

**\*\*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 [Zoom Meeting IDs and Passcodes](#)
- Click Here for [Zoom Meeting Instructions for Attendees \(as guests\)](#)

Please contact Denise Bohlman, City Clerk, at [bohlmand@billingsmt.gov](mailto:bohlmand@billingsmt.gov), or at 406.657.8210, with any questions.



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

**WORK SESSION AGENDA  
DECEMBER 5, 2022**

**COUNCIL CHAMBERS**

**5:30 P.M.**

**CALL TO ORDER:** Mayor Cole

**PUBLIC COMMENT ON ALL ITEMS.** This is the time to comment on any matter (Agenda or Non-Agenda) falling within the scope of the Billings City Council. There will also be time in conjunction with each agenda item for public comment relating to that item. You may only speak once for each item during the meeting.

Please note, the City Council cannot take action on any item of significant interest to the public that does not appear on the agenda. Comments are limited to three (3) minutes during each public comment period or as set by the Mayor. **Speaker sign-in required.** Please sign the roster at the cart located at the back of the Council chambers or at the podium.

1. **Billings PCE Superfund Site Update.**  
(Presented by: Boris Krizek, Environmental Engineer)  
-Public Comment
2. **Ward Boundary Update.**  
(Presented by: Wyeth Friday, Planning Director)  
-Public Comment
3. **Yellowstone County and City of Laurel MOU.**  
(Presented by: Gina Dahl, City Attorney)  
-Public Comment
4. **Technology Replacement Plan.**  
(Presented by: David Watterson, IT Director)  
-Public Comment
5. **Capital Improvement Plan - Public Works and Transportation.**  
(Presented by: Andy Zoeller, Finance Director)  
-Public Comment
6. **Highlight Upcoming Agenda Items of Council Interest.**  
(Presented by: Chris Kukulski, City Administrator)  
-Public Comment

**COUNCIL DISCUSSION:**

**PUBLIC COMMENT ON ALL ITEMS.** This is the time to comment on any matter (Agenda or Non-Agenda) falling within the scope of the Billings City Council. There will also be time in conjunction with each agenda item for public comment relating to that item. You may only speak once for each item during the meeting.

Please note, the City Council cannot take action on any item of significant interest to the public that does not appear on the agenda. Comments are limited to three (3) minutes during each public comment period or as set by the Mayor. **Speaker sign-in required.** Please sign the roster at the cart located at the back of the Council chambers or at the podium.

**ADJOURN:**

**Note:**

This meeting is an "informal" meeting of the City Council. The content of the Agenda is subject to change at the meeting. In the event there is a Closed Executive Session, the sole purpose is to discuss litigation strategy. The other parties to the case(s) discussed are not public bodies or associations as described in Section 2-3-203(1) and (2), MCA. The meeting is closed, as allowed by Section 2-3-203(4)(a), MCA, "to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position" of the City of Billings.



**City Council Work Session**

**Date:** 12/05/2022  
**Title:** Billings PCE Superfund Site Update  
**Presented by:** Debi Meling  
**Department:** Public Works  
**Presentation:** Yes  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Informational presentation only.

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

Montana Department of Environmental Quality (MTDEQ) staff will be presenting a summary of the groundwater and vapor monitoring findings and anticipated site activities.

**ALTERNATIVES**

Informational presentation to City Council only.

**FISCAL EFFECTS**

None

**SUMMARY**

NA

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**Attachments**

PCE Superfund Site Presentation

# Billings PCE NPL Site

December 5, 2022

Jason Rappe

DEQ Project Manager

Kevin Stone

DEQ Public Information Officer

# Site Team

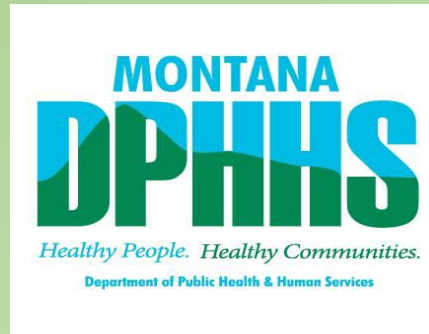
## State of Montana

Jason Rappe  
Project Manager  
406-444-6442  
Jason.Rappe@mt.gov



Kevin Stone  
Public Information Officer  
406-444-6469  
Kevin.Stone@mt.gov

Dawn Nelson  
Toxicologist  
406-444-6910  
Dawn.Nelson@mt.gov



## U.S. Environmental Protection Agency

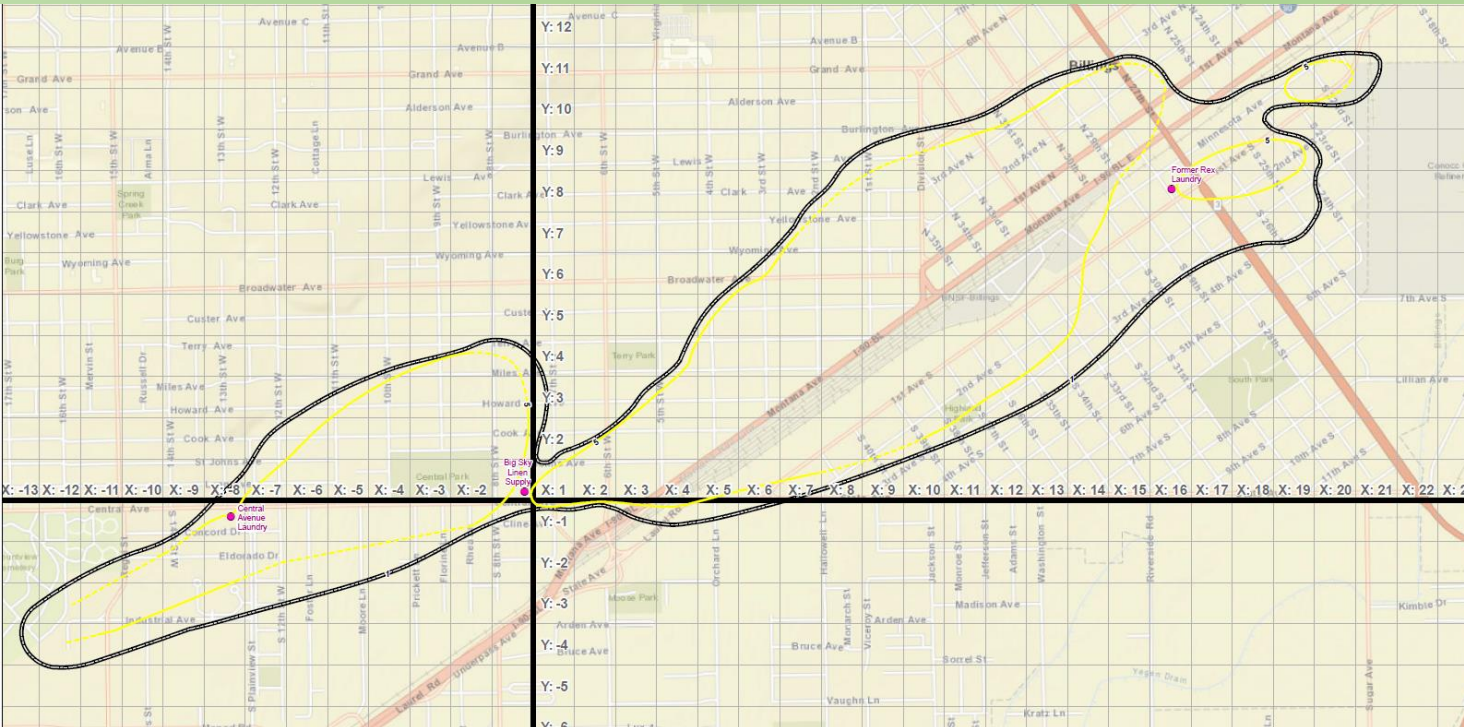
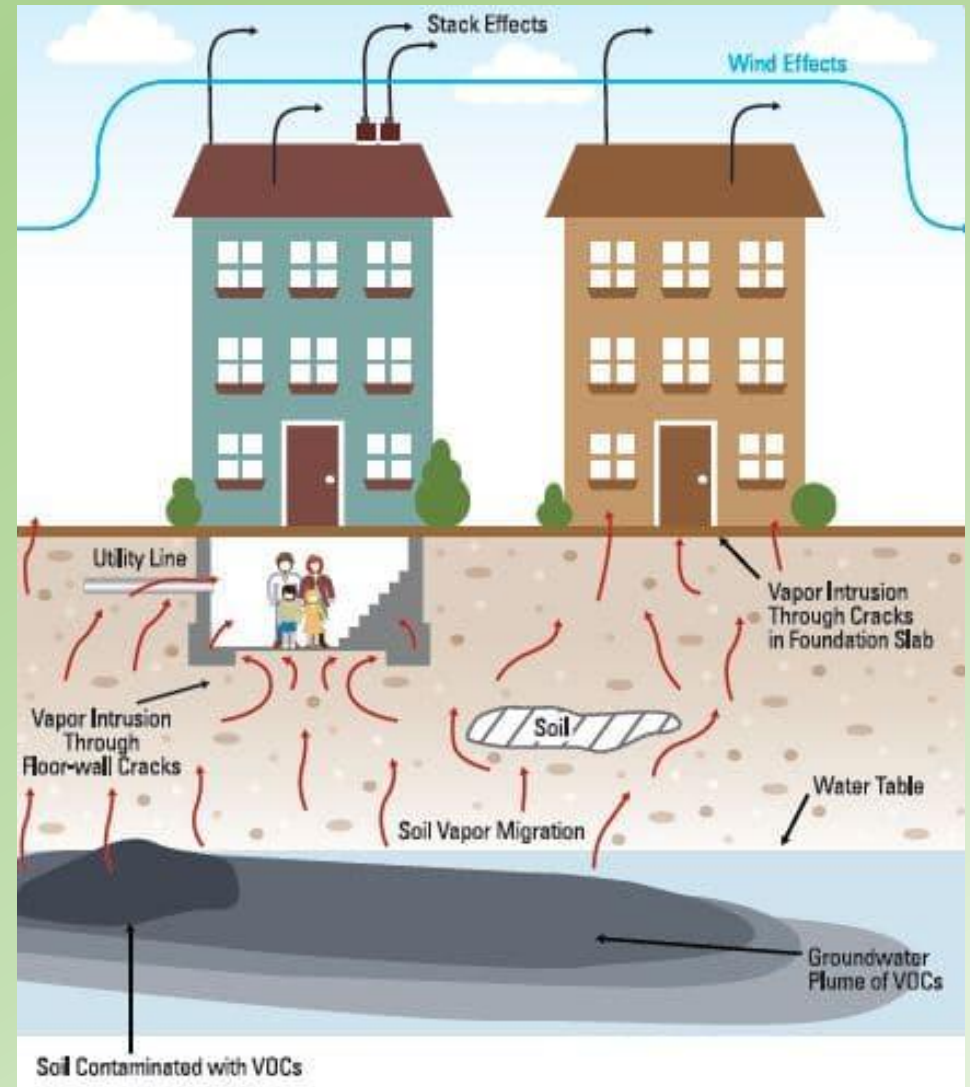
Roger Hoogerheide  
Remedial Project Manager  
406-422-9725  
Hoogerheide.Roger@epa.gov



Ryan Kloberdanz  
Community Involvement Coordinator  
303-312-6078  
Kloberdanz.Ryan@epa.gov

# The Concern

- Solvent Contaminants
- ~850 Acre Groundwater Plume
- Pathways for Vapor Intrusion to Effect Homes and Businesses



# What Have We Done?

## OU1 Indoor Air

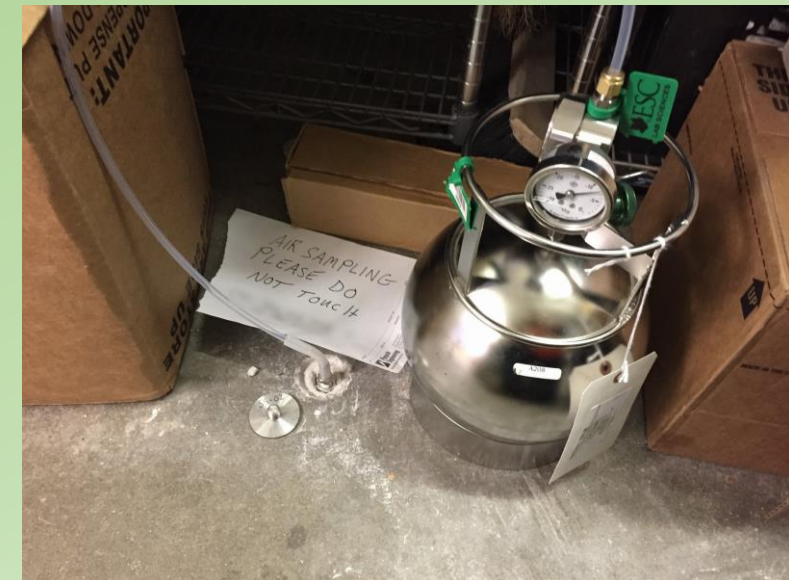
Continued investigation of structures.

- ~50 Structure Indoor Air Samples
- ~140 Structure Sub-slab Samples
- ~115 Soil Gas Samples
- ~95 Utility Corridor Samples

## OU2 Groundwater

Bi-annual monitoring of wells for plume delineation.

- 120 Wells Sampled for Each Event



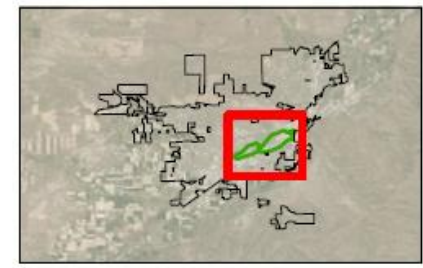
**Figure 1-1**  
**Winter 2022 Vapor Intrusion Investigation**  
**Structures of Potential Concern**

**Legend**

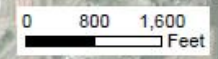
- Exceedance of Residential RML<sup>a</sup> in Indoor Air
- Exceedance of Residential VISL<sup>b</sup> in Indoor Air
- No Exceedance of Indoor Air VISL, but High Sub-Slab Vapor or Soil Gas Concentrations
- Residential with No Exceedances
- Commercial with No Exceedances
- ★ Suspected PCE Source
- 14.4 µg/L PCE in Groundwater (Residential TGC)
- 60.6 µg/L PCE in Groundwater (Commercial TGC)
- Preliminary BPCE VI Study Area
- City of Billings

**Notes:**

µg/m<sup>3</sup> = micrograms per meter cubed  
 µg/L = micrograms per liter  
 BPCE = Billings Tetrachloroethene  
 PCE = Tetrachloroethene  
 RML = Regional Removal Management Level  
 SG = Soil Gas  
 SPS = Suspected PCE Source  
 SSV = Sub-Slab Vapor  
 TCE = Trichloroethene  
 TGC = target groundwater concentration  
 VI = Vapor Intrusion  
 VISL = Vapor Intrusion Screening Level  
 Dashed contours indicate estimated values



**DATA SOURCES**  
 -Tritiyao, 2019. Remedial Investigation Report, Billings PCE Groundwater Facility, Billings, Montana, May 15.  
 -Image: World Imagery, 2021  
 -Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

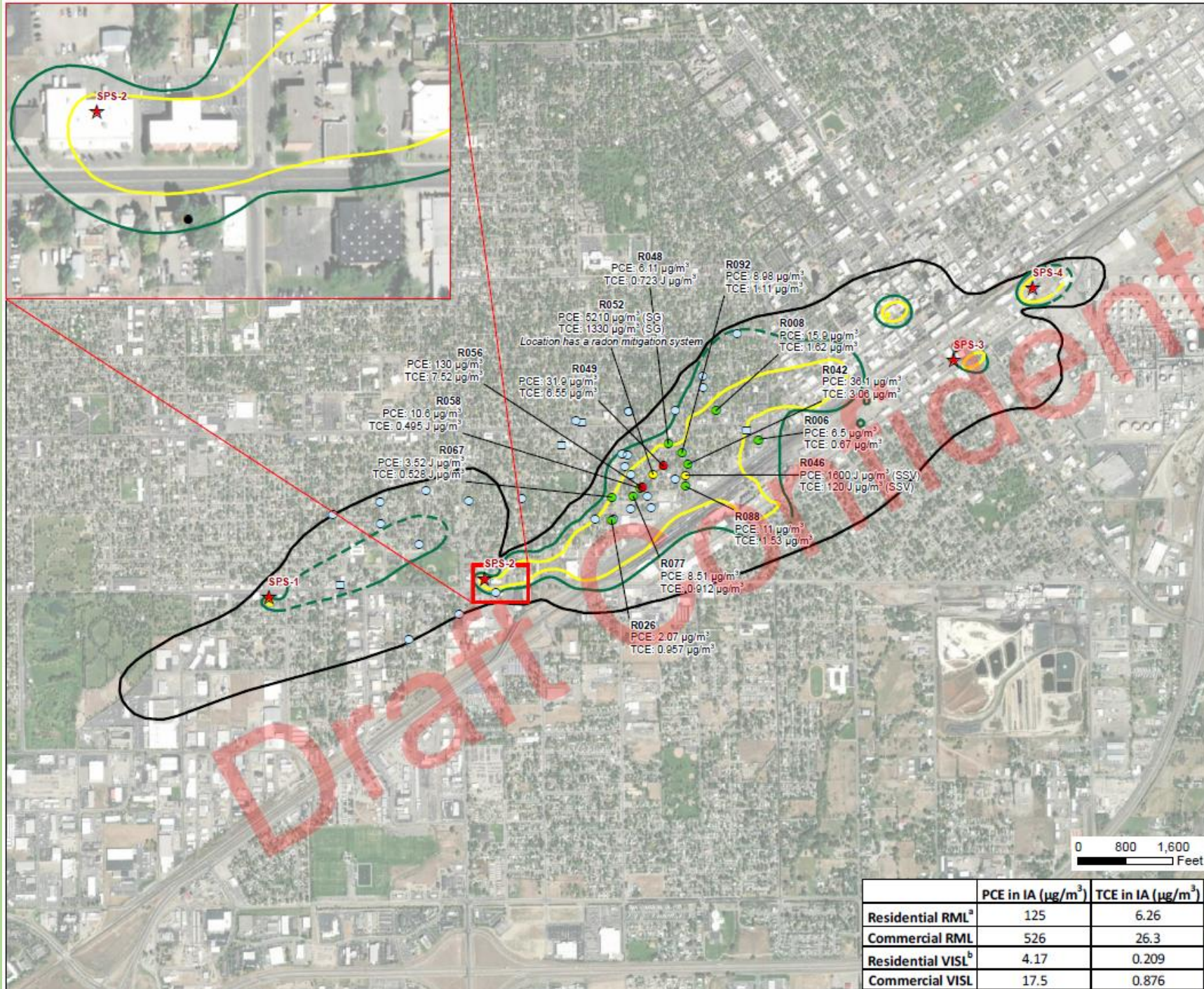


	PCE in IA (µg/m <sup>3</sup> )	TCE in IA (µg/m <sup>3</sup> )
<b>Residential RML<sup>a</sup></b>	125	6.26
<b>Commercial RML</b>	526	26.3
<b>Residential VISL<sup>b</sup></b>	4.17	0.209
<b>Commercial VISL</b>	17.5	0.876

**GILBANE AECOM JV**

**BILLINGS PCE SITE**  
**WINTER 2021/2022 VAPOR INTRUSION FIELD SAMPLING PLAN**

DESIGNED BY: RL	<b>Billings PCE Site</b> Billings, MT	
DRAWN BY: CN		
CHECKED BY: RL	SCALE: 1:19,200	CONTRACT NUMBER: 68HE0318D0008
SUBMITTED BY: SK	DATE: 6/29/2022	DELIVERY ORDER: 68HE0621F0070
COORDINATE SYSTEM: NAD 1983 2011 StatePlane Montana FIPS 2600 Feet		



# Upcoming Work

## OU1 Indoor Air

Continued investigation of structures.

- Installation of 9 Sub-slab Depressurization Systems
- ~200 Indoor Air Samples – Jan/Feb 2023

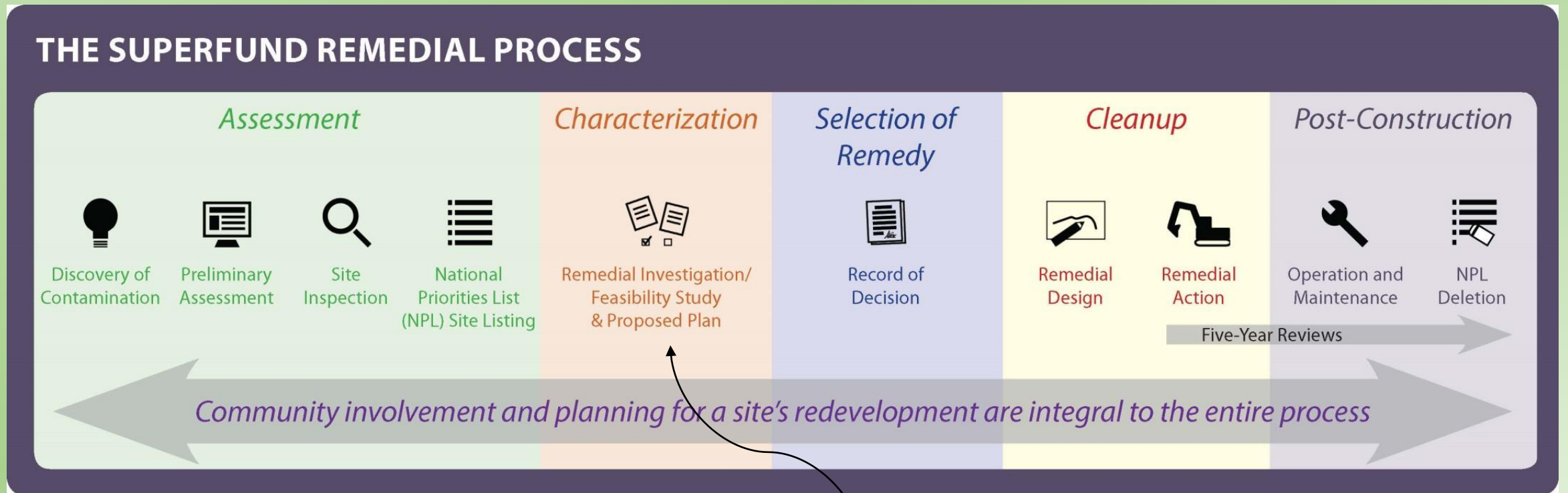
## OU2 Groundwater

Bi-annual monitoring of wells for plume delineation.

- Sample 120 Wells –Spring 2023
- New Wells Installed # TBD – Spring/Summer 2023



# Where Are We in the Process?



Billings PCE is Here

# Questions?



**City Council Work Session**

**Date:** 12/05/2022  
**Title:** City Council Ward Boundary Update #2 Per 2020 Census Results  
**Presented by:** Wyeth Friday  
**Department:** Planning & Community Services  
**Presentation:** Yes  
**Legal Review** Yes

**RECOMMENDATION**

No formal action from Council will occur at this meeting since it is a City Council Work Session. Staff will share updated information with City Council since the October 5 Work Session when this topic was first introduced on the City Ward Boundary update process needed following the 2020 US Census. After further review of Montana Code and discussion with the City Attorney, staff will share a revised draft map that addresses the population changes from the Census that occurred across Wards. The revised map ensures all Wards are within 1% population deviation of the ideal Ward Population of 23,448. Staff also will provide the plans for a public information session on this process in January, and plans for bringing this item for action to Council by February 2023 to complete the Ward Boundary updates before the 2023 elections.

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

Article 3 of the City of Billings Charter requires election wards with 10 Council Members and two Council members representing each ward. Chapter 11 of the City Code requires that ward boundaries be described in an ordinance and shown on a map. State Code Section 7-5-4401 requires that cities of the first class (Billings) have between 4 and 10 wards and that the population in each be as equal as possible. This ensures that, per the US and Montana Constitutions as well as case law, that voters have equal voting strength and representation with their elected governing bodies. In jurisdictions like Billings that have more than one election district, equal voting power and representation are accomplished by equalizing the population among all of the election districts.

Staff had provided an initial map when it presented this item at the October 5 City Council Work Session in an effort to bring the 5 Wards within 1% of each other population wise. However, it was found that staff did not calculate the deviation between Wards correctly. The attached revised map ensures all Wards are within 1% population deviation of the ideal Ward Population of 23,448. The ideal Ward population is calculated by dividing the total number of Wards by the total Census population for 2020 for Billings -  $117,240/5 = 23,448$ . The revised map now provides for the populations in all Wards for being within 1% plus or minus of 23,448.

Redrawing election boundaries has a judicially approved set of mandatory and a set of discretionary criteria. From the outset, staff focused its efforts on changes that meet the mandatory criteria, such as equalized population and contiguous and compact shapes of wards. The most common discretionary criteria are to use geographic or topographical features as boundaries and borders that use existing political unit boundaries - like roads, ditches, rivers, etc. A more rarely implemented, but allowed discretionary criterion, is to establish boundaries that do not adversely impact incumbent elected officials. The Billings City Charter requires that Council members reside in the wards that they represent. If a new ward boundary plan was adopted that placed an incumbent in a different ward from the one that elected him/her, that Council member would immediately forfeit his/her seat because s/he would no longer reside in the ward that elected him/her. The current plan does not affect any current Council members in terms of their place of residence and the ward they represent. However, given the location of the population in the City and across the Wards, staff is not able to draw the boundaries of each Ward as cleanly and neatly as might be preferred. There are areas of the City with little or no population as they are commercial areas, and there are areas with greater density of population and those with less. As depicted on the attached draft map, to get the 5 Wards to be within less than 1% deviation in population from the idea Ward population staff had to select some small areas of several Wards where there was population to achieve this. Staff continues to try and use streets and other geographic barriers to define the Ward boundaries even if some boundaries are a little less uniform than before.

The City's 2020 population per the 2020 Census data is 117,240. The 2010 Census data set the City population at 104,170. The current population of 117,240 means that the ideal population per ward is 23,448. The increase in population since the 2010 Census is most significant in Ward 4 (See the attached Draft Ward Boundary Redistricting Map) at 25,722. This creates a significant imbalance with Ward 1 that has a current population of 20,580, a 5,142 difference between Ward 4 and Ward 1. Staff has reviewed the populations in the wards and also looked at election district boundaries, and has developed a recommendation for Council to make two significant changes between Ward 1 and Ward 4 to adjust the population distribution (See attached Draft Ward Boundary Redistricting Map). Several

other smaller adjustments between other Wards also are shown to achieve nearly equal Ward populations. This proposal appears to be the most straight forward way to make the necessary changes with the last effect on the five wards overall. Staff at the meeting will walk through the draft map, proposed changes, and demonstrate how the changes were achieved.

Staff has scheduled a Ward Boundary Update Open House for Wednesday, January 11, 2023 starting at 5:30 pm to share information on the process and background on the City making Ward Boundary changes after each Decennial Census. Staff will coordinate with the City's Public Information Officer to publicize this event.

The 2023 City Government Primary is Tuesday, September 12th and the General is Tuesday, November 7th. The time for candidates to file opens 140 days prior to the Primary, or the third week in April 2023. That means the City should determine its Ward boundaries prior to the opening day for candidates to file so they know which Ward they reside within. Given the schedule in early 2023, staff suggests it bring the ward boundary changes to Council for public hearing and first reading of an ordinance no later than the first meeting in March 2023 so it can be passed and approved the second meeting March. After the public information session on this process in January, staff will work to bring this to Council in February to ensure the City is ahead of the deadline.

## **STAKEHOLDERS**

The stakeholders in this process include the residents of Billings that are represented by the City Council and Mayor across the five City Council Election Wards. Ensuring that the population in each Council Word is approximately the same to maintain even representation for each Ward is an important process for the City after each Decennial Census is tabulated and the data is released. Staff has scheduled a Ward Boundary Update Open House for Wednesday, January 11, 2023 starting at 5:30 pm to share information on the process and background on the City making Ward Boundary changes after each Decennial Census. Staff will coordinate with the City's Public Information Officer to publicize this event.

## **ALTERNATIVES**

There is really only one alternative for the City Council at this point, and that is to move forward with updating the City Council Wards to adjust population distribution as evenly as possible across all five Wards. In this case, staff has made adjustments that bring all 5 Wards within less than 1% deviation of the ideal Ward population of 23,448 (See attached draft Ward Boundary Map).

## **FISCAL EFFECTS**

The main fiscal impact from this effort is the staff time involved in collecting the Census data, analyzing it, and then preparing draft Ward maps to show how the adjustments in population would be distributed across the Wards. City GIS, Planning, Legal, the Clerk's Office, and Administration have been involved in this effort in the City, and the County Elections Administrator and County GIS Department also have participated. If the Council fails to adopt a plan prior to the 2023 municipal election or adopts a plan that does not meet the primary criteria for redrawing election boundaries, the decision could be challenged and additional resources would be committed to defending its decisions.

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## **Attachments**

Draft #2 Ward Boundary Map Updates

# Ward Boundary Redistricting

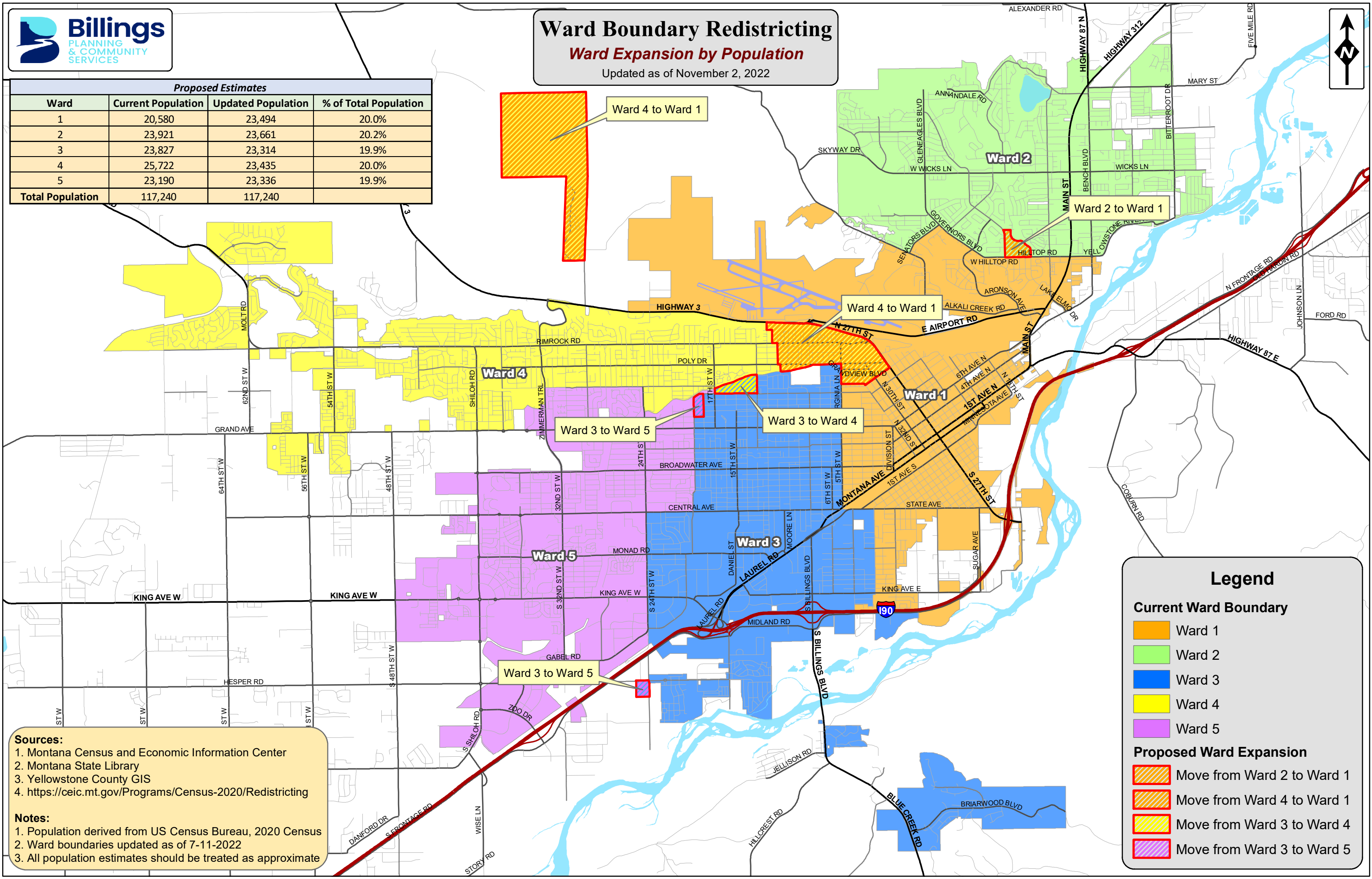
## Ward Expansion by Population

Updated as of November 2, 2022



### Proposed Estimates

Ward	Current Population	Updated Population	% of Total Population
1	20,580	23,494	20.0%
2	23,921	23,661	20.2%
3	23,827	23,314	19.9%
4	25,722	23,435	20.0%
5	23,190	23,336	19.9%
<b>Total Population</b>	<b>117,240</b>	<b>117,240</b>	



### Legend

**Current Ward Boundary**

- Ward 1 (Orange)
- Ward 2 (Green)
- Ward 3 (Blue)
- Ward 4 (Yellow)
- Ward 5 (Purple)

**Proposed Ward Expansion**

- Move from Ward 2 to Ward 1 (Orange hatched)
- Move from Ward 4 to Ward 1 (Yellow hatched)
- Move from Ward 3 to Ward 4 (Yellow hatched)
- Move from Ward 3 to Ward 5 (Purple hatched)

**Sources:**

1. Montana Census and Economic Information Center
2. Montana State Library
3. Yellowstone County GIS
4. <https://ceic.mt.gov/Programs/Census-2020/Redistricting>

**Notes:**

1. Population derived from US Census Bureau, 2020 Census
2. Ward boundaries updated as of 7-11-2022
3. All population estimates should be treated as approximate

**City Council Work Session**

**Date:** 12/05/2022  
**Title:** MOU with Yellowstone County and the City of Laurel  
**Presented by:** Gina Dahl  
**Department:** Legal  
**Presentation:** Yes  
**Legal Review** Yes

**RECOMMENDATION**

This presentation is informational only and no action is needed at this time. This Memorandum of Understanding (MOU) will be presented at a regular business meeting for Council to consider. This MOU is being presented now so there can be discussion about the 2021 legislative changes and the need for this MOU.

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

Yellowstone County, City of Billings, and City of Laurel created a multi-jurisdictional health services district, known as the Yellowstone City-County Health Department (now under the umbrella of RiverStone Health), by Interlocal Agreement in 1997. This agreement was later modified in 2004 when an air pollution control program was developed in 2005. The Cities and County have worked cooperatively under the agreement for decades.

In 2021, in response to the pandemic, the Montana legislature passed HB 121. This bill required the formation of a "governing body" to oversee and approve certain actions of the board of health. In June 2021, the Yellowstone County Board of Commissioners notified the parties of its intent to negotiate a revision of the existing Interlocal Agreement in light of the legislative changes. Discussions between city, county, and health department staff began at that time and continued until a consensus was reached in October 2022 to draft a Memorandum of Understanding (MOU) to address the legislative changes instead of reopening and renegotiating a new Interlocal Agreement. The respective parties are currently presenting this proposed MOU to their governing bodies.

The proposed MOU defines the "local governing authority" as the governing body that provides oversight and approval of certain actions of the board of health and health officer as required under HB 121. This governing authority would consist of two members of Yellowstone County Board of Commissioners, two members of Billings City Council, and one member of Laurel City Council.

The issues that require action by the local governing authority include appointment of the Health Officer, approval of new and revised local public health rules, and approval of fees to administer regulations for the control and disposal of sewage from private and public buildings and facilities. The legislation was not intended to hinder, slow, or remove nonemergency related powers granted to a local board of health and the MOU clarifies the actions that are not subject to review or approval by the local governing authority in section 4.

**STAKEHOLDERS**

The citizens of Laurel, Billings, and of Yellowstone County are stakeholders.

**ALTERNATIVES**

City Council may provide additional input and feedback about the MOU.

**FISCAL EFFECTS**

None.

**Attachments**

MOU  
 2004 Interlocal Agreement  
 HB 121

## **MEMORANDUM OF UNDERSTANDING REGARDING HB121**

This Memorandum of Understanding (“Agreement”) is entered into between Yellowstone County (“County”), the City of Billings (“Billings”) and the City of Laurel (“Laurel”) (collectively “the Parties”) for purposes of creating and implementing processes and procedures for complying with requirements set forth by the Montana Legislature in the laws collectively known as House Bill 121 (“HB121”) during the 2021 Legislative session.

**WHEREAS**, the County, Billings and Laurel are parties to the agreement that creates the multi-jurisdictional service district created to provide health services and health department functions known as the “Interlocal Agreement;”

**WHEREAS**, by virtue of HB121, the Parties are subject to various rights and responsibilities created by the Interlocal Agreement; and,

**WHEREAS**, it is the intent of the Parties to comply with HB121 and to set forth as clearly as possible the methods of doing so for each as well as for the Parties collectively;

**THEREFORE**, this Agreement sets forth the following terms pursuant to which the County, Billings and Laurel shall agree:

1. **Definitions:** This Agreement shall be subject to the following definitions:
  - (a) “Local Governing Body” shall refer to elected officials governing Yellowstone County (Board of County Commissioners), the City of Billings (Billings City Council), and the City of Laurel (Laurel City Council), respectively.
  - (b) “Local Governing Authority” shall refer to a subset of the Local Governing Bodies that is constituted and empowered to provide oversight and approval of certain Health Office and Board of Health recommendations as required under HB121 and as set forth herein.
2. **Composition of and action by the Local Governing Authority.**
  - (a) The Parties agree that, using the proportions described in the Interlocal Agreement, a five-member Local Governing Authority will be created within one (1) month of the effective date of this Agreement. Composition of the Local Governing Authority shall be as follows:
    - Two (2) members appointed by the Yellowstone County Board of County Commissioners;
    - Two (2) members appointed by the Billings City Council; and,
    - One (1) member appointed by the Laurel City Council.
  - (b) The Parties agree that each member of the Local Governing Authority must be currently seated, elected members of the Local Governing Body that appoints them.

- (c) Each Local Governing Body has the sole appointment and removal authority for members of the Local Governing Authority.
- (d) Each appointed member of the local governing authority shall be appointed for a three (3) year term.
- (e) In the event that a Local Governing Body has one or more unfilled position(s) on the Local Governing Authority, then the Local Governing Authority shall continue to operate, subject to the terms of the quorum requirement that follows.
- (f) A quorum of the Local Governing Authority shall be established by the presence of at least one (1) member appointed by each Local Governing Body. In the event that a Local Governing Body has no current appointed individuals, then a quorum is achieved by the presence of at least one (1) appointed member of each remaining Local Governing Body that has made an appointment.
- (g) The Local Governing Authority shall have a chairperson for purposes of meeting management and logistics. The chairperson shall have no special powers or authorities different from or greater than any other member. The chairperson shall rotate each calendar year, starting with a representative of the County, followed by a representative of the City of Billings, and then followed by the representative of the City of Laurel. The rotation cycle shall then repeat.
- (h) The Local Governing Authority shall meet on an as-needed basis and may take action through an in-person meeting or an electronic meeting (e.g., telephone or computer) subject to all open meeting requirements. The chairperson, as part of his/her management and logistics function shall determine the manner of meeting or acting for each time a need for local governing authority discussion or action is required. The chairperson is responsible for ensuring proper public notice is made of any and all meetings of the Local Governing Authority and that minutes are recorded, as necessary.
- (i) So long as a quorum is present, actions of the local governing authority shall be determined by a simple majority vote of those present.

### **3. Issues Requiring Action by the Local Governing Authority.**

- (a) Appointment of a new Health Officer. Upon determining the need for a new Health Officer, the Board of Health shall make its recommendation to the Local Governing Authority, which shall act to approve or disapprove the recommendation after conducting a public meeting. In the event that there is not a Health Officer in place at the time of the recommended appointment, then the person recommended by the Board of Health for appointment may fill the role until such time as the Local Governing Authority acts.
- (b) Approval of new local public health rules. Any proposed new local public health rules shall be developed and vetted by the Health Officer and Board of Health. When the development process is complete, then the Board of Health or Health Officer shall notify the Local Governing Authority that a decision is needed, and a public meeting shall be arranged by the

chairperson. The Local Governing Authority will then act to approve or disapprove the proposed local public health rule.

- (c) Approval of revised local public health rules. If the Health Officer and Board of Health determine that an existing rule needs to be modified, then they shall develop and vet the proposed revisions. When the development process is complete, then the Board of Health or Health Officer shall notify the Local Governing Authority that a decision is needed, and a public meeting shall be arranged by the chairperson. The Local Governing Authority will then act to approve or disapprove the proposed local public health rule. In the event that the Local Governing Authority disapproves the proposed revision, then any existing local public health rule shall remain in effect.
- (d) Approval of fees proposed for adoption by the local governing body to administer regulations for the control and disposal of sewage from private and public buildings and facilities.

**4. Issues not Subject to Local Governing Authority Approval.**

- (a) The Parties wish to clarify that the purpose and scope of this Agreement, and of the Local Governing Authority, is to comply with the terms of HB121. Therefore, it is necessary to explicitly state some, though not all, of the issues that will not be addressed by the Local Governing Authority.
- (b) HB121 states that “(i)t is not a purpose of this chapter to hinder, slow, or remove nonemergency-related powers granted to a local board of health.” [MCA 50-2-116(1)] Therefore, the local governing bodies have determined that the following activities and authorities are not subject to approval by the local governing authority:
  - Completion of and action on authorized inspections (e.g., food service inspections, public accommodation inspections, etc.), including issuance or denial of permits or licenses resulting from such inspections.
  - Issuance of quarantine and/or isolation order to individuals consistent with state law and regulations governing the control of communicable diseases.
  - Issuance of public health guidance for matters such as but not limited to emerging infectious diseases, food supply warnings and recalls, water supply warnings and recalls, etc.
  - Time-sensitive actions required to protect the public, such as but not limited to closing an unsanitary restaurant or preventing the sale of a potentially spoiled food after a truck wreck.
  - Approval of fees established under authority of the Board of Health unless otherwise specified in this Agreement.

- 5. **No Creation of Entity, Hold Harmless.** This Agreement does not create any relationship whereby the Parties create any governmental or non-governmental entity outside of the scope described herein. This Agreement shall not be construed to create, either expressly or by implication, the relationship of agency between the County, the City of Billings and/or the City of Laurel in any manner in relation to the subject matter of this Agreement, and none shall be liable for the acts, errors, or omissions of the others entered into, committed or performed with respect to or in the performance of this Agreement. Each party agrees to

indemnify and holds the others harmless against any claims arising from the acts, errors or omissions of its employees, appointees or agents.

6. **Legal Compliance.** Each Party agrees to be solely responsible for compliance with all laws, rules and requirements of each entity and agrees to abide by them as part of the Local Governing Authority.
7. **Governing Law, Dispute Resolution, Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Montana. Should a dispute arise regarding the terms of this Agreement, the Parties shall first enter into good faith discussions in an attempt to resolve the dispute. Should the dispute result in litigation, the Parties agree that proper venue lies in the Montana 13<sup>th</sup> Judicial District Court, Yellowstone County.
8. **Entire Agreement.** This Agreement embodies the entire understanding between the Parties with respect to the specific subject matter hereof, and no prior oral or written representation shall serve to modify or amend this Agreement. This Agreement may not be modified except by action of all three governing bodies.
9. **Authorized Signatures.** The Parties represent and agree that the persons signing this Agreement have authorization to bind their respective governmental entities to the terms of this Agreement and that this Agreement is not valid and enforceable until all Parties have signed.

## INTERLOCAL AGREEMENT

An Interlocal Agreement (hereafter "AGREEMENT") is hereby entered into, effective as of July 1, 2004, (the "EFFECTIVE DATE"), by and between the following public agencies:

1. Yellowstone County, Montana (hereafter the "COUNTY"), the City of Billings, Montana (hereafter "BILLINGS"), and the City of Laurel, Montana (hereafter "LAUREL"), for the creation of a multi-jurisdictional service district which shall provide health services and health department functions, as fully set forth in Article I, hereafter;

and

2. The Town of Broadview, Montana (hereafter "BROADVIEW"), the COUNTY, BILLINGS and LAUREL, for the creation and administration of an air pollution control program (hereafter the "PROGRAM"), conditioned upon approval of the State of Montana, Board of Environmental Review (hereafter the "BOARD OF REVIEW"), as fully set forth in Article II, hereafter.

Collectively, the COUNTY, BILLINGS, LAUREL and BROADVIEW, may be referred to individually as a "PARTY" and collectively as the "PARTIES."

### RECITALS

1. WHEREAS, agreements between local governments may be created by interlocal agreement; and

2. WHEREAS, each PARTY is a "public agency" as defined under the Interlocal Cooperation Act, Mont. Code Ann. §§7-11-101 *et seq.* (hereafter the "INTERLOCAL ACT"); and

3. WHEREAS, the INTERLOCAL ACT permits, and the PARTIES desire, to make the most efficient use of their powers by enabling them to cooperate with each other on a basis of mutual advantage, and thereby to provide services and facilities in a manner and pursuant to forms of government organization that will accord best with geographic, economic,

population, and other factors influencing the needs and development of local communities, and therefore, the PARTIES enter into this AGREEMENT; and

4. WHEREAS, the PARTIES may form multi-jurisdictional service districts to provide a higher level of service than is available through any one particular public agency forming the multi-jurisdictional service district; and

5. WHEREAS, under the INTERLOCAL ACT, the PARTIES may and hereby contract with each other to delegate the performance of certain administrative services, activities, or undertakings to the boards created under this AGREEMENT, including, but not limited to, the hiring of or contracting with professional persons licensed under Mont. Code Ann., Title 37; and

6. WHEREAS, this AGREEMENT outlines the purposes, powers, rights, obligations, and responsibilities of the PARTIES herein and this AGREEMENT has been authorized and approved by the governing body of each PARTY; and

7. WHEREAS, pursuant to the provisions of the INTERLOCAL ACT, any PARTY may appropriate funds for, and may sell, lease, or otherwise give or supply to, the administrative boards created under this AGREEMENT for the purpose of performance of this AGREEMENT and may provide such personnel or services therefore as may be within each PARTY's legal power to furnish; and

8. WHEREAS, on the 16<sup>th</sup> day of September, 1997, LAUREL adopted a resolution, R97-49, approving an interlocal agreement, a true and correct copy of which is attached hereto as Exhibit "A," (hereafter the "FIRST INTERLOCAL AGREEMENT") and authorized the Mayor and City Clerk of LAUREL to execute the FIRST INTERLOCAL

AGREEMENT, and on the 18<sup>th</sup> day of December, 2001, the City Council of LAUREL enacted Ordinance Number 001-5, entitled, "AN ORDINANCE APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF LAUREL, CITY OF BILLINGS, AND YELLOWSTONE COUNTY CREATING A MULTI-JURISDICTIONAL SERVICE DISTRICT NAMED YELLOWSTONE CITY-COUNTY HEALTH DEPARTMENT," approving the FIRST INTERLOCAL AGREEMENT, as required by the provisions of Mont. Code Ann. §7-11-1105(1); and;

9. WHEREAS, on the 14<sup>th</sup> day of October, 1997, the City Council of BILLINGS (the "COUNCIL") approved the FIRST INTERLOCAL AGREEMENT by COUNCIL action and authorized the Mayor and City Clerk of BILLINGS to execute the FIRST INTERLOCAL AGREEMENT, and on the 11<sup>th</sup> day of February, 2002, the COUNCIL enacted Ordinance Number 02-5184, entitled, "AN ORDINANCE OF THE CITY OF BILLINGS, MONTANA, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF BILLINGS, BE AMENDED BY ADDING A SECTION TO BE NUMBERED, 15-104(a) THROUGH (e); APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF LAUREL, CITY OF BILLINGS, AND YELLOWSTONE COUNTY CREATING A MULTI-JURISDICTIONAL SERVICE DISTRICT NAMED YELLOWSTONE CITY-COUNTY HEALTH DEPARTMENT," approving the FIRST INTERLOCAL AGREEMENT, as required by the provisions of Mont. Code Ann. §7-11-1105(1); and

10. WHEREAS, the COUNTY adopted a resolution approving the FIRST INTERLOCAL AGREEMENT on October 3, 1997, Resolution No. 97-74, and on August 19, 2003, the COUNTY enacted ORDINANCE NO. 03-101, AN ORDINANCE APPROVING

AMENDMENTS TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF LAUREL, CITY OF BILLINGS, AND YELLOWSTONE COUNTY CREATING A MULTI-JURISDICTIONAL SERVICE DISTRICT NAMED YELLOWSTONE CITY-COUNTY HEALTH DEPARTMENT, SUPPLEMENTING AND RATIFYING CERTAIN ACTIONS TAKEN IN THE FORMATION OF THE MULTI-JURISDICTIONAL SERVICE DISTRICT, YELLOWSTONE COUNTY RESOLUTION 97-74, approving the FIRST INTERLOCAL AGREEMENT, as required by the provisions of Mont. Code Ann. §7-11-1105(1); and

11. WHEREAS, this AGREEMENT supercedes the FIRST INTERLOCAL AGREEMENT; and

12. WHEREAS, the COUNTY, BILLINGS and LAUREL hereby create, by Article I of this AGREEMENT, a multi-jurisdictional health service district named Yellowstone City-County Health Department (hereinafter "YCCHD"); and

13. WHEREAS, under the provisions of Mont. Code Ann. §7-11-1102(2)(i), YCCHD shall provide health department functions, which are set forth in Title 50, Chapter 2 of the Montana Code Annotated (hereafter "HEALTH DEPARTMENT FUNCTIONS"); and

14. WHEREAS, under the provisions of Mont. Code Ann. §7-11-1102(2)(i), YCCHD shall also provide health services and related services (hereafter "HEALTH SERVICES") as permitted by law; and

15. WHEREAS, under the provisions of Mont. Code Ann. §7-11-1102(2)(h), and the provisions of the Clean Air Act of Montana, Mont. Code Ann. §§75-2-101 *et seq.*, (hereafter the "CLEAN AIR ACT"), the PARTIES further desire and hereby establish an Air Pollution Control Program (the "PROGRAM"), to be administered as a multi-jurisdictional

service district consistent with the provisions of the CLEAN AIR ACT, including approval of the PROGRAM by the BOARD OF REVIEW; and

16. WHEREAS, it is the intent of the PARTIES that by this AGREEMENT the members of the BOARD OF HEALTH, as defined hereafter, and appointed as provided herein, shall constitute the Air Pollution Control Program Board (hereafter "AIR POLLUTION CONTROL BOARD"); and

17. WHEREAS, the provisions of the Mont. Code Ann. §§7-11-1101 *et seq.* and the CLEAN AIR ACT provide that the PARTIES may administer the PROGRAM in cooperation with each other and the PARTIES desire to administer the PROGRAM by entering into this AGREEMENT; and

18. WHEREAS, the PARTIES hereby create the PROGRAM to be administered as provided herein.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the Recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the COUNTY, BILLINGS, LAUREL and BROADVIEW agree as follows:

### **ARTICLE I.**

#### **MULTI-JURISDICTIONAL SERVICE DISTRICT YELLOWSTONE CITY-COUNTY HEALTH DEPARTMENT**

1. **Name of Multi-Jurisdictional Service District.** The name of the multi-jurisdictional service district is the Yellowstone City-County Health Department ("YCCHD").
2. **Participants in YCCHD.** The public agencies that participate in the creation and operation of YCCHD are the COUNTY, BILLINGS and LAUREL.

3. **Services Provided.** The services provided by YCCHD include HEALTH DEPARTMENT FUNCTIONS and HEALTH SERVICES.

4. **Boundary of YCCHD.** For the provision of HEALTH DEPARTMENT FUNCTIONS, the boundary of YCCHD shall be the boundary of the COUNTY, as set forth on the map attached hereto as Exhibit "B," and made a part hereof, provided, that YCCHD may contract with other local government units within the State of Montana and the State of Montana for the provision of HEALTH DEPARTMENT FUNCTIONS outside the boundary of the COUNTY, but YCCHD shall allocate no funds from tax levies or appropriations from the COUNTY's general fund for the HEALTH DEPARTMENT FUNCTIONS provided by YCCHD outside the boundary of the COUNTY. For the provision of HEALTH SERVICES, the boundary of YCCHD shall be the boundary of the State of Montana, as set forth on the map attached as Exhibit "C" provided, however, that YCCHD shall allocate no funds from tax levies or appropriations from the COUNTY's general fund for HEALTH SERVICES provided by YCCHD outside the COUNTY.

5. **YCCHD Funding.**

a. **Funding Sources.** YCCHD shall be funded as follows:

i. Through revenues and fees generated by the provision of HEALTH SERVICES;

ii. Through revenues and fees generated by the provision of HEALTH DEPARTMENT FUNCTIONS;

iii. Through charitable gifting and charitable contributions;

iv. Through federal, state, local and private grants, payments and appropriations permitted by law, including but not limited to, COUNTY general fund appropriations and other appropriations from the COUNTY, BILLINGS and LAUREL, as permitted by law;

v. As of the EFFECTIVE DATE, YCCHD is funded through property tax assessments totaