that MDT uses to determine when an intersection may be of concern. The following three (3) of those intersections exhibited crash rates greater than 1.50 crashes/MVE:

- Rimrock Road & 62nd Street West
- Neibauer Road & 48th Street West
- Neibauer Road & 56th Street West

There were no fatalities reported as a result of any of the crashes during the 5-year analysis period. However, crash severity, which takes into account how many injuries and/or fatalities have occurred as a result of a sample of crashes, was found to be elevated for six (6) intersections. The two Neibauer Road intersections listed above had the highest crash severity rates.

From an active transportation (bicycle/pedestrian) standpoint, the availability of sidewalks, side paths, trails, or bike lanes in the study area is very limited with the exception of sidewalks internal to masterplanned communities. In general, the study area lacks connectivity to low stress bike/pedestrian facilities. A level of traffic stress (LTS) analysis showed that all of the major streets in the study area exhibit the highest LTS scores, thereby making them uninviting to typical bicyclists and pedestrians. This is generally due to the high speeds and narrow or non-existent shoulders in the study area.

### Future Conditions (2035)

Under land use growth Scenario 1 (typical growth), most roadways in the study area continue to experience a LOS D or better. However, three of the primary east-west arterials (Rimrock Road, Grand Avenue, King Avenue West) are not projected to meet that standard. Of the north-south arterials, only 62nd Street West, north of Rimrock Road, is projected to operate below LOS D. **Figure ES2** on the following page provides a graphical illustration of the corridor LOS conditions for Scenario 1. Figure ES2 also shows the intersections that are projected to operate below an acceptable LOS C during one or both peak hour periods for Scenario 1.

Under the higher-growth Scenario 2 (aggressive growth), Central Avenue joins Rimrock Road, Grand Avenue and King Avenue West in having one or more segments exhibiting LOS E or worse conditions. For the north-south corridors, 62nd Street West, north of Rimrock Road degrades to LOS F, while 54th Street West is projected at LOS D north of Rimrock Road and LOS E south of Rimrock Road. **Figure ES3**, also on the following page, illustrates the corridor LOS analysis results for Scenario 2 and also shows graphically which intersections are projected to fail under that scenario.

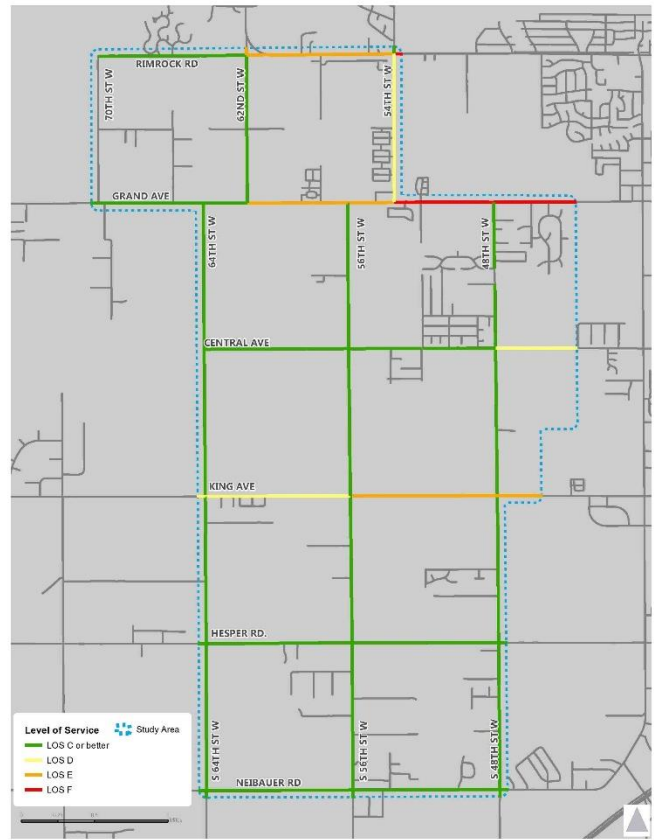
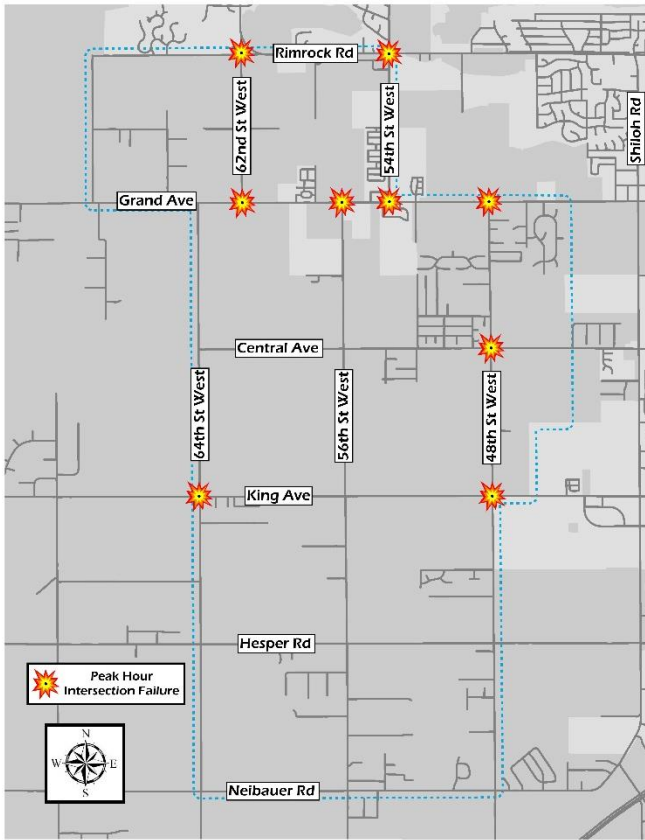


FIGURE ES2. SCENARIO 1 (2035) INTERSECTION AND CORRIDOR LOS ANALYSIS RESULTS

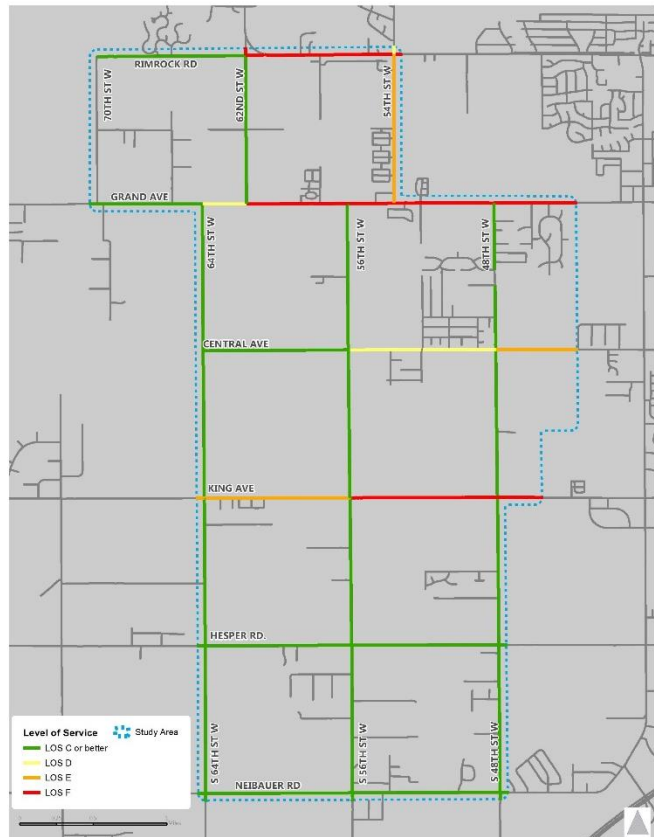
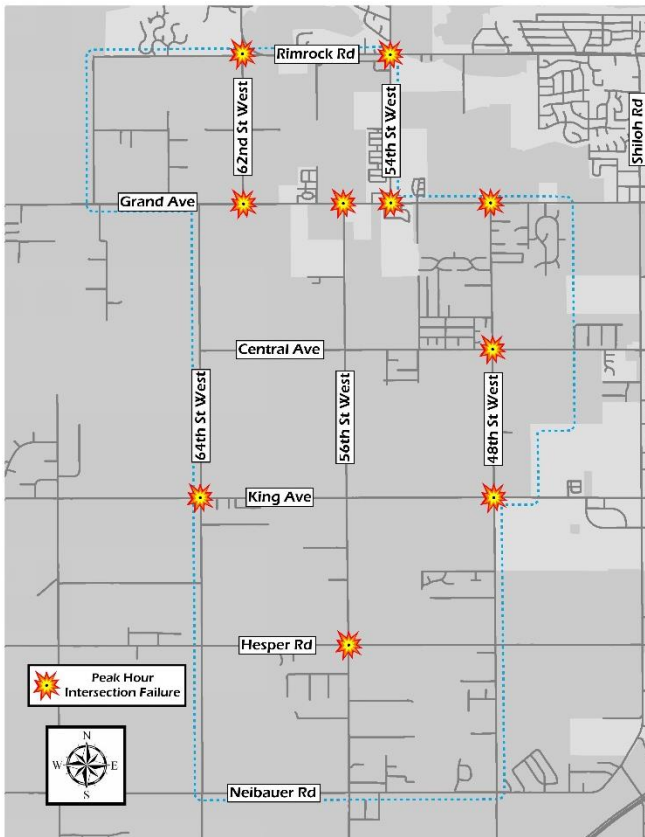
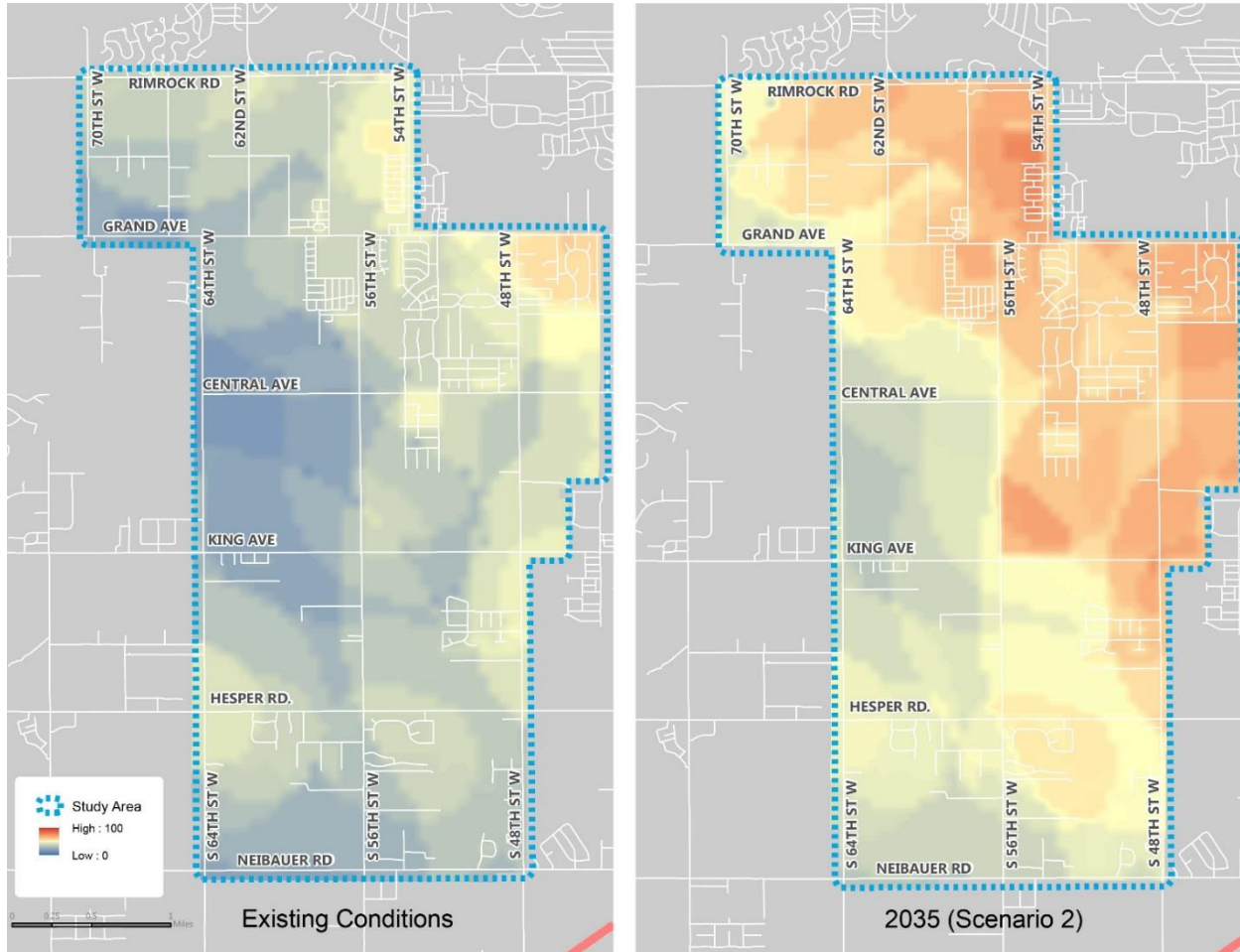


FIGURE ES3. SCENARIO 2 (2035) INTERSECTION AND CORRIDOR LOS ANALYSIS RESULTS

A Latent Demand Model was used to provide a logical analysis framework to prioritize attention and investment for active transportation. Based on the growth projections, demand for active transportation is expected to increase significantly. Most of the study area north of King Avenue and east of 56th Street will generate demand, with the highest concentrations along 54th Street and Grand Avenue. **Figure ES4** below illustrates the projected change in active transportation demand from Existing Conditions (2015) to Scenario 2 (2035)



**FIGURE ES4. LATENT DEMAND MODEL ANALYSIS RESULTS**

## Study Recommendations

### Streets & Intersections

The priority project recommendations for this study were broken down into short-term and long-term categories. Short-term priority projects are those that could be necessary in order to maintain safe and efficient operations during the first half of the 20-year study period. Long-term priority projects are more likely to be needed during the second half of that period. However, it should be noted that there are many factors related to land development that could change the priority, location and cost considerations that are summarized in these recommendations. As such, the recommendations are to be utilized as a guideline for planning and not as a hard and fast committed projects list.

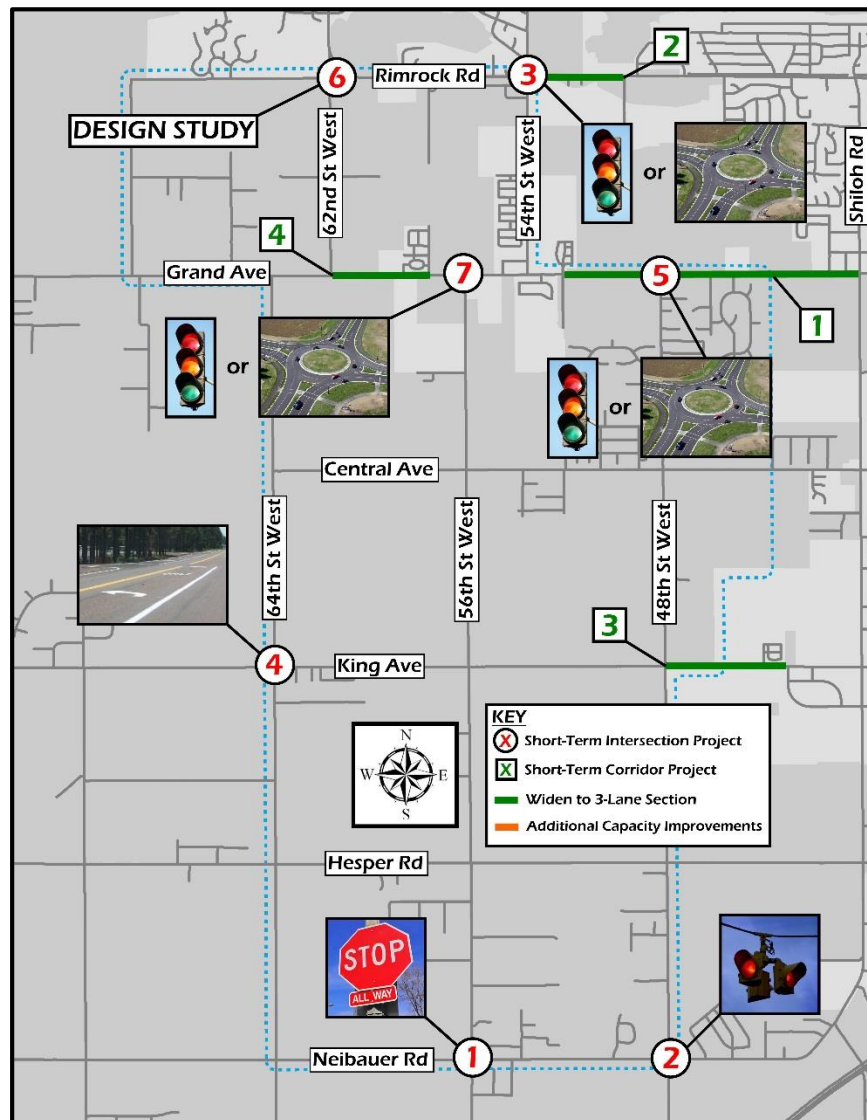
**Tables ES1-ES4** and **Figure ES5-ES6** on the following pages list and illustrate the short term and long-term priority project recommendations for street and intersection improvements. In addition to details about each recommended project, the tables provide estimated construction cost ranges. The estimated costs do not consider right-of-way, irrigation systems modifications or street lighting other than as associated directly with traffic signals or roundabouts.

**TABLE ES1. SHORT-TERM INTERSECTION PROJECT RECOMMENDATIONS**

| Priority Ranking | Project Location                   | Project Type                                                      | Estimated Cost        |
|------------------|------------------------------------|-------------------------------------------------------------------|-----------------------|
| 1                | Neibauer Rd. & 56th St. West       | All-Way Stop Control/OH Flashing Beacons/Transverse Rumble Strips | \$120,000-\$200,000   |
| 2                | Neibauer Rd. & 48th St. West       | OH Flashing Beacons/Transverse Rumble Strips                      | \$120,000-\$200,000   |
| 3                | Rimrock Rd. & 54th St. West        | Traffic Signal or Roundabout                                      | \$400,000-\$1,500,000 |
| 4                | King Ave. West & 64th St. West     | Auxiliary Turn Lanes                                              | \$400,000-\$600,000   |
| 5                | Grand Ave. & 48th St. West         | Traffic Signal or Roundabout                                      | \$400,000-\$1,500,000 |
| 6                | Molt Rd./Rimrock Rd./62nd St. West | Design Study                                                      | \$20,000-\$30,000     |
| 7                | Grand Ave. & 56th St. West         | Traffic Signal or Roundabout                                      | \$400,000-\$1,500,000 |

**TABLE ES2. SHORT-TERM CORRIDOR PROJECT RECOMMENDATIONS**

| Priority Ranking | Project Location                                  | Project Type                             | Estimated Cost          |
|------------------|---------------------------------------------------|------------------------------------------|-------------------------|
| 1                | Grand Ave. - Shiloh Rd. to 52nd St. West          | Widening/Reconstruction (3-lane section) | \$2,800,000-\$4,500,000 |
| 2                | Rimrock Rd. - 50th St. West to 54th St. West      | Widening/Reconstruction (3-lane section) | \$1,000,000-\$1,600,000 |
| 3                | King Ave. West - MT Sapphire Dr. to 48th St. West | Widening/Reconstruction (3-lane section) | \$1,300,000-\$2,000,000 |
| 4                | Grand Ave. - Wilderness Dr. to 62nd St. West      | Widening/Reconstruction (3-lane section) | \$900,000-\$1,400,000   |



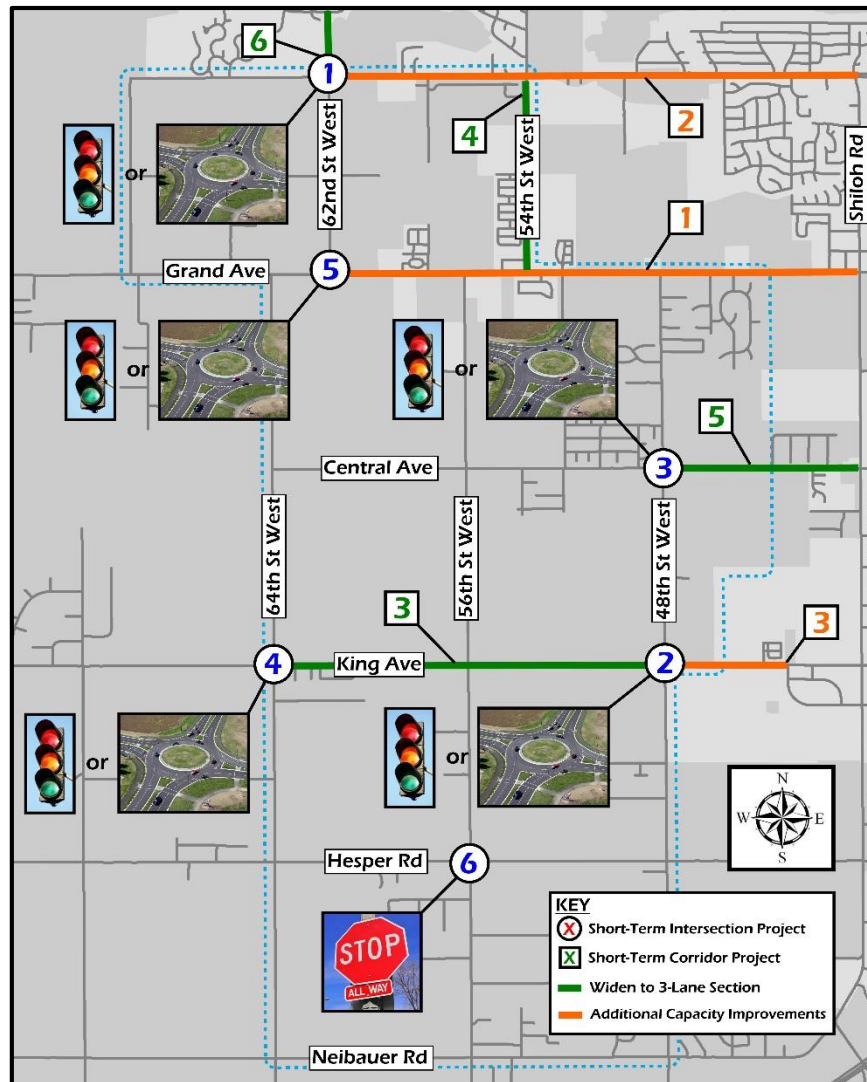
**FIGURE ES5. SHORT-TERM INTERSECTION & CORRIDOR PROJECT RECOMMENDATIONS**

**TABLE ES3. LONG-TERM INTERSECTION PROJECT RECOMMENDATIONS**

| Priority Ranking | Project Location                   | Project Type                 | Estimated Cost        |
|------------------|------------------------------------|------------------------------|-----------------------|
| 1                | Molt Rd./Rimrock Rd./62nd St. West | Traffic Signal or Roundabout | \$400,000-\$1,500,000 |
| 2                | King Ave. West & 48th St. West     | Traffic Signal or Roundabout | \$400,000-\$1,500,000 |
| 3                | Central Ave. & 48th St. West       | Traffic Signal or Roundabout | \$400,000-\$1,500,000 |
| 4                | King Ave. West & 64th St. West     | Traffic Signal or Roundabout | \$400,000-\$1,500,000 |
| 5                | Grand Ave. & 62nd St. West         | Traffic Signal or Roundabout | \$400,000-\$1,500,000 |
| 6                | Hesper Rd. & 56th St. West         | All-Way Stop                 | \$4,000-\$200,000     |

**TABLE ES4. LONG-TERM CORRIDOR PROJECT RECOMMENDATIONS**

| Priority Ranking | Project Location                                  | Project Type                                            | Estimated Cost           |
|------------------|---------------------------------------------------|---------------------------------------------------------|--------------------------|
| 1                | Grand Ave. - Shiloh Rd. to 62nd St. West          | Widening/Reconstruction (5-lane section)                | \$7,500,000-\$11,000,000 |
| 2                | Rimrock Rd. - Shiloh Rd. to 62nd St. West         | Widening/Reconstruction (5-lane section/3-lane section) | \$6,900,000-\$10,300,000 |
| 3                | King Ave. West - MT Sapphire Dr. to 64th St. West | Widening/Reconstruction (5-lane section/3-lane section) | \$6,100,000-\$9,300,000  |
| 4                | 54th St. West - Grand Ave. to Rimrock Rd.         | Widening/Reconstruction (3-lane section)                | \$2,100,000-\$3,300,000  |
| 5                | Central Ave. - Shiloh Rd. to 48th St. West        | Widening/Reconstruction (3-lane section)                | \$2,000,000-\$3,100,000  |
| 6                | 62nd St. West - Rimrock Rd. to Western Bluffs Dr. | Widening/Reconstruction (3-lane section)                | \$700,000-\$1,100,000    |



**FIGURE ES6. LONG-TERM INTERSECTION & CORRIDOR PROJECT RECOMMENDATIONS**

The City and County should also strongly consider the implementation of access control as a tool for extending the life (in terms of capacity) for roadway corridors in this area. Closely spaced driveways with no restrictions on turning movements can greatly degrade the throughput capacity for an arterial. A well-conceived access control plan can improve arterial capacity and also provide safety benefits by reducing conflict points in high-mobility corridors.

### Active Transportation Systems

The Project Team recommends the implantation of short-term bicycle facility improvements in the following locations:

- 54th Street from Rimrock Road to Grand Avenue
- 48th Street from Central Avenue to Grand Avenue
- Grand Avenue from 58th Street to Shiloh Road
- Central Avenue from 56th Street to Shiloh Road

Specific improvements could include shoulder widening to provide rideable space (5-8 ft of pavement outside of the shoulder stripe), protected bike lanes (“cycletrack”), and sidewalks or sidepaths. The provision of parallel multi-use pathways designed to serve both pedestrians and bicycles should also be a focus to better accommodate the needs of multiple user groups.

Near-term improvements for pedestrian facilities should focus on improving sidewalk connectivity with neighborhoods and providing crosswalks and related signage to make drivers aware of crossing locations. The following locations should be considered in the short-term for crossing improvements:

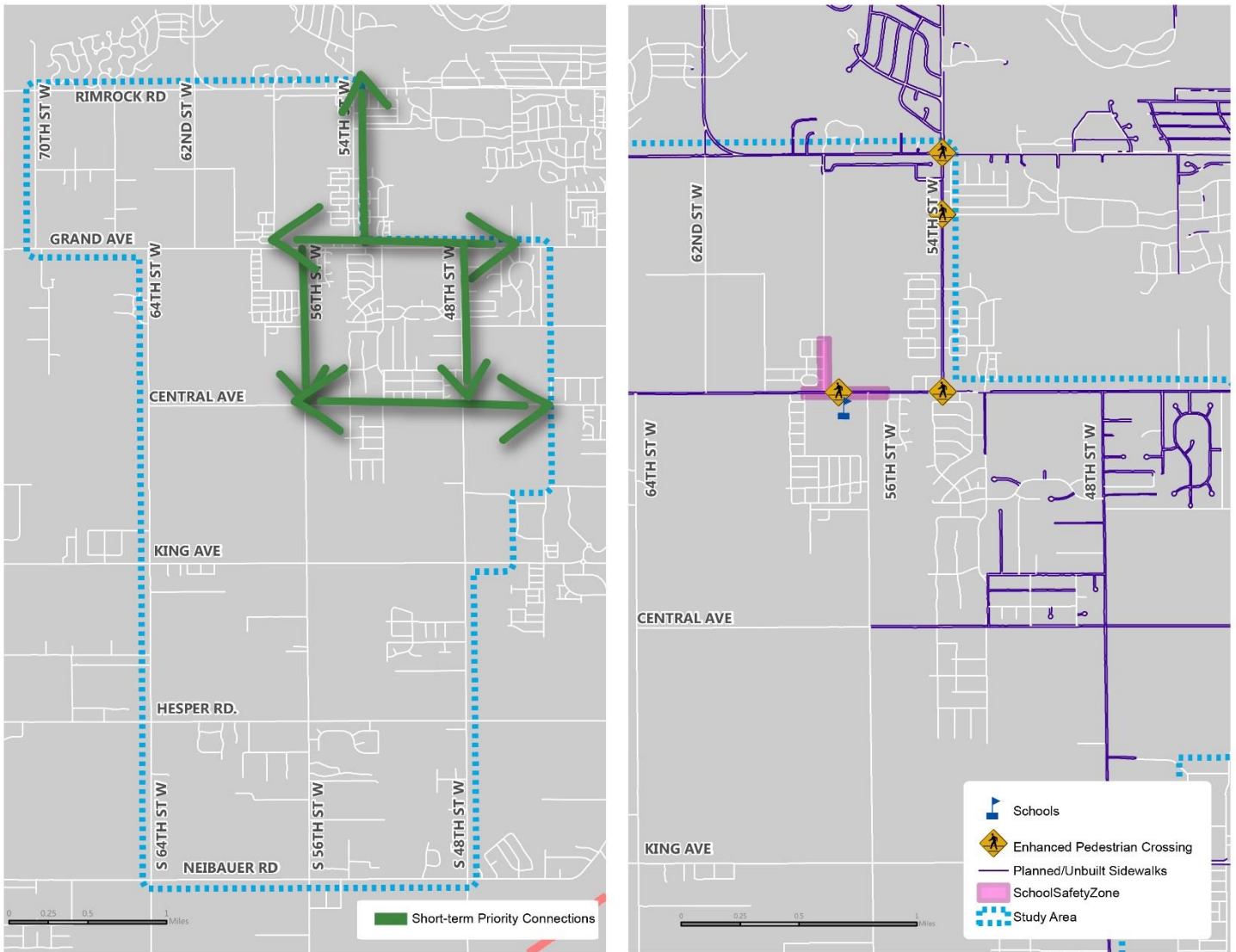
- Grand Ave/54th St: crosswalk enhancements, possibly a traffic signal, to improve pedestrian safety near school zone
- Grand Avenue midway between 56th Street West and 58th Street West: pedestrian actuated mid-block beacon, possibly a pedestrian hybrid beacon (“HAWK signal”) or rectangular rapid flashing beacon (RRFB)
- 54th Street West at terminus of multi-use path (north end of Cottonwood Park): pedestrian actuated mid-block beacon, possibly a pedestrian hybrid beacon (“HAWK signal”) or rectangular rapid flashing beacon (RRFB)
- Rimrock Road/54th St: crosswalk enhancements, possibly a traffic signal, to connect multi-use paths

The following corridors should be considered in the short-term for sidewalk or multi-use path improvements:

- Multi-use path on Grand Ave from 52nd Street West to west boundary of Trails West Subdivision
- Sidewalk on Grand Ave from west boundary of Foxtail Subdivision to HAWK signal
- Multi-use path from Grand Avenue to north boundary of Cottonwood Park along west side of 54th Street West
- Sidewalk along east side of 54th Street West from Grand Avenue to north boundary of Grand Peaks Subdivision

**Figure ES7** on the following page illustrates the recommended locations for short-term active transportation system improvements.

Longer-term, it is recommended that a “layered network” principle be implemented as a way as to provide comfortable and efficient bike and pedestrian connectivity via lower-stress streets instead of force-fitting all modes onto the arterial corridors. Since many of these future collector corridors are platted but not built, it is an ideal time to establish the roadway standards that incorporate bike lanes, sidewalks and modest speed limits. A key consideration regarding this concept is cooperation between the City of Billings and Yellowstone County in terms of developing and implanting development requirements that will require construction of well-planned and consistent facilities as property develops in the study area. In the event that some of the major arterials become more urbanized over time, with speed limit reductions and bike facilities they could also become useful low-stress bikeways.

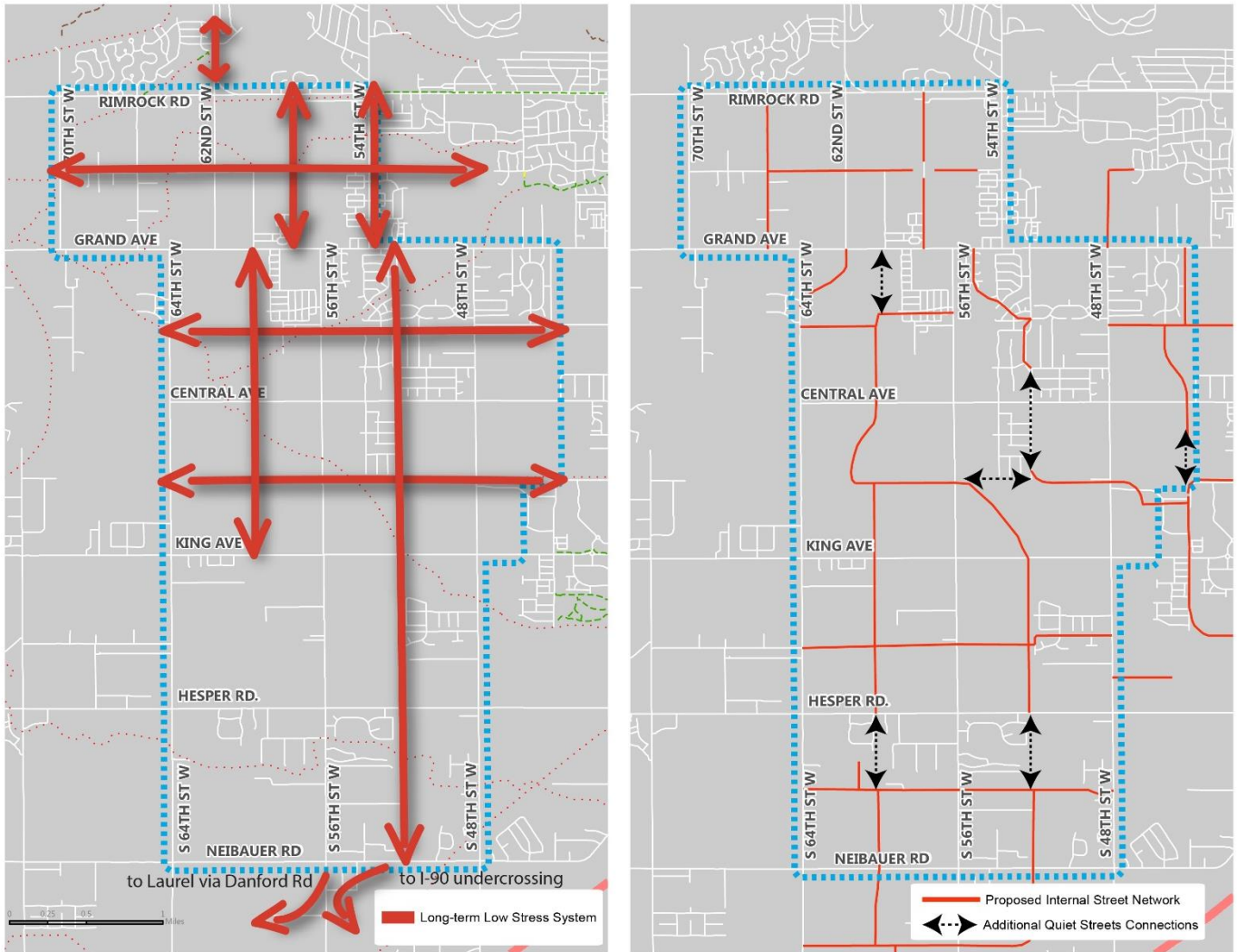


**FIGURE ES7. SHORT-TERM IMPROVEMENTS FOR ON-STREET BICYCLE AND PEDESTRIAN FACILITIES**

Recommended long-term low-stress corridors include:

- 58th Street West - Rimrock Road to Grand Avenue
- 66th Street West - Rimrock Road to Grand Avenue
- 60th Street West
- 52nd Street West
- Monad Road
- Broadwater Avenue
- Colton Boulevard

Future pathway segments should be prioritized based on the proximity to high demand areas and the ability of the segment to provide connectivity through barriers and gaps in the street system. **Figure ES8** on the following page illustrates the locations for recommended long-term active transportation projects. For more detail on all of the project conclusions and recommendations, please see the report body.



**FIGURE ES8. LONG-TERM ACTIVE TRANSPORTATION STRATEGIES**

| <b>SUBJECT PROPERTY</b>             | <b>Application</b>   | <b>DATE</b> | <b>FOR</b>                                    | <b>APPROVED (Y/N)</b> | <b>ADDITIONAL DATA</b>                               |
|-------------------------------------|----------------------|-------------|-----------------------------------------------|-----------------------|------------------------------------------------------|
|                                     | <b>None</b>          |             |                                               |                       | Previous zone = A-1 and<br>A-S<br>Updated zone = RR3 |
| <b>SURROUNDING PROPERTY</b>         | <b>Application</b>   | <b>DATE</b> | <b>FOR</b>                                    | <b>APPROVED (Y/N)</b> | <b>ADDITIONAL DATA</b>                               |
| 5640 Grand Ave                      | City ZC 942          | 1/13/16     | A-1 to Public                                 | Y                     | For a New School                                     |
| CS 3618                             | City SR 941          | 5/9/16      | Church                                        | Y                     | LDS Meeting House                                    |
| Sunny Cove FF Lots 101 &<br>124     | City ZC 729          | 5/10/04     | A-1 to R-96 & R70                             | Y                     |                                                      |
| Sunny Cove FF Lot 65A               | City ZC 734          | 7/12/04     | A1 to R-70                                    | Y                     |                                                      |
| CS 1323 Tr 1&2 & CS 1815<br>Tract 1 | City ZC 803          | 5/14/07     | A-1 to R-150                                  | Y                     | For Cottonwood Park                                  |
| Cottonwood Grove                    | City ZC 734<br>Annex | 2/28/05     | A-1 to R-70                                   | Y                     |                                                      |
| Mont Vista Sub                      | City ZC 851          | 7/13/09     | PD                                            | Y                     |                                                      |
| MK Sub                              | City ZC 925          | 9/22/2014   | NC to CC                                      | Y                     | The Den                                              |
| Daybreak Sub                        | City ZC 920          | 5/26/2014   | A-1 to R-60                                   | Y                     |                                                      |
| Grand Peaks Sub                     | City ZC 938          | 8/24/2015   | R-96 to R-70                                  | Y                     |                                                      |
| Silver Creek Estates                | City ZC 940          | 11/23/2015  | R-96 to R-70                                  | Y                     |                                                      |
| Copper Ridge                        | City ZC 960          | 8/28/2017   | Un-zoned to R-70 and R-50                     | Y                     |                                                      |
| Coal Creek Sub                      | City ZC 961          | 1/8/2018    | RP to CC                                      | Y                     |                                                      |
| Hawk Creek                          | City ZC 971          | 12/17/2018  | NC to PD-NC                                   | Y                     | Diamond X Brewing                                    |
| Sweetgrass Creek                    | City ZC 998          | 10/11/2021  | A to MR-PND with to N1,<br>N2, N3, NX1 and P1 | Y                     | Sweetgrass Creek<br>Subdivision                      |

## Bartley, Robbin

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**From:** Mary Spitler <spitler@bresnan.net>  
**Sent:** Saturday, February 26, 2022 12:45 PM  
**To:** Bartley, Robbin  
**Subject:** [EXTERNAL] City Zone Change 1011 Proj # PZX-22-00032

We are property owners at 1328 Black Berry Way in the Trails West subdivision in Billings, neighbors to the proposed zoning change area in the above mentioned project.

We're writing because we **do not support** the zoning change as proposed by Buffalo Crossing, LLC. Our biggest concern is the proposal for zone change to NX2 Mixed Residential for 2-8 family units. The application form we received indicates 3.6 acres of the proposed development will be zoned NX2, however that specific zoning area is not included on the zoning map we received. It would be beneficial to see where NX2 is zoned within the proposed area.

The Trails West Subdivision has a "quiet and neighborly" feel; we believe that having 8-plexes nearby will detract from the neighborhood feel, and decrease the value of our home. We're also concerned that the shrubbery and trees along the irrigation ditch (east side of proposed zoning area) may be demolished/scraped. That bit of land is a huge benefit, providing a wind break and a little sanctuary along the walking path surrounding the Trails West subdivision (adding value to the neighborhood and properties). Perhaps that could be maintained, even if the proposed development is approved.

Thank you for your consideration.

Mary & John Spitler  
1328 Black Berry Way  
Billings, MT 59106

ORDINANCE 22-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS,  
PROVIDING THE ZONE CLASSIFICATION ON Tract 4A of  
C/S 2735, 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.** Tract 4A of C/S 2735, is presently zoned Rural Residential 3 (RR3), a county zone, 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 Tract 4A of C/S 2735, is hereby changed from Rural Residential 3 (RR3), a county zone, to Suburban Neighborhood (N3), Mid-Century Neighborhood (N2), Mixed Residential 2 (NX2) and 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 Suburban Neighborhood (N3), Mid-Century Neighborhood (N2), Mixed Residential 2 (NX2) and 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 28<sup>th</sup> day of March, 2022.

PASSED, ADOPTED and APPROVED on second reading this 11<sup>th</sup> day of April, 2022.

CITY OF BILLINGS

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

William A. Cole, Mayor

Attest:

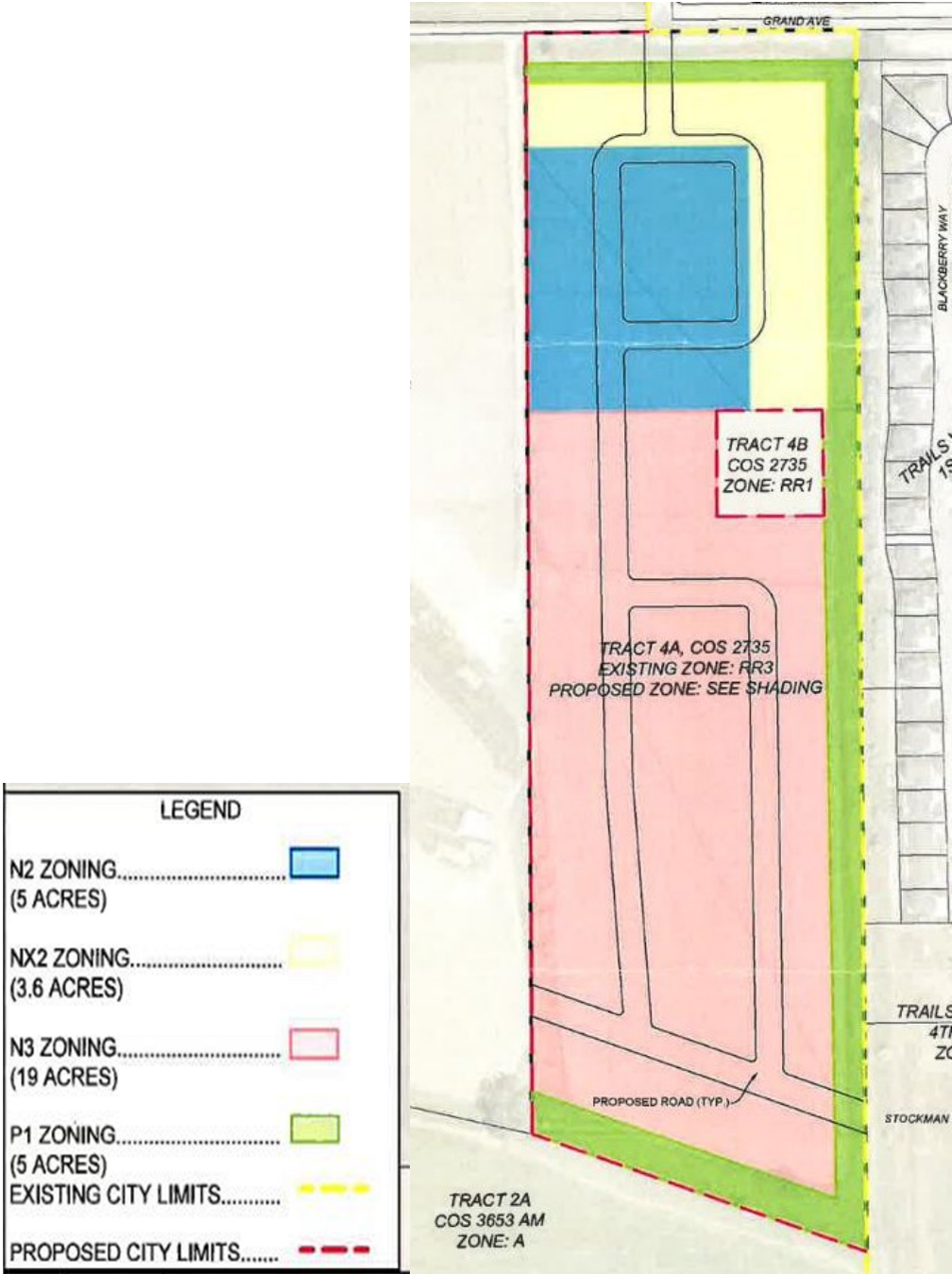
BY: \_\_\_\_\_

Denise R. Bohlman, City Clerk

Zone Change 1011, 60<sup>th</sup> St W and Grand Avenue – Buffalo Crossing LLC

Zone Change 1011

Zoning Exhibit



**City Council Regular**

**Date:** 03/28/2022  
**Title:** Development Agreement with Buffalo Crossing, LLC  
**Presented by:** Debi Meling  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Yes

**RECOMMENDATION**

Staff recommends that the City Council approve the Development Agreement with Buffalo Crossing, LLC.

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

City Council will consider annexation of Certificate of Survey 2735, Tract 4A. The property proposed to be annexed is located along the south side of Grand Avenue near the intersection of 60th Street West. Buffalo Crossing, LLC. desires to develop the property as a residential subdivision. 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:

- Requirement for extension of water and sanitary sewer mains along Grand Avenue including reimbursement to the City for existing water and sanitary sewer constructed in the past by the City;
- 60-foot-wide half right-of-way dedication required along Grand Avenue;
- 80-foot-wide right-of-way dedication for Stockman Avenue;
- 56-foot-wide right-of-way dedication for a street connection to the south;
- Requirement for right-of-way or easement along the Birely Drain;
- Construction of curb and gutter and street widening of Grand Avenue along the property frontage;
- Construction of a public, 10-foot-wide multi-use trail along Grand Avenue;
- Requirement for construction of street crossing of Birely Drain
- Construction of Stockman Avenue through the development;
- Construction of a road connection from Stockman Avenue to the south; and
- Outlines requirements for traffic impact study.

**ALTERNATIVES**

City Council may:

- If the annexation is approved, then approve the Development Agreement with the property owner; or
- Not approve the Development Agreement. If the agreement is not approved, the responsibility for infrastructure improvements would be in accordance with policies in place at the time of development.

**FISCAL EFFECTS**

There are several requirements of the Development Agreement that would not be required upon site development. Section 2 requires reimbursement to the City for a proportionate share of existing sanitary sewer main previously constructed by the City fronting the property. Section 3 requires reimbursement to the City for a proportionate share of existing water main previously constructed by the City fronting the property. Section 5 requires the dedication of public right-of-way, if needed. If the site develops without subdividing, the City would not be able to acquire additional right-of-way for Grand Avenue, a street connector to the south, and Stockman Avenue. Section 7 requires construction of a street crossing over the Birely Drain. If the site develops without subdividing, the City may not be able to require the crossing.

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.

Development Agreement

**Attachments**

BufReturn to:  
WWC Engineering  
550 S. 24<sup>th</sup> Street W, Ste 201  
Billings, MT 59102

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between *Buffalo Crossing, LLC, 353 Old Hays Road, Hays, MT 59527*, hereinafter referred to as "DEVELOPER," and THE CITY OF BILLINGS, MONTANA, a municipal corporation, c/o City Hall, 210 North 27th Street, Billings, Montana, 59101, hereinafter referred to as the "CITY." DEVELOPER and CITY are sometimes referred to in this Agreement individually as "Party" and collectively as the "Parties."

**WHEREAS**, DEVELOPER is the owner of certain real property situated in Yellowstone County, Montana, more particularly described as follows:

*Tract 4A, Certificate of Survey No. 2735*, according to the official plat of file and of record in the office of the Clerk and Recorder of said County, under Document No. 3539423 hereinafter referred to as "DEVELOPER TRACT".

**WHEREAS**, DEVELOPER has submitted to the City a Petition for Annexation to the City for Developer Tract; and

**WHEREAS**, DEVELOPER desires to annex Developer Tract to the City; and

**WHEREAS**, CITY has approved the Petition for Annexation by Resolution No. \_\_\_\_\_ for the Developer Tract 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 Tract will be accessed from one proposed approach along Grand Avenue and a street connection to Stockman Avenue

to the east. The approach shall meet current city codes and regulations. Stockman Avenue shall be constructed and extended across the entire width of Developer Tract to provide a connection to the property to the west per the City of Billings Functional Classification Map proposed future alignment. The City has the right to require an additional street connection from Stockman Avenue to the south property line to provide a connection to the property to the south.

2. Sanitary Sewer. The DEVELOPER is required to extend 18-inch sanitary sewer from the existing manhole located at the intersection of 60<sup>th</sup> Street West and Grand Avenue to the northwest corner of the Developer Tract. If requested by DEVELOPER, City staff will forward a Compensation Agreement to City Council for approval of oversizing of the sanitary sewer. DEVELOPER can submit a reimbursement agreement in accordance with the City's Rules and Regulations Governing Water and Wastewater Service. The south portion of the Developer Tract will be served by a new low pressure sanitary sewer system that will be connected to a sanitary manhole that services the north portion of the Developer Tract by a new gravity sanitary sewer system. The system will be connected to the existing manhole located at the intersection of 60<sup>th</sup> Street West and Grand Avenue.

DEVELOPER shall be responsible to reimburse the City for their proportionate share of the existing sanitary sewer line in Grand Avenue. DEVELOPER shall be responsible for payment of the City wastewater system development fee prior to the issuance of any building permits.

3. Water. The DEVELOPER is required to extend a 20-inch water main located at the intersection of 60<sup>th</sup> Street West and Grand Avenue to the northwest corner of the Developer Tract for approximately 270 feet. If requested by DEVELOPER, City staff will forward a Compensation Agreement to City Council for approval of oversizing of the water main.

DEVELOPER shall be responsible to reimburse the City for their proportionate share of the existing water line in Grand Avenue. DEVELOPER shall be responsible for payment of the City water system development fee prior to the issuance of any building permits.

4. Storm Drain. The DEVELOPER will manage storm drainage within the Developer Tract in accordance with the City of Billings Stormwater Management Manual (2018).
5. Right-of-Way. Public Right-of-Way will be dedicated to the City of Billings in accordance with the 2018 Billings Urban Area Long Range Transportation

Plan and in accordance with the City of Billings Subdivision Regulations. DEVELOPER shall dedicate a 60-foot wide half right-of-way along Grand Avenue, an 80-foot wide right-of-way for Stockman Avenue, and a 56-foot wide right-of-way for a street connection from Stockman Avenue to the south property line.

6. Birely Drain. The Birely Drain flows along the east side of the Developer Tract. DEVELOPER shall obtain information from Birely Drain on access and easement requirements within the Developer Tract. As required by the Billings Stormwater Management Manual, DEVELOPER shall either dedicate right-of-way or provide an easement of at least 20 feet in width along the west side and north side of Birely Drain.
7. Street Construction, Widening and Sidewalks. DEVELOPER will be required at the time of development to construct the widening of Grand Avenue along with curb and gutter, and a 10-foot wide asphalt multi-use path along the Developer Tract frontage.

Stockman Avenue is designated by the City as a collector street. DEVELOPER shall construct the extension of Stockman Avenue to City standards which will include construction of curb and gutter and construction of a concrete boulevard sidewalk with a minimum width of 5-feet and minimum 5-foot boulevard width along both sides of Stockman Avenue.

DEVELOPER agrees to construct a Birely Drain street crossing to provide a second access. This includes design, permitting, and construction of the Birely Drain street crossing on Stockman Avenue. The developer of Trails West Subdivision 6<sup>th</sup> Filing is responsible to construct or provide a cash contribution for one-half of the construction of the Birely Drain street crossing. The City will reimburse DEVELOPER once a cash contribution from the developer of Trails West Subdivision 6<sup>th</sup> Filing is received.

8. Multi-use Trail. DEVELOPER will be required to construct a 10-foot wide asphalt multi-use trail along the Grand Avenue frontage of the Developer Tract.

DEVELOPER shall be responsible for the maintenance and replacement of the sidewalk and/or 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 park maintenance, traffic control devices on-site and off-site inclusive as determined by an overall traffic accessibility study, specific realignments or relocation of sanitary sewer lines and water lines, valley gutters, culverts, storm sewer lines, if any, either within or without the area, and other improvements which the City of Billings may require. The attached Waiver, waiving the right to protest the creation of one or more Special Improvement Districts, by this reference is expressly incorporated herein and part hereof. All of the Developer properties can be included in a Special Improvements District for improvements identified in Development Agreement regardless of location of individual properties in relation to the improvements.
11. Compliance. Nothing herein shall be deemed to exempt the Developer Tract 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”

*Buffalo Crossing, 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 Buffalo Crossing, LLC representative of DEVELOPER, 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 park maintenance, traffic control devices on-site and off-site inclusive as determined by an overall traffic accessibility study, specific realignments or relocation of sanitary sewer lines and water lines, valley gutters, culverts, storm sewer lines, if any, either within or without the area, and other improvements which the City of Billings may require.

The Waiver and Agreement shall run with the land and shall be binding upon the undersigned, its successors and assigns, and shall be recorded in the office of County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

*Tract 4 of Certificate of Survey No. 2735*, of which plat is on file and recorded at the Yellowstone County Clerk and Recorder’s Office.

“DEVELOPER”

*Buffalo Crossing, 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 Buffalo Crossing, LLC representative of DEVELOPER 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:** 03/28/2022  
**Title:** Public Hearing - Ward Boundary Expansion Ordinance First Reading - Annexation 22-03  
**Presented by:** Monica Plecker  
**Department:** Planning & Community Services  
**Presentation:** No  
**Legal Review** Not Applicable

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**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)**

WWC Engineering on behalf of Buffalo Crossing LLC submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located south of Grand Avenue and 60th Street West. The land being annexed is described as Being Tract 4-A of Amended Tract 4, Certificate of Survey 2735, recorded February 2, 2010, under Document No. 3539423; Also including all adjacent Right-Of-Way of Grand Avenue. Said annexation containing 33.812 gross and 33.187 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 March 28. Upon approval the second reading will occur on April 11, 2022.

**ALTERNATIVES**

City Council may:

- Approve adding the subject property to Ward IV, or;
- Disapprove adding the subject property to Ward IV. Disapproval will not modify the boundary of Ward IV 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.

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**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 NE 1/4 of Section 5, T.1S., R.25E, P.M.M., and the SW 1/4 of Section 31, T.1N., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:

Being Tract 4-A of Amended Tract 4, Certificate of Survey 2735, recorded February 2, 2010, under Document No. 3539423;  
Also including all adjacent Right-Of-Way of Grand Avenue.

Said annexation containing 33.812 gross and 33.187 net acres, more or less.

(# 22-03) 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<sup>th</sup> day of March 2022.

PASSED by the City Council on the second reading this 11<sup>th</sup> day of April, 2022.

THE CITY OF BILLINGS:

\_\_\_\_\_  
William A. Cole, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Denise Bohlman, CITY CLERK

(#22-03)



**Date:** 03/28/2022  
**Title:** Montana Federation of Public Employees - Billings Police Officers' Unit Collective Bargaining Agreement  
**Presented by:** Karla Stanton, Human Resources Director  
**Department:** Human Resources  
**Presentation:** Yes  
**Legal Review:** Yes

**RECOMMENDATION**

The City Council is being asked to approve an agreement for the renewal of a labor contract between the Montana Federation of Public Employees (MFPE), Billings Police Officers' Unit and the City of Billings. This negotiated agreement will replace the one that was in effect from July 1, 2018, through June 30, 2021. Staff recommends City Council approve the proposed collective bargaining agreement with the MFPE - Billings Police Officers.

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

The MFPE and the City of Billings used Interest Based Bargaining (IBB), instead of Traditional Bargaining to reach an agreement. In IBB, each team identifies issues, discusses options, and finds solutions without any formal written proposals. During the months both parties were negotiating, the Consumer Price Index (CPI-U) for December 2021 and January 2022 continued to increase from the same months a year ago. Police applicant pools have become smaller over the past few years, so both parties agreed it was more critical than ever that pay remains competitive to attract quality applicants. These were the main drivers in negotiating the following changes.

MFPE and the City of Billings tentatively agreed to implement a new 20-year, 20-step pay system; the previous pay system included 13 steps over 22 years. In an effort to help fund the new pay system, Police agreed to no pay increase from July 1, 2021, to June 30, 2022, and to utilize funds dedicated to Longevity pay for officers, effective July 1, 2022. Therefore, Longevity pay is now integrated into the pay range table by being rolled into the officers hourly rate.

The new pay range table will be effective July 1, 2022:

|         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| YEAR 1  | 2       | 3       | 4       | 5       | 6       | 7       | 8       | 9       | 10      | 11      | 12      | 13      | 14      | 15      | 16      | 17      | 18      | 19      | 20      |
| 29.5000 | 30.0900 | 30.6800 | 31.2700 | 31.8600 | 32.4500 | 33.0400 | 33.6300 | 34.2200 | 34.8100 | 35.4000 | 35.9900 | 36.5800 | 37.1700 | 37.7600 | 38.3500 | 38.9400 | 39.5300 | 40.1200 | 40.7100 |

In the third and fourth years of the contract, the Cost of Living Adjustment (COLA) will be 3% effective July 1, 2023, and July 1, 2024.

In addition, both parties tentatively agreed to revise the following items:

- Canine officers' training is currently two times per month instead of weekly.
- Certification pay will be paid to eligible officers the first payday in November instead of the first payday in December.
- Clothing and Equipment Reimbursement will be paid to officers on the second pay period of July.
- Both parties agreed to Joint Labor Management Committee (JLMC) meetings to develop an On-Call program for the detective division. This committee will develop the on-call policies and associated job expectations. This program will be implemented by July 1, 2022.

**ALTERNATIVES**

City Council may:

- Approve the contract as presented, with a new pay system effective July 1, 2022;
- Postpone action on the contract to obtain additional information; or
- Deny approval of the contract, forcing both parties to resume negotiations.

**FISCAL EFFECTS**

The costs associated with implementing this contract are as follows:

- Year 1: No increase for July 1, 2021, of the contract; therefore, no retroactive pay and \$0.00 cost for FY22.
- Year 2: Longevity pay will be eliminated for Police Officers effective July 1, 2022, (FY23), and is being rolled into the new 20-step pay system which will be implemented July 1, 2022. The cost of this change over 2 years is \$545,000.
- Year 3: 3% Cost of Living Adjustment effective July 1, 2023, (FY24) and the cost is approximately \$340,000.
- Year 4: 3% Cost of Living Adjustment effective July 1, 2024, (FY25) and the cost is approximately \$345,000.

|             |             |             |             |
|-------------|-------------|-------------|-------------|
| <b>FY22</b> | <b>FY23</b> | <b>FY24</b> | <b>FY25</b> |
| \$0.00      | \$545K      | \$340K      | \$345K      |

**Attachments**

MFPE Presentation  
 Billings MFPE CBA

**Montana Federation of Public  
Employees – Police Officers Unit  
Contract Negotiations**

# MFPE – Billings Police Officers Unit

- *What employee groups does this Union Represent?*
  - Police Officers and Detectives;
  - Doesn't represent Airport Police Officers.

# MFPE Team Members

- Cache Anderson
- Denise Baum
- Steve Hallam
- Brad Mansur
- Shawn Wichman
- Joe Dompier

# Management Team Members

- Jeremy House
- Kevin Iffland
- Brian Korell
- Brandon Wooley
- Karla Stanton

# Interest-Based Bargaining

- Each team identifies issues, discusses options, and finds solutions without any formal written proposals.

# July 1, 2021, Contract Changes

- 0% cost of living adjustment (COLA) effective July 1, 2021;
- Developed a new 20-year pay system effective July 1, 2022, replacing a 22-year system, with 13 steps;
- 3% cost of living adjustment effective July 1, 2023;
- 3% cost of living adjustment effective July 1, 2024;
- Longevity pay was rolled into hourly pay effective July 1, 2022;
- Clothing and Equipment Allowance will be paid to officers on the second pay period of July;

# July 1, 2021, Contract Changes

- Both parties agreed to Joint Labor Management Committee meetings to develop an On-Call program for the detective division at no cost to the City. This program will be implemented on or before July 1, 2022.
- Revised obsolete language - Canine officers' training is two times per month instead of weekly.
- Certification pay will be paid to eligible officers the first pay period of November instead of December.

# Costs of Implementation

- Year 1 of the contract – no additional cost
- New pay system implementation in year 2 of the contract - \$545,000
- 3% Cost of Living Adjustment in years 3 and 4 of the contract – approximately \$340,00 and \$345,000 respectively

# City Council Options

- Approve the MPFE contracts as proposed;
- Postpone action on the contract to obtain additional information;
- Deny approval of the contract forcing negotiations to resume.

Police officers and the City's negotiating team would appreciate your support of these contract changes.



**QUESTIONS?**

# AGREEMENT

Between the

CITY OF BILLINGS, MONTANA

AND

MONTANA **FEDERATION OF PUBLIC**  
**EMPLOYEES-ASSOCIATION**  
BILLINGS POLICE **OFFICERS** UNIT

For the period of

**JULY 1, 2021~~2018~~- JUNE 30, 2025~~1~~**

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## **AGREEMENT**

### **PREAMBLE**

This agreement is made and entered into by and between the CITY OF BILLINGS BILLINGS, MONTANA, hereinafter referred to as the “EMPLOYER”, and the MONTANA PUBLIC EMPLOYEES ASSOCIATION/MONTANA FEDERATION OF PUBLIC EMPLOYEES BILLINGS POLICE UNIT hereinafter referred to as the “UNION”. It is the purpose of this agreement to set forth the terms and conditions to which each party is bound and that such agreement has been reached voluntarily without undue or unlawful coercion or force by either party. The rights of the Employer and the Union shall be respected, and the provisions of the Agreement shall be observed through the orderly settlements of questions arising from it.

For the purpose of this Agreement, the term “collective bargaining” shall be defined as to include any questions concerning wages, fringe benefits, and working conditions. The Employer and the Union furthermore agree to accept their mutual responsibility to ensure Equal Employment Opportunity in all aspects of employment as set forth in this Agreement.

## **ARTICLE I**

### **Recognition**

The BILLINGS POLICE UNIT, hereinafter referred to as the “Union”, is hereby recognized by the CITY OF BILLINGS, MONTANA, hereinafter referred to as the “Employer”, as the sole bargaining agent for the Police Personnel in the Billings Police Department, as determined by the State Board of Personnel Appeals. For the purpose of this Agreement, a Police Officer (Employee) shall be defined as a full-time sworn officer of the Billings Police Department, who is a peace officer with arrest authority and is working at least, but not more than, forty (40) hours per week, except as overtime as addressed later herein. Newly sworn Police Officers of the City of Billings shall be entitled to the benefits of this Agreement upon employment with the City of Billings.

## ARTICLE II

### **Management Rights**

- A.** The Union recognizes the prerogative of the City to operate its affairs in all respects in accordance with its responsibilities, and the powers or authority which the City has not officially abridged, delegated, or modified by this Agreement are retained by the City, and in such areas as, but not limited to, the following to-wit:
1. Directing employees;
  2. Hiring, promoting, transferring, assigning and retaining employees;
  3. Relieving employees from duties because of lack of work or funds or under conditions where continuation of such work would be inefficient and non-productive;
  4. Maintaining the efficiency of government operations;
  5. Determining the methods, means, job classifications, organization, and personnel by which operations of the City of Billings are to be conducted;
  6. Taking whatever actions may be necessary to carry out the mission of the City of Billings in situations of emergency;
  7. Establishing the methods and means by which work is to be performed;
  8. Establishing reasonable or ordinary work rules and policies;
  9. Scheduling overtime work as required, in a manner most advantageous to the City and consistent with its requirements; and
  10. The Employer shall have up to one (1) year after an employee begins duty to determine his/her satisfactory performance in any position covered by this Agreement and may dismiss such employee without cause during such probationary period.
- B.** The Union recognizes that the Employer has statutory and other rights and obligations in contracting for matters relating to municipal operations. The right to contract or subcontract shall not be used for the purpose or intention of undermining the Union, nor to discriminate against any of its members.

## **ARTICLE III**

### **Grievance & Arbitration Procedures**

- A.** A grievance is defined as a dispute or a difference of interpretation between a non-probationary employee(s) and the Employer involving economic issues or disciplinary actions as expressly provided in the terms of the Agreement. Disciplinary actions involving written warning/reprimand letters, suspension, or discharge shall be grievable; all lesser disciplinary actions are not grievable. If a number of employees have a grievance involving the same issue(s), the grievance shall be filed as one (1) joint grievance.
- B.** Employees designated by the Union as Stewards must be certified in writing to the Employer. A steward shall be authorized a reasonable amount of time to process a grievance during regular work hours provided the Steward has the Supervisor's approval and does not disrupt the work of others. A Steward, who cannot be released upon request due to work requirements, will be released as soon as work permits, but no later than the beginning of his or her next scheduled shift. An updated steward list shall be provided to City Human Resources in January of each year. The Union also agrees to supply an updated steward list anytime during the calendar year that the City requests such an update in writing.
- C.** Failure to comply with the established formal procedures provided in this Article shall constitute a waiver to continue the grievance and/or arbitration procedures by the party in default. If the Employer fails to respond to a grievance, it shall be automatically moved to the next step.
- D.** All disputes, controversies, or claims arising out of or relating to this contract must first proceed through the grievance procedure (section E) of this agreement before advancing to arbitration or an alternative review process.
- E.** Grievance Procedure:

Step 1: An employee who has a grievance shall meet and submit the grievance, in writing, to his/her supervisor and shall provide a copy to the Captain in charge of the

Office of Professional Standards. The written grievance must contain the following minimal information:

1. The name and signature of the grievant (the signature requirements shall be waived if the grievant is physically unable to sign the grievance form);
2. The date the grievance occurred;
3. The issue and nature of the grievance;
4. The terms of the Agreement in dispute; and
5. The adjustment sought.

Grievances must be initiated no later than ten (10) business days after the grievable act occurred or the first opportunity to have reasonably had knowledge of its occurrence. The supervisor's response to the grievance shall be in writing and within ten (10) business days of the Step 1 meeting.

Step 2: The employee and Steward shall notify the Union Field Representative of the results of the Step 1 meeting. The formal grievance must be filed within ten (10) business days of the receipt of the Step 1 response with the Chief of Police or his designee. The grievance will also include the date the grievance was discussed with the supervisor, the name and title of the supervisor, and a brief description of the result of the meeting. Within ten (10) business days of receipt of the grievance, a meeting to discuss the grievance will be held between the key individuals including at minimum: the employee, the Union representative, and the Police Chief or a designee. The Police Chief or a designee will set up this meeting and will respond to the grievance in writing within ten (10) business days after the meeting is held.

Step 3: If the grievance is not resolved at Step 2, then the Human Resources office will set up a meeting between the Police Chief or designee, the City Administrator, the Union representative, and the Human Resources Director (or designated representative) to discuss the grievance. The City Administrator will respond in writing with an answer to the grievance within ten (10) business days - after the Step 3 meeting.

**F.** Election of Remedies:

After completing the grievance procedure (section E) of this agreement:

- 1) The Grievance Committee shall decide if the grievance has merit and may move to the arbitration procedure (section G) of this article.
- 2) If the grievance is not resolved based on management's response in Step 3, the Union may, within ten (10) business days of the City Administrator's response, notify the Human Resources Manager in writing of the Union's intention to submit the grievance to final and binding arbitration under Section G.
- 3) If an alternative review process is elected, an employee waives all rights for review of his/her grievance through this Agreement's arbitration procedure (Section G.)

**G.** Arbitration Procedure:

The Union shall request the Federal Mediation and Conciliation Service, the Montana Department of Labor, or the American Arbitration Union to provide a list of five arbitrators. The parties shall, within fifteen (15) business days of the receipt of the list, select the arbitrator by the method of alternately striking names with the parties flipping a coin to determine who strikes the first name. The final name left on the list shall be the arbitrator. The arbitrator chosen will be contacted immediately and asked to start proceedings at the earliest possible date. During the arbitration proceedings, all evidence shall be presented. The arbitrator's decision shall be final and binding on both parties, but the arbitrator shall not have the power to alter the terms of this Agreement, City Ordinance, State, or Federal Law. The arbitrator's decision shall be within the scope and terms of this Agreement, and he or she shall be requested to issue his/her decision within 30 calendar days after the conclusion of the proceedings, including filing of briefs, if any. Expenses for the arbitrator's services shall be borne equally by the City and the Union.

**H.** Other persons may replace any position mentioned in the above procedures, so long as the other party is notified in advance and provided that such appointee has full authority to act in the capacity of the person replaced.

**I.** It is understood and agreed that when an employee files a grievance, the act of

filing such a grievance shall constitute his/her authorization to the Employer to reveal to the participants in the grievance and/or arbitration procedures any and all information available to the Employer relating to said grievance. Such filing shall further constitute a release of the Employer from any and all claimed liability by reason of such disclosure.

- J.** Time limits at any stage of the grievance and/or arbitration procedures may be extended by written mutual agreement of the parties at that step.
- K.** Business days shall be defined as Monday through Friday, excluding recognized City of Billings' Holidays.

## **ARTICLE IV**

### **Dues Assignment**

- A.** The Employer agrees to accept and honor an employee's voluntary written assignment of wages for payment of Union dues or equivalent contributions in the amount specified by the Union. The Union agrees that all deductions and any future changes will be consistent and uniform for all members covered by this Agreement.
- B.** The aggregate deduction will be remitted, together with an itemized list of individual employee names, contributions, and addresses of record, to the Treasurer of the Union within five (5) working days from the date of the payroll distribution. The list will also contain the names of all new hires and/or terminations.
- C.** The Union agrees to hold the Employer harmless for unintentional errors in the collection of voluntary written assignments of monies.

## **ARTICLE V**

### **Hours of Work and Compensation**

- A.** **Hours of Duty:** The normal working hours shall be the equivalent of forty (40) hours per week. The normal working hours shall be four (4) ten (10) hour days. The alternate

schedule for full-time employees shall be five (5) eight (8) work hour days per week, as long as it is mutually agreed to between the Union and the Employer. The Court Officer may work 5-8's or an altered shift such as 4-10's. The hours will be posted prior to annual shift bidding. The daily hours shall be consecutive with the exception of the lunch break, which may normally be granted sometime in the middle of the shift depending upon work demands. Those employees who are assigned to be School Resources Officers shall be allowed to work 5 eight-hour shifts with days off being Saturday and Sunday.

**B. Compensation:** Effective July 1, 2018, the employee's base wage will be as detailed in Attachment A.

**C. Pay for Performance:**

1. Beginning July 1, 2014, in order for an officer to progress to the next vertical step of the pay scale on Attachment A (if eligible), and/or receive incentive pay for intermediate or advanced certificates, the officer must have received at least a "Meets Expectations" rating in each of the following major categories: Knowledge, Communications, Interpersonal Skills, Use/Care – Equipment/Work Area/Appearance, Investigative Skills, Problem Solving/Decision Making, Initiative, and Officer Safety on the officer's annual performance evaluation immediately preceding the date the raise would take effect. If an officer does not achieve at least a "Meets Expectations" rating in all major categories, then on the officer's next anniversary date the officer will not receive the next vertical step (if eligible), nor receive incentive pay for Intermediate or Advanced Certification pay in that year's annual December payout. At a subsequent annual performance evaluation, if the officer obtains a "Meets Expectations" rating in all major categories, on the officer's next anniversary date the officer will progress to the step commensurate with the officer's years of service and/or receive Incentive/Certification pay (if eligible) in that year's annual December payout. The progression will occur on the officer's anniversary date following the "Meets Expectations" evaluation. If an officer does not obtain a "Meets Expectations" in subcategories, it does not necessarily affect the step increase or the Incentive/Certification pay. Pay for performance does not apply to raises that occur in July of each fiscal year.

2. If it is anticipated that an officer will not obtain a “Meets Expectations” rating in one or more major categories, then the supervisor must advise the officer at least 90 days prior to the officer’s annual performance evaluation and provide a performance improvement plan. If a supervisor fails to do so, then the vertical step (if eligible) and/or Incentive/Certification pay (if eligible) will go into effect as if the employee obtained a “Meets Expectations” evaluation. If the officer then obtains a “Meets Expectations” within those 90 days in all major categories on the officer’s annual performance evaluation, then the next vertical step (if eligible) will be implemented.
  3. All commanders will receive an initial 40 hours of training in evaluating officers and related matters.
- D. Overtime:** Employees required to work more than forty (40) hours per week at the direction of proper City authority shall be compensated in accordance with the Federal Fair Labor Standards Act. This overtime shall be computed to the nearest quarter (1/4) hour starting one minute after the quarter (1/4) hour begins and extending to the full quarter hour. The Employer shall determine the employees to receive the overtime necessary to be worked. When overtime is computed, sick leave, vacation, holiday or compensatory time taken during the workweek, will be considered as time worked. Employees shall not be required to suspend work during regular scheduled hours to absorb overtime.
- E. No Pyramiding:** Nothing contained in this Agreement shall be interpreted as requiring a duplication or a pyramiding of holidays, call-out, court-time, standby, training time, or any other form of overtime payments involving the same hours of labor.
- F. Standby Pay:** Authorized standby assignments, consistent with sound law enforcement practices, shall be for a fixed predetermined period of time not to exceed 48 hours. Employees formally placed on standby status shall be compensated on a basis of a ratio of three hours straight pay for eight hours of standby or fraction thereof. If the employee is called back to work, normal callout rules shall apply for actual hours worked.
- G. Shift Differential:** Those officers required to work the majority of their regularly-assigned shift within the following hours, shall be compensated in addition to their regular base rate accordingly.

|                                     |                 |
|-------------------------------------|-----------------|
| Shift Designated as Afternoon Shift | \$1.00 per hour |
|-------------------------------------|-----------------|

Shift Designated as Night Shift

\$2.00 per hour

This differential pay will be included in all hours paid to the officers assigned to the afternoon and night shifts. Officers assigned to the “weekend shift” (6:00 pm Friday to Monday at 6:00 am) shall receive \$.75/hr weekend pay.

- H. Short Shift Change Over Pay:** Any employee required by the Employer or any employee who volunteers and is approved to work two full shifts without benefit of a break equivalent to a full shift’s time off in between the work shifts, shall be paid an additional four (4) hours pay at the overtime rate of pay. Mandatory training will be paid per this article. Annual January shift changes and scheduled court time, as described in Section J of this contract, shall be excluded from short change over pay unless the court appearance extends beyond four (4) hours. An employee is not eligible for short shift change over pay as a result of working voluntary extra duty (such as Mustangs games, parades, athletic events, etc.) in conjunction with a normal shift.
- I. Minimum Staffing:** All shifts will be manned at a minimum of one (1) officer per beat per shift.
- J. Court Time Pay:** Any Union member who is required by the proper authority to be in Justice of the Peace, Municipal, District, or Federal Court, (excluding Civil Court) during his/her off-duty hours that are not an extension [within one and one-half (1-1/2) hours] of his/her regular shift shall be compensated for a minimum of four (4) hours at the overtime rate of pay. Hours for court appearances that are extensions of the regular shift will be paid at the overtime rate for actual hours worked. Court time pay is compensation for actual hours spent in court, not payment for each court appearance in the same day. Each member who is scheduled to appear in Municipal Court must call the dedicated recorded phone line after 1:30 p.m. on the last normal court day preceding the scheduled trial day. If the trial is canceled but not listed by 1:30 p.m. the last normal court day preceding the scheduled trial day the member is entitled to the minimum hours for court time. If the member fails to contact the dedicated recorded phone line and the trial is canceled, the member shall not be entitled to the minimum court time pay. Additionally, any officer normally scheduled to work, who has been approved leave for that day, shall receive a minimum of two (2) hours pay to be credited to the leave bank they have used on their time sheet for that day if subpoenaed for court.

**K. Compensatory Time:** Employees may accumulate compensatory time in lieu of cash payment at their option for actual time worked in overtime, holidays, mandatory training, and/or required court appearances. The maximum amount of compensatory time that can be accumulated shall be 280 hours. Employees can cash out, except as outlined below, an unlimited amount of accrued compensatory time during any pay period, except that in which it was earned. Cash outs of accrued compensatory time may be done as many times per year as the employee wishes. The employee must provide a written request to Human Resources, and cash out is done on a per pay period basis.

If an employee is disciplined in the form of suspension days without pay, by mutual consent of the employer and employee, the suspension days may be traded for accumulated compensatory time. For example, if an employee is suspended for one day and mutual agreement is reached to trade that day for accrued comp time, instead of the employee actually serving the suspension day and being gone from work, an equivalent number of hours will be docked from that employee's accrued comp time bank. For example, 10 hours comp time docked if the employee normally works a 10 hour shift and then the employee will work the regular shift on the day the suspension would have been imposed.

If an employee is disciplined, and mutual consent to trade the suspension day(s) for comp time is NOT reached, the employee shall be restricted from cashing out any comp time during the pay period immediately before, pay period during, and pay period immediately after the initial disciplinary period. For example, if an employee is suspended for 4 days and the employer splits the days up between two different pay periods (such as two days one pay period and two days the next pay period), the restriction on cashing out comp time would only apply to the first pay period in which the suspension is served.

**L. Call Outs:** An employee called back to work, not as an extension of the regular shift, shall be compensated for a minimum of three (3) hours at 1-1/2 times the regular rate of pay. If an employee receives a call to return to work within 1 ½ hours of his/her shift, it

is considered an extension of shift. No overtime shall be paid for travel time to and from the job.

- M. **Negotiator's Pay**: The City agrees to allow the Union's members to exchange accrued vacation and/or compensatory time for negotiation time.
- N. **Clothing and Equipment Reimbursement**: Plain clothes officers shall receive an annual clothing or police-related equipment reimbursement of \$800. **This reimbursement will be paid to plain clothes officers on the second pay period of July, and** ~~This reimbursement~~ is not intended for undergarments, jewelry, watches, or similar accessories. Any weapon purchased through this reimbursement must be purchased according to department policy or be approved by the department's firearms training supervisor. The officer must follow department policy regarding weapons qualification.
- O. **Equipment Reimbursement**: Uniform officers shall be reimbursed for police related equipment (including boots and overshoes) up to \$450 per contract year. **This reimbursement will be paid to the officers on the second pay period of July.**
- P. **Canine Officers**:
1. Each officer assigned to canine patrol shall be granted one hour of overtime for each non-scheduled workday in order to care for the dog. This agreement shall be retroactive to the day that the officer returns from the dog academy.
  2. As per Article V Section P of the collective bargaining agreement, each officer assigned to canine patrol shall be granted one hour of overtime for each non-scheduled workday in order to care for the dog.
  3. Each canine officer shall be granted one hour per scheduled workday in order to care for the dog, which will cause the officer's scheduled patrol shift to be reduced by one hour. For example, a canine officer assigned to the afternoon shift will begin his/her patrol shift at 1400 and end at 2300 instead of 0000. That final hour will be compensation for care of the dog. If the demands of the job require the officer to work in excess of a nine hour shift, the officer will earn overtime or compensatory time.
  4. Whenever possible, canine officers will not be assigned to fill a beat, but instead be assigned to rove, while remaining subject to dispatch as a primary officer as

needed. If two canine officers are on the same shift and one must fill a beat, seniority shall prevail the junior officer will be required to fill the beat.

5. When a canine officer's duties require him/her to work outside of the regularly scheduled shift, he/she may flex the time or receive overtime or compensatory time as per the officer's preference and with the approval of his/her shift supervisor. If the canine officer's regular shift would require minimum staffing due to the canine officer flexing his schedule, the canine officer may not be able to flex the shift. If two or more canine officers are on the same shift and want to flex and only one can, seniority shall prevail and the senior officer shall have first choice of flexing.
6. The supervising sergeant of the canine program will have meaningful input in canine officer's evaluations.
7. The frequency of canine team training will be ~~weekly~~ two times per month.

**Q. Field Training Officer (FTO):** An FTO during training will receive twenty-five (25) hours of straight compensatory time and four (4) hours of overtime compensation, at time and one half either compensatory time or pay, per month during phase 1, 2, and 3. An FTO during training will receive ten (10) hours of straight compensatory time and two (2) hours of overtime compensation, at time and one half either compensatory time or pay, during Phase 4.

**R. Detective Pay:** Officers that are on three year rotation or permanently assigned to plain clothes positions of General Detectives, CCSIU, or ICAC shall receive one dollar (\$1.00) per hour (\$80 per pay period) in addition to base pay. The stipend will be calculated into the overtime rate in accordance with the Fair Labor Standards Act.

## **ARTICLE VI**

### **Fringe Benefits**

#### **A. Vacation Leave**

1. Each employee shall earn annual leave credits. Proportionate credits shall be earned at the end of each pay period. Employees are not entitled to any vacation leave with pay until they have continuously been employed for a period of six (6) calendar months. Credits shall be earned according to the following schedule:

| <b>Year of Employment</b>          | <b>Working Hours Credit</b> |
|------------------------------------|-----------------------------|
| 1 Full Pay Period through 10 years | 120                         |

|                           |     |
|---------------------------|-----|
| 11 Years through 15 Years | 144 |
| 16 Years through 20 Years | 168 |
| 21 Years on               | 192 |

2. Separation from service or transfer to other departments—cash for unused vacation leave. An employee who terminates his/her employment with the City, for reasons not reflecting discredit on himself/herself, shall be entitled on the date of such termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period. However, if an employee transfers between agencies of the same City jurisdiction, there shall be no cash compensation paid for unused vacation leave. In such a transfer, the receiving agency assumes the liability for the accrued vacation credits transferred with the employee.
3. Unused Vacation Leave may be accumulated to a total not to exceed two (2) times the maximum number of hours earned annually as of the last day of the calendar year. Excess vacation time will be administered according to state law.
4. The dates when an employee may take accrued vacation shall be determined by agreement between the employee and the supervisor.
5. In the event an employee becomes ill while on vacation, the employee may substitute sick leave in lieu of vacation leave for the time the employee was ill, provided that the Police Chief may require a health physician's certification of the illness.
6. Unused vacation leave time shall be paid at his or her regular rate of compensation to the employee or his or her heirs at the time of separation from service or death.
7. It shall be unlawful for the Employer to terminate or separate an employee from his/her employment in an attempt to circumvent the provisions of this agreement.
8. Seniority preference for vacation time:
  - a. From the effective date of annual shift change, after the first of the year, until the fifteenth of February, employees may bid on vacation time by seniority on each shift.

- b. Up to a total of four (4) vacation time choices may be bid. A vacation choice is defined as a set of consecutive work days off. Each vacation choice is limited to a maximum of 80 hours per choice. The employee must have sufficient leave accruals or the ability to accrue the amount requested by the time the requested vacation arrives.
  - c. Vacation choices will be assigned on a seniority basis on each shift. However, an employee who does not receive his/her first choice will receive his/her second choice (by seniority on each shift) before any member who received his/her first choice is granted a second choice. The same process will be used for third choice and fourth choice.
  - d. After the fifteenth of February, vacation time will be granted on a first-come, first-served basis.
  - e. No requests for first-come, first-served vacation will be processed until after February fifteenth unless it is a request for time that is to be used prior to the fifteenth of February.
  - f. In the event that two employees request vacation after the fifteenth of February at the same time for the same date, seniority will prevail.
9. Maternity/Paternity Leave: For the birth or adoption of a child, the provisions of the Family and Medical Leave Act apply. Time off will first be charged against the employee's sick leave until it is exhausted. Once sick leave is exhausted, the employee will then have time off charged against vacation and compensatory time. Leave without pay will not be authorized until all of sick leave, vacation, and compensatory time is exhausted.

**B. Sick Leave**

- 1. Each employee shall earn sick leave credits from the first day of employment. Proportionate credits shall be earned and credited at the end of each pay period. Credits shall be earned at the rate of one (1) working day (8 hours) for each month of service without restriction as to the number of working days accumulated. Employees are not entitled to be paid for sick leave until they have been employed continuously for ninety (90) days.

2. An employee who terminates employment with the City is entitled to a lump sum payment equal to one-fourth (1/4) of the pay attributed to his/her accumulated sick leave. The pay shall be computed on the employee's rate of compensation at the time of termination. An employee who received a lump sum payment, and who is again employed by the City, shall not be credited with any sick leave earned during previous service. In the event of the death of an employee, a check for one hundred (100) percent of the unused earned sick leave shall be made out to the employee at his/her regular rate of pay.
3. Abuse of sick leave is cause for discipline up to and including dismissal and forfeiture of lump sum payment. Please refer to Article VII – Working Conditions, S. Absence Control.
4. A physician's certificate may be required by an employee's supervisor to substantiate a sick leave charge. Such required physician's certificate shall be furnished by the Employer's physician at the Employer's expense.
5. Local medical appointments of the employee may be charged to sick leave. Each absence shall be reported separately and authorized in advance by the employee's supervisor. Any appointments outside the local area must be approved by the Chief.
6. Maternity/Paternity leave may be charged against sick leave credits.
7. Sick leave charged in excess of earned sick leave may be charged to earned and available leave (vacation, compensatory time, or holiday leave bank) at the employee's request. Sick leave must be earned prior to its use.

**C. Holidays**

1. Employees shall be granted the following holidays without loss of pay:
  - a. January 1 - New Year's Day
  - b. Third Monday in January - Martin Luther King Day
  - c. Third Monday in February - President's Day
  - d. Last Monday in May - Memorial Day
  - e. July 4 - Independence Day

- f.** First Monday in September - Labor Day
- g.** Second Monday in October - Columbus Day
- h.** November 11 - Veterans Day
- i.** Fourth Thursday in November - Thanksgiving Day
- j.** December 25 - Christmas

In addition to the above holidays, employees shall be granted the following days as holidays without loss of pay: Any additional day declared a legal holiday by the Governor of Montana or the Mayor of Billings with the exception of Sundays which are not otherwise holidays, and any day in an even numbered year in which a State general election is held throughout the State of Montana.

- 2.** Employees who work on any of the above referenced holidays shall be compensated at their regular rate of pay plus time and one-half for their normal shift (i.e. officer normally working 4-10 hour days shall receive holiday pay based upon 10 hours, even if training is scheduled for 8 hours). Employees may receive cash payment or compensatory time. If an employee chooses compensatory time, he/she may choose to put the time in the regular compensatory time bank allowed for in Article V Section K or into a holiday leave bank. The maximum number of hours an employee can have in the holiday leave bank is 150 hours. Any time in excess of 150 hours must be either used or the officer must receive holiday pay. The holiday leave bank must be cashed out at the end of each fiscal year. Any or all of this cash out may be invested in one of the City's deferred compensation programs.
- 3.** Employees whose regularly scheduled day off falls on the actual holiday and who are not granted another work day and one-half off in lieu of the holiday shall be compensated at their regular rate of pay plus one and one-half additional day's pay. The holiday will be paid on the day that is closest to the workday. If the holiday falls in the middle of an officer's days off, the holiday will be paid on the last working day unless the officer submits written notification one week prior to the holiday that he will be paid holiday pay on the first working day after the holiday. Employees may receive cash payment or compensatory time.

- a. The Employer shall determine those employees who shall work such holiday time. The Employer may schedule employees an alternate day and one-half off in lieu of such holiday time. That day shall be subject to the same rights and limitations as vacation.
4. Employees will receive a day and one-half off with pay for any holiday that falls during a leave with pay.
5. School Resource Officers (SRO): Holidays for SROs shall be paid at the same rate as those officers working ten (10) hour shifts.

**D. Attendance Incentive**

Employees will be granted one (1) to three (3) days of additional vacation time for each twelve month period (July 1 -June 30) depending upon the employee's sick leave usage. Use of vacation time earned under the Attendance Incentive Plan is subject to the provisions under Article VI Section A Vacation Leave. The maximum of twenty-four (24) hours for employees on eight hour shifts and thirty (30) hours for employees on ten (10) hour shifts will be reduced, hour for hour, for each hour of sick leave the employee has used during each contract year. The amount of incentive will be pro-rated for employees hired during the year.

**E. Emergency Leave and Funeral Leave**

1. In the event of a death in the employee's family, as defined below, the employee may be allowed to use, with the Police Chief's approval, up to forty hours of accrued leave of the employee's choice to be in attendance. If sick leave is used, then Funeral leave does not impact the Attendance Incentive under Article VI, D.
2. In the event an employee's presence is required because of an emergency caused by a major illness or injury to an employee's family member as defined below, the employee may use accrued leave of the employee's choice to be in attendance.
3. Family, for the purpose of this Agreement, shall include: a spouse, any legal dependent, any parent, child, grandparent(s), brother, sister, or corresponding in-law(s).

**F. Jury Service and Subpoena**

Each employee who is under proper summons as a juror or subpoenaed as a witness shall collect all fees and allowances payable as a result of the service and forward the fees to

the Employer. Juror fees earned during an officer's normal working hours shall be applied against the amount due to the employee from his Employer. However, if an employee elects to charge his juror or witness time against his annual leave, he shall not be required to remit his fees to the Employer. In no instance is an employee required to remit to his Employer any expense or mileage allowance paid by the court. An employee shall not lose cumulative benefits because of juror or witness service.

**G. Military Leave**

Any employee who is a member of the organized National Guard of the State of Montana or forces of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard shall be given an annual leave of absence with pay, after six (6) months of employment, for attending encampments, training cruises, or similar training programs, not to exceed fifteen (15) working days per calendar year under military orders properly issued by military authorities. Such absence shall not be charged against other leave credits earned by the employee.

**H. Personal Day**

Officers are entitled to schedule a personal day off. This day will be paid at the straight time rate of pay. The day an officer may use as his/her personal day must be scheduled with his/her commander the same as a vacation day. The personal day must be taken by the officer or lost. An officer cannot work on his personal day; it must be a day off.

**I. Leave Without Pay**

1. Employees may request to take leave of absence without pay for good and sufficient reasons in the best interest of the City with prior approval of the Police Chief and the City Administrator.
2. Request for leave of absence without pay shall be submitted in writing by the employee to the Police Chief or his designee. All pay benefits shall be discontinued during the leave, unless otherwise specified by the Police Chief. Health, Life, and Dental Insurance coverage shall continue until the end of the calendar month in which the leave without pay begins. Should an employee return to work in the following month, his/her insurance benefits will remain in full force and effect for that entire month.

**J. General Provisions**

1. An employee may not accrue any leave credits during a continuous leave of absence without pay which exceeds fifteen (15) calendar days.
2. All leaves covered under this Agreement must have prior notification and approval of the employee's supervisor. Leaves shall not be unreasonably denied.
3. All leaves covered under this Agreement shall be charged to the nearest one-quarter (1/4) hour.

**K. Insurance**

1. Health and Life:
  - a. Contribution changes to the City's Health Insurance Plan shall be shared equally (50%/50%) between the employees and the City. Contribution changes can be either increases or decreases. Contribution adjustments can be either in dollars contributed or in modifications to the plan benefits. All modifications shall be with the approval of the Insurance Committee. It is the intent of the Committee to reach the consultant recommended reserve level over a period of time.
  - b. Billings Health Insurance Committee: The City of Billings shall establish a City of Billings Health Insurance Committee to maintain a group health insurance plan for employees of the City of Billings and their dependents. The committee shall consist of 15 members appointed as follows:
    1. Three members of each employee union appointee by each union.
    2. Six members appointed by the City Administrator. One member shall be a retired City employee currently covered by the city health insurance plan.
  - c. The Committee will manage the City Health Insurance Plan and report directly to the City Administrator.
    1. The committee shall meet at least quarterly to:
      - a. Review the existing City group health insurance plan;

- b. Review the claims experience, projections and plan problems;
  - c. Maintain the plan on a sound actuarial basis;
  - d. In conjunction with the City Administrator, be responsible for all changes in plan design, administrators or carriers;
  - e. Establish plan premium rates and cost sharing by both the City and the employees;
  - f. Advise the City Administrator on all other group insurance matters;
  - g. Decisions will be made by a simple majority vote where all members have one vote and can vote by absentee ballot.
- 2.** The committee will periodically reevaluate the plan to make sure the City is receiving the best cost and services.
- d.** Coverage shall be extended to all eligible employees and their eligible spouse/dependents, following the period of exclusion provided by the terms of the insurance plan document. All eligible employees and eligible spouse/dependents' participation and coverage shall be solely governed by the terms and conditions of the insurance plan document as signed by the City. Coverage shall be extended to only those employees while in an active pay status. Employees on an approved absence without pay may elect to continue their group coverage by directly paying the City the total premium cost during their absence.
- e.** The agreed upon dollar amount [as discussed in Article VI,K(1)(i)] of the City's portion of the monthly health insurance premium (not including dental, vision, disability or life insurance) shall be added to employee's gross pay subject to the limits described here. The purpose of adding the City's portion of the health insurance premium amount to gross pay is solely to increase the employee's pay for calculating retirement contributions by the Employer, employee and state. Higher gross pay and retirement contributions are expected, but are not guaranteed, to produce a

retirement benefit that is greater than without this additional gross pay. The employee recognizes that the added gross pay and his/her required retirement contribution as required by Montana Law may reduce net pay and may have tax implications. Adding the City's portion of the health insurance premium to gross pay for retirement purposes only does not affect and shall not be included in the computation of any other pay or benefits or the calculation of any rate of pay, including but not limited to the regular hourly rate, any cost-of-living increase, overtime, longevity, certification pay, holiday pay, standby pay, callout pay, short change over pay, shift differential pay, court time pay, degree incentive, or special assignment pay.

- f.** Employees are required to purchase the City's health insurance. Employees shall contribute the Employer's share of the health insurance premium, in the dollar amount identified below, and the employee's share of the health insurance premium to the City for deposit in the health insurance fund. The contribution will be made before local, state or federal taxes are deducted from the employee's gross pay (pre-tax contribution). However, if the employee elects, the contribution will be made after appropriate taxes are withheld from gross pay (post-tax contribution).
- g.** Regardless of tax treatment under Internal Revenue Code (IRC) Section 125, the Employer's portion of the health insurance premium that is being added to gross pay may cause the employee to pay additional taxes, fees or assessments as required by federal or state law regulations. Those taxes, fees, or assessments may include but are not limited to unemployment insurance, workers compensation insurance and Medicare tax.
- h.** At the time of the annual IRC Section 125 election, each employee shall acknowledge in writing that:

  - 1. The Employer-paid portion of the health insurance premium is being added to gross pay solely to increase the employee's pay for calculating retirement contributions by the Employer, employee and state ("added gross pay");

2. The employee recognizes that the added gross pay and his/her required retirement contribution may reduce net pay and may have tax implications;
  3. Adding the City's portion of the health insurance premium to gross pay for this retirement purpose only does not affect and shall not be included in the computation of any other pay or benefits or the calculation of any rate of pay, including but not limited to the regular hourly rate, any cost-of-living increase, overtime, ~~longevity~~, certification pay, holiday pay, standby pay, callout pay, short change over pay, shift differential pay, court time pay, degree incentive, or special assignment pay.
  4. The added gross pay may subject the employee to additional federal, state or local taxes, fees or assessments; and
  5. The added gross pay and increased retirement contributions are expected, but are not guaranteed, to produce a retirement benefit that is greater than without this additional gross pay.
- i. The Union and employees agree that the amount of the Employer-paid health insurance premium that is applied to an employee's gross pay for retirement purposes only will not, under any circumstance, exceed \$800 per month through December 31, 2015. After January 1, 2016, the City agrees to pay an increase of up to fifteen percent (15%) over the previous year, or the actual increase whichever is less. After January 1, 2017, the City agrees to pay an increase of up to fifteen percent (15%) over the previous year, or the actual increase whichever is less. After January 1, 2018, the City agrees to pay an increase of up to fifteen percent (15%) over the previous year, or the actual increase whichever is less. The increase will be added to employee gross pay in each following calendar year for retirement purposes only. This increase shall be limited to the actual increase in the City's portion of the premium. All conditions and restrictions set out in this section, Article VI, K(1)(e) apply regardless of the dollar amount of the City's portion of the premium.

j. Employer and employee contributions towards retirement shall be governed by Montana law. If any change in local, state or federal laws, regulations, determinations or rulings change the Employer's costs or invalidates the intent or application of this provision, it will immediately terminate and the Employer and Union shall meet and attempt to negotiate a new provision that complies with the changed laws or regulations. The Union and employees agree that any grievance involving this section, Article VI,K(1)(e), the contribution as set forth herein or any effects of the contribution shall be subject to the grievance process set out in this agreement and shall be subject to final and binding arbitration. The Union specifically waives the right to address the substance and effect of this Article in any other forum in law or in equity except if an arbitration decision deems the grievance process to be inappropriate to resolve the dispute. If, in the event that this section terminates, the Employer and Union shall meet and negotiate a new provision that converts the Employer's current cost of this benefit to other wages and benefits.

2. Industrial Accident: The Employer shall carry Industrial Accident Insurance on all employees. Each employee must report in writing to the Employer any injury or accident received in the course of employment. Failure to do so may result in the loss of benefits.

**L. Educational Benefits**

1. **Tuition Benefits**

- a. Any employee matriculated into a program of higher education through an accredited postsecondary institution that is listed on the United States Secretary of Education website shall be reimbursed up to 75% of the cost of tuition for all courses approved by the Chief of Police upon furnishing evidence of satisfactory completion of course work, such as submittal of grades.
- b. Officers attending school during the July 1<sup>st</sup> to December 31<sup>st</sup> time period will have until January 15 to submit their grades or other evidence of satisfactory class completion. Officers attending school during the January 1<sup>st</sup> to June 30<sup>th</sup>

time period will have until July 10<sup>th</sup> to submit their grades or other evidence of satisfactory class completion.

- c. The tuition reimbursement fund will be set at \$15,000 per fiscal year. Funds will be dispersed twice per year based upon the July 1<sup>st</sup> to December 31<sup>st</sup> and January 1<sup>st</sup> to June 30<sup>th</sup> time frames. One-half of the fund, \$7,500 (seven thousand five hundred dollars), will be dispersed in each time frame. All Officers who meet the criteria above will split the \$7,500 equally up to 75% of each individual officer's respective tuition costs. All approved tuition reimbursement requests from July 1<sup>st</sup> to December 31 will be paid by January 30<sup>th</sup>; all approved tuition reimbursement requests from January 1 to June 30 will be paid by July 30<sup>th</sup>.
- d. At the end of the fiscal year (June 30<sup>th</sup>) if tuition reimbursement funds are left over from either time frame within that same fiscal year, the excess funds will be held and split equally among all officers who submitted during either time frame within that same fiscal year. The left over funds will be distributed equally to each Officer who meets the above criteria and did not receive the full 75% reimbursement during the time frame of submission, because of the number of tuition reimbursement requests submitted. If any funds are left at June 30<sup>th</sup> and all Officers requesting tuition reimbursement have been paid up to the 75% reimbursement, the excess may be used by the police department for other purposes with the approval of the Chief of Police.

**2. Degree Incentive:**

An officer who holds an Associate's Degree shall receive \$25 per pay period. An officer who holds a Bachelor's Degree or higher shall receive \$50 per pay period. The degree must be from an institution of higher learning recognized as accredited in the United States.

**ARTICLE VII**

**Working Conditions**

- A. **Seniority**: Seniority means an employee's length of continuous service within the Department and shall be computed from the date the employee begins such service.
1. To be absent from the job due to layoffs will be considered lost time for the purpose of seniority. Previous service upon re-employment shall count toward seniority.
  2. To be absent from the job due to voluntary leave of absence without pay that exceeds fifteen (15) calendar days will be considered lost time for the purpose of seniority; however, previous service upon re-employment is counted towards seniority.
  3. To be absent from the job due to involuntary active military leave will not affect seniority. Such time spent in military service will count towards seniority.
  4. An employee's continuous service for purpose of seniority shall be broken by voluntary resignation, discharge for just cause, or retirement.
  5. Employees may protest their seniority designation through the usual grievance procedure if they have cause to believe an error has been made. Employer shall post a seniority roster December 1<sup>st</sup> and June 1<sup>st</sup> of each year.
  6. Temporary absences due to job related injury shall be considered as time worked for the purposes of determining seniority.
  7. Layoffs caused by reduction in force shall be in order of seniority within the department; that is, the employee last hired in the department shall be the first released. Employees who are scheduled to be released shall be given at least twenty-one (21) calendar days' notice. All recalls to employment shall likewise be in order of seniority within the department; that is, the last employees released as a result of a reduction in force shall be the first rehired. All recall rights established herein shall expire at the conclusion of two (2) years from the effective date of the employee's layoff. It shall be the employee's responsibility to maintain a current notification address on record with the Police Chief or his designee. The Union shall also be notified in advance of all recall actions. An employee who is notified to report to duty, but fails to notify the Employer within five (5) calendar days of his intention to report to work shall forfeit his right to re-employment. The City agrees not to lay off any full-time law enforcement officer

while active reserve law enforcement officers are continuing to be utilized by the City.

- B. **Bulletin Boards:** The Employer agrees to provide suitable space for a Union bulletin board. Postings by the Union on such boards are to be confined to official business of the Union.
- C. **Shift Trading:** Upon approval of the supervising officer, subject to review of the Chief of Police, any employee may exchange shifts or trade time with other qualified employees. The practice of exchanging or trading time will be a voluntary program by the employees in order to permit any employee to absent himself or herself from work to attend to purely personal pursuits. (Must use Shift Trade form, see a commander.)
- D. **Training:**
  - 1. **Local In-Service Training:** In-Service training schools, which are scheduled by the Police Department for the employees, will be posted as soon as practicable prior to the school. If schooling is mandatory for promotions, school will be held twice when possible and on different dates if necessary to accommodate the officers, because of the officers' days off and vacations. Anyone wishing to attend a school will submit a letter of request.
  - 2. **Out of Area Training:** Employees will be granted leave with pay to attend authorized training out of the area. Mileage shall be paid based upon one vehicle for every three employees in the training.
- E. **Voluntary Physical Fitness Program:** The purpose of this program is to promote physical fitness and those wishing to participate in the physical fitness program can do so voluntarily. The Billings Police Department will be offering two physical fitness tests: the Cooper Institute test and the Montana Physical Abilities Test (MPAT). The standards applied to the Cooper Institute test will be those established by the Cooper Institute. It is agreed that the most recent age and gender bias standards available will be applied. Participants must have a minimum score of 40% in each of the following categories: push-ups, sit-ups, sit-and-reach, and either the mile-and-one-half run (Airdyne test with approval) or 300-meter run. The MPAT has a pass or fail time of six minutes and thirty seconds which the Billings Police Department recognizes. Both tests will be administered

in the Spring and in the Fall as scheduling and equipment permits. All participants will be awarded a pre-selected item. Compensatory time will be awarded to participants based on their individual scores according to the following scale:

| MPAT Time        | Cooper Institute | Compensatory Time Award |
|------------------|------------------|-------------------------|
| 4:30 m/s or less | 85% or higher    | 30 hours                |
| 5:30 m/s or less | 80 - 84%         | 25 hours                |
| 6:30 m/s or less | 70 - 79%         | 20 hours                |
| Longer than 6:30 | Less than 70%    | 0                       |

Compensatory time will be awarded once in the Spring and once in the Fall and for only one test even though both tests may be attempted and/or completed. Any adjustments to the fitness standards will be addressed through the Labor-Management Committee.

**F. Service Weapon:** Upon a full service or disability retirement, officers will be given their badge and allowed to purchase their service weapon at fifty percent (50%) of the replacement cost.

**G. Just Cause:**

1. Confirmed officers may be disciplined by the Employer for just cause.
2. Class I Complaint:
  - a. Excessive force, violations of criminal law, breach of civil rights, bias policing, corruption, false arrest, patterns of similar Class II complaints, and other more serious allegations. Typically, Class I complaints will be investigated by the Office of Professional Standards.
3. Class II Complaint:
  - a. Allegations of inadequate service, discourtesy, minor performance issues, improper procedure or other less serious and non-criminal conduct. Typically, Class II complaints will be investigated by the employee's direct supervisor or other patrol commander.
4. The employee and the Union will be notified of any Class I or Class II complaint prior to the employee being interviewed. Within sixty (60) calendar days of

initiating a Class I or Class II complaint, the investigation will be submitted to the Chief of Police unless the Chief approves an extension for justifiable and documented reasons. Should an extension be granted, the Office of Professional Standards will notify the complainant and the employee of the delay and the reasons for said delay. Employees under investigation shall be given weekly updates at their request. A final disposition and any disciplinary action necessary as a result of an investigation will be issued to the employee, and the Union will be notified within thirty (30) calendar days after the final investigative report is submitted to the Chief of Police.

5. A Class II complaint can be moved to a Class I complaint upon investigation.
6. For other than criminal offenses and serious misconduct, the Employer shall use progressive discipline based upon warning letters, suspensions, transfers, and/or discharge. Any officer who has been disciplined, suspended, removed, or discharged by the City Administrator may appeal the decision pursuant to State Law.

(NOTE: The paragraph below is intended to clarify how complaints or potential disciplinary issues will be addressed that occur beyond the confines of the workplace. Its intent is also to establish consistency with all similar incidents while adhering to contractual time lines for disciplinary or potential disciplinary issues.)

7. A complaint will be initiated and held in abeyance until information is available that would call for an appropriate investigation. Upon completion of the investigation, it will be turned over to the Chief of Police for resolution according to contract language above.
8. Any disciplinary notices/letters issued shall be considered in effect for a period of 24 months after issuance. Oral or Verbal warnings and counseling are considered informal progressive discipline and will not be documented in writing in the officer's personnel file.

**H. Job Safety:** Officers shall not be required to use defective equipment. Officers will not be required to carry out orders which are unethical or violate policies/procedures or laws

and which would unreasonably endanger their safety. Issues regarding job safety shall be brought to the Police Chief or his designee by the Union for resolution.

**I. Disabilities:**

1. In the event that an employee becomes incapable of performing the duties of his/her regular classification through occupational illness or industrial accident, the Employer may transfer the employee to light duty or with his/her consent, to another agency.
2. Any employee who is injured in the performance of his/her duties as a police officer that renders him/her unable to perform his/her duties as a police officer shall be paid by the employer the difference between his/her salary and the amount he/she receives from Workman's Compensation Insurance until his/her disability has ceased, as determined by the Workman's Compensation Insurance, or for a period not to exceed one year-whichever shall first occur. Whenever, in the opinion of the employer supported by the employer's physician's opinion, the officer is able to perform specified types of light police duty, payment of his/her partial salary amount shall be discontinued if he/she refuses to perform such light duty when it is available and offered to him/her.

**J. Shift Preference:** Individual shift assignments shall be on the basis of seniority preference, except temporary assignments not exceeding three (3) months where necessary to meet department needs. Individual assignments made out of seniority preference, other than that above, shall be made for just cause. Juvenile Detectives and Adult Detectives shall be considered separate entities under this provision.

**K. Bill of Rights:** In an effort to ensure that investigations made by superior officers, as designated by the City Administrator or the Chief of Police, are conducted in a manner which is conducive to good order and discipline, the Union shall be entitled to the protection of what shall hereafter be termed as the "Police Officers' Bill of Rights". Every employee who becomes the subject of an investigation by the Employer shall be advised at the time of the interview that he/she is suspected of:

- (a) committing a criminal offense;

(b) misconduct that would be grounds for termination, suspension, or other disciplinary action; or

(c) that he/she may not be qualified for continued employment with the Department.

The Bill of Rights shall provide, but not be limited to, the following:

1. Whenever a member is under internal investigation, for any reason which could lead to disciplinary action, demotion, or putting anything whatsoever into an Employee's file, such Employee shall be given a copy of the reprimand. Written reprimands will contain space for an Employee's acknowledgement of receipt of said copy. All due process notification letters will, as a minimum, contain a summary of specific allegations, key evidence, statements, and such items as to enable the employee an opportunity to provide a sound, credible explanation of his/her actions with regard to the specific allegations of misconduct.
2. All disciplinary hearings shall be in strict conformity with the applicable law.
3. An Employee shall not unreasonably be suspended pending trial or appeal if such suspension will result in the loss of wages or any other economic benefit. Any suspension shall be for good cause only.
4. Where dismissal, disciplinary transfer, criminal action, or charges are contemplated, such internal investigation or interview shall be conducted under the following conditions:
  - a. The interview shall be conducted at a reasonable hour, preferably at a time when the Employee is on duty, unless the seriousness of the investigation is of such a degree that an immediate interview is required, and if such interview does occur during off-duty time of the Employee being interviewed, he/she shall be compensated for such off-duty time in accordance with regular department procedures.
  - b. The interview shall take place either at the office of the Chief of Police or any other reasonable location.
  - c. The Employee under investigation shall be informed prior to such interview of the rank and name of the officer in charge of the investigation, the interviewing officers, and all persons present during the

interview. All questions directed to the Employee under investigation shall be asked by and through no more than two (2) interviewers.

- d. The Employee under investigation shall be informed of the nature of the investigation prior to any interview and he/she shall be informed of the names and addresses of all complainants, provided however, that the investigating officer of the complaint may be the complainant. No employee of the Billings Police Department shall assume the role and/or name of the original complainant. This does not preclude any officer of the Department from filing the original complaint.
- e. Interviewing sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods of five (5) minutes duration, provided that no period of continuous questioning shall be longer than twenty (20) minutes of duration without the Employee's consent.
- f. The Employee under investigation shall not be subjected to offensive language or threatened with transfer or disciplinary action. No promise of reward shall be made as an inducement to answering any questions. He/she shall not be subjected by management to visits by the press or news media without his/her express consent.
- g. The complete interview of the Employee, including all recess periods, will be recorded at the request of either party. At the request of the Employee, a copy of the interview shall be furnished to him/her if transcribed and if any further proceedings are contemplated by the Department or any other agency. If a tape recording is made of the interview, the Employee shall have access to the tape if any further proceedings are contemplated.
- h. If the Employee about to be interviewed is under arrest, or is likely to be placed under arrest as a result of the interview, he/she shall be completely informed of his/her Miranda Rights prior to the commencement of the interview.
- i. The Employee shall be notified of the disciplinary action and the reason or reasons therefore prior to the effective date of such action.

**L. Relieved from Duty:** In cases where management chooses to relieve an Employee from duty pending an internal investigation, the following conditions shall prevail.

1. Officers will/shall/may be placed on administrative leave if there is reasonable cause to believe allegations of misconduct involve:
  - a. Criminal activity;
  - b. Use of excessive force;
  - c. Breach of civil rights;
  - d. Negligence;
  - e. Mis/Mal/Non-feasance;
  - f. Disparate treatment;
  - g. Sexual harassment;
  - h. Officer involved shootings;
  - i. Any situation that will adversely affect the public's trust in the department;
  - j. Any situation that exposes the officer and city to liability if left on duty; or
  - k. Any situation where it is unsafe to leave the officer on duty.

The decision to place an officer on administrative leave will be at the Chief's discretion and will take the above listed factors into consideration. In some instances, consultation with MPEA leadership may be appropriate.

Should disciplinary action result from the investigation, that period of time in which the Employee was relieved from duty may be included in the disciplinary action. In the event that an Employee has been paid for any such relief from duty time and disciplinary action is taken, the Employee's accumulated annual leave or compensatory time may, at the Chief's option, be charged in the amount equal to the paid relief time.

- M. **Arrest:** In the event an Employee is arrested or indicted by a Grand Jury, no photo will be released by the Police Chief or his representative to any media without the express written consent of the Employee.
- N. **Union Representation:** Employees subject to investigation may have a Union representative present, at his/her option, during interviews. If the Union representative is not available for the interview, the Employee shall select another Union officer or official to fill in for the absent Union representative.
- O. **Legal Counsel Representation:** Employees may be represented by legal counsel of and at his/her choice. If counsel advises the Employee to answer no questions, this shall not be interpreted as a tacit admission to the allegations. Counsel shall have a participatory role; he/she need not remain silent during the interview(s). The Employee's legal counsel shall be at the employee's expense.
- P. **Polygraph:** No Employee will be required to take a polygraph.
- Q. **Union Management Committee:** There shall be a Union/Management Committee established. The Union President and the Police Chief shall be permanent members. They shall have the flexibility to appoint members from their respective entities to carry out the function of the committee.
- R. **Random Drug Testing:** The Employer and the Union recognize illegal drug usage, misuse of legally prescribed prescription drugs, and misuse of alcohol are threats to the public safety and welfare and to the employees of the Billings Police Department. The Employer and the Union agree to promote the health, safety, and welfare of its employees and the community by maintaining an alcohol and drug-free workplace. The Employer will conduct random drug and alcohol testing of all sworn officers of the Billings Police Department in accordance with the Workforce Drug and Alcohol Testing Act of the Montana Code Annotated and the written policies and procedures issued by the Employer.
- S. **Absence Control:**
1. The City recognizes officers are susceptible to illness, injury, and responsible for the care of others, all of which can result in the use of accrued time. Regular attendance at work is a crucial component in delivering quality public services. Officers are expected to report for work as scheduled and attendance is a factor

related to job performance. The City is responsible to see that accrued leave benefits are used properly and administered on a fair and consistent basis.

**2. Definitions:**

- a.** Sick Leave. Any failure to report for or remain at work as scheduled as a result of illness, disability or injury of the officer, appointments with a doctor, dentist or other professional medical practitioner, quarantine, and for illness or disability in the officer's immediate family which requires the officer's personal care and attention.
- b.** Sick Leave Occurrence is any consecutive period of absence for the same reason. For attendance monitoring, more than one (1) absence for the same reason may also be counted as one occasion.
- c.** Monitoring period – Previous 12 months.
- d.** The following exemptions are not included as sick leave occurrences:
  - i.** Absences resulting because of a verified medical condition will be addressed on a case by case basis;
  - ii.** Workers' compensation injuries or illnesses;
  - iii.** Qualified Family and Medical Leave Act (FMLA), unless FMLA balance has been exhausted;
  - iv.** Approved funeral leave;
  - v.** Approved scheduled medical/dental appointments.

**3. Officer Responsibility.**

- a.** The responsibility for good attendance lies with the officer.
- b.** The officer is responsible to notify the Department that he or she will not be at work. Only extenuating circumstances, such as immediate hospitalization, unconsciousness, etc. will relieve the officer of this responsibility, but it should still be reported as soon as practical.
- c.** An officer, regardless of assignment, who is unable to report for work due to personal or family sickness will notify by calling the on duty shift commander or his or her immediate commander no later than 1 hour prior to his or her assigned starting time. The following information will be given by the officer requesting sick leave:

- i. Reason(s) why sick leave is being requested;
    - ii. Telephone number where the officer can be contacted; and
    - iii. Any scheduled court appearances or Department obligations that will be affected.
  - d. An officer will reconfirm his or her sick leave status with the on duty shift commander or his or her immediate commander on a daily basis except when a written medical excuse from the treating physician is presented to a commander indicating the number of days the officer will be on sick leave.
- 4. Patterns subject to possible review and action.
  - a. Three (3) sick leave occurrences of any length in the monitoring period;
  - b. Use of any sick leave under false pretenses;
  - c. Three (3) sick leave occurrences in conjunction with:
    - i. Scheduled days off;
    - ii. Legal holidays;
    - iii. Weekends;
    - iv. Same days of the week;
    - v. Immediately following discipline;
    - vi. After working overtime; and
    - vii. After leave request denied.
  - d. Under any reasonable suspicion circumstances; or
  - e. Tardiness on three (3) separate occasions within the monitoring period.
- 5. Any corrective action taken will be through progressive discipline.

## **ARTICLE VIII**

This Agreement shall become effective on the 1<sup>st</sup> day of July, 2018, and shall continue in full force and effect through the 30<sup>th</sup> day of June, 2021.

Both parties further agree to notify the other in writing, at least 120 days prior to the expiration date of this Agreement that they desire to modify the Agreement. All other Articles, conditions, and past practices in which modifications are not desired by either party herein shall remain in

effect subject to final ratification of the total Agreement. This section shall apply only to wages, fringe benefits, and working conditions.

The parties acknowledge that during the negotiations that resulted in this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining and that all the understandings and agreements arrived at by the parties after their exercise of that right and opportunity are set forth in this Agreement. Therefore, Employer and Union for the life of this Agreement each voluntarily and unqualifiedly waives the right and releases the other from the obligation to bargain collectively with respect to any subject or matter referred to or covered in this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

The foregoing waiver shall not be binding if the parties mutually agree to engage in collective bargaining, with respect to a particular subject or matter covered or not covered in this Agreement.

**Savings Clause**

Should any Article, Section, or portion thereof of this Agreement be held unlawful or invalid by any court or board of competent jurisdiction, such decision shall apply only to the specified Article, Section, or portion thereof directly specified in the decision. Upon issuance of such a decision, the Parties agree immediately to negotiate a substitute for the invalidated Article, Section, or portion thereof. Any change in City Ordinance passed subsequent to the adoption of this Agreement that would contravene the terms of this Agreement shall not apply during the life of this Agreement.

**IN WITNESS WHEREOF** the parties hereto, acting by and through their respective and duly authorized officers and representatives, have hereto set their hands and seals on this \_\_\_\_\_ day of, \_\_\_\_\_, 2022.

**THE CITY OF BILLINGS**

**THE BILLINGS POLICE UNIT**

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WILLIAM A. COLE, MAYOR

---

SHAWN WICHMAN, PRESIDENT UNIT

---

DENISE R. BOHLMAN, CITY CLERK

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AMANDA CURTIS, PRESIDENT, MFPE

ATTACHMENT A  
Hourly Police Pay Schedule

| Beginning of Year |   | Hourly Wage Fiscal Year Beginning | Certification Pay   |         |
|-------------------|---|-----------------------------------|---------------------|---------|
|                   |   |                                   | 7-1-21 thru 6-30-25 |         |
|                   |   | 7/1/2022                          | Intermediate        | Advance |
| 1                 | - | <u>\$29.5000</u>                  | X                   | X       |
| 2                 | - | <u>\$30.0900</u>                  | \$1,000             | \$2,000 |
| 3                 | - | <u>\$30.6800</u>                  | \$1,000             | \$2,000 |
| 4                 | - | <u>\$31.2700</u>                  | \$1,000             | \$2,000 |
| 5                 | - | <u>\$31.8600</u>                  | \$1,000             | \$2,000 |
| 6                 | - | <u>\$32.4500</u>                  | \$1,000             | \$2,000 |
| 7                 | - | <u>\$33.0400</u>                  | \$1,000             | \$2,000 |
| 8                 | - | <u>\$33.6300</u>                  | \$1,000             | \$2,000 |
| 9                 | - | <u>\$34.2200</u>                  | \$1,000             | \$2,000 |
| 10                | - | <u>\$34.8100</u>                  | \$1,000             | \$2,000 |
| 11                | - | <u>\$35.4000</u>                  | \$1,000             | \$2,000 |
| 12                | - | <u>\$35.9900</u>                  | \$1,000             | \$2,000 |
| 13                | - | <u>\$36.5800</u>                  | \$1,000             | \$2,000 |
| 14                | - | <u>\$37.1700</u>                  | \$1,000             | \$2,000 |
| 15                | - | <u>\$37.7600</u>                  | \$1,000             | \$2,000 |
| 16                | - | <u>\$38.3500</u>                  | \$1,000             | \$2,000 |
| 17                | - | <u>\$38.9400</u>                  | \$1,000             | \$2,000 |
| 18                | - | <u>\$39.5300</u>                  | \$1,000             | \$2,000 |
| 19                | - | <u>\$40.1200</u>                  | \$1,000             | \$2,000 |
| 20                | - | <u>\$40.7100</u>                  | \$1,000             | \$2,000 |

This pay matrix will be updated as follows:

7/1/~~2023~~19      ~~2.9%~~ 3% Increase  
7/1/~~2024~~0      ~~2.9%~~ 3% Increase

**Shift Differential:** Those officers who work the majority of their regularly assigned shift within the following hours shall be compensated in addition to their regular base rate accordingly.

|                                     |                 |
|-------------------------------------|-----------------|
| Shift Designated as Afternoon Shift | \$1.00 per hour |
| Shift Designated as Night Shift     | \$2.00 per hour |

Officers assigned to the “weekend shift” (6:00 pm Friday to Monday at 6:00 am) shall receive \$.75/hour weekend pay.

**Longevity:**

Officers shall receive longevity pay for each regular hour (2,080 hours per year). Longevity is not added to the base rate of pay. Longevity will be paid as follows:

For Officers hired prior to 7/1/2009:

~~\$0.09 x years of completed service from the beginning of his/her 2<sup>nd</sup> year to the completion of 15<sup>th</sup> year.~~

For Officers hired on or after 7/1/2009 and before 7/1/2012:

~~\$0.09 x years of completed service from the beginning of his/her 4<sup>th</sup> year to the completion of 15<sup>th</sup> year.~~

For Officers hired on or after 7/1/2012:

~~\$0.09 x years of completed service from the beginning of his/her 6<sup>th</sup> year to the completion of 15<sup>th</sup> year.~~

For all Officers completing 15 years of service:

~~\$0.10 x years of completed service from the beginning of his/her 16<sup>th</sup> year and ending at separation of service.~~

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The total annual amount of longevity pay shall be calculated by taking the longevity pay for each regular hour, multiplying it by the number of hours per year, then dividing that

~~amount by the number of pay periods per year, and paying that amount equally for each pay period.~~

~~Longevity will be calculated into the overtime rate in accordance with the Fair Labor Standards Act.~~

## LONGEVITY PAY FOR EACH REGULAR HOUR

|      | Hire<br>Before | Hire<br>After | Hire<br>After |
|------|----------------|---------------|---------------|
| Year | 7/1/2009       | 7/1/2009      | 7/1/2012      |
| 1    | \$0.00         | \$0.00        | \$0.00        |
| 2    | \$0.09         | \$0.00        | \$0.00        |
| 3    | \$0.18         | \$0.00        | \$0.00        |
| 4    | \$0.27         | \$0.27        | \$0.00        |
| 5    | \$0.36         | \$0.36        | \$0.00        |
| 6    | \$0.45         | \$0.45        | \$0.45        |
| 7    | \$0.54         | \$0.54        | \$0.54        |
| 8    | \$0.63         | \$0.63        | \$0.63        |
| 9    | \$0.72         | \$0.72        | \$0.72        |
| 10   | \$0.81         | \$0.81        | \$0.81        |
| 11   | \$0.90         | \$0.90        | \$0.90        |
| 12   | \$0.99         | \$0.99        | \$0.99        |
| 13   | \$1.08         | \$1.08        | \$1.08        |
| 14   | \$1.17         | \$1.17        | \$1.17        |
| 15   | \$1.26         | \$1.26        | \$1.26        |
| 16   | \$1.50         | \$1.50        | \$1.50        |
| 17   | \$1.60         | \$1.60        | \$1.60        |
| 18   | \$1.70         | \$1.70        | \$1.70        |
| 19   | \$1.80         | \$1.80        | \$1.80        |
| 20   | \$1.90         | \$1.90        | \$1.90        |
| 21   | \$2.00         | \$2.00        | \$2.00        |
| 22   | \$2.10         | \$2.10        | \$2.10        |
| 23   | \$2.20         | \$2.20        | \$2.20        |
| 24   | \$2.30         | \$2.30        | \$2.30        |
| 25   | \$2.40         | \$2.40        | \$2.40        |
| 26   | \$2.50         | \$2.50        | \$2.50        |
| 27   | \$2.60         | \$2.60        | \$2.60        |
| 28   | \$2.70         | \$2.70        | \$2.70        |
| 29   | \$2.80         | \$2.80        | \$2.80        |
| 30   | \$2.90         | \$2.90        | \$2.90        |
| 31   | \$3.00         | \$3.00        | \$3.00        |
| 32   | \$3.10         | \$3.10        | \$3.10        |
| 33   | \$3.20         | \$3.20        | \$3.20        |
| 34   | \$3.30         | \$3.30        | \$3.30        |
| 35   | \$3.40         | \$3.40        | \$3.40        |
| 36   | \$3.50         | \$3.50        | \$3.50        |
| 37   | \$3.60         | \$3.60        | \$3.60        |
| 38   | \$3.70         | \$3.70        | \$3.70        |
| 39   | \$3.80         | \$3.80        | \$3.80        |
| 40   | \$3.90         | \$3.90        | \$3.90        |

**Certification Pay:**

Effective July 1, 2001, the appropriate certification (Intermediate or Advanced) that is obtained by October ~~November~~ 1 of each year will determine the certification pay amount, as noted above. The certification pay will be paid the first payday in **November** ~~December~~. In order to receive certification pay, police officers must complete a minimum of 16 hours of continued education, excluding mandatory department training, and must be employed at least six (6) months in the calendar year. If an officer leaves the department prior to completing 6 months, certification pay will be prorated. It is the employer's responsibility to ensure that ample training opportunities are available to the police officers.

**Specialty Pay:**

All personnel who are assigned by the Chief of Police special duties as defined in Billings Police Department policy 8-2 Specialized Assignments Group 1 or Group 2 will receive \$250 specialty pay for the fiscal year beginning July 1, 2011. If an officer is assigned more than one specialty, that officer receives no more than \$250 July 1, 2011. Changes to the special duties defined under Group 1 or Group 2 will be addressed through the Labor/Management Committee.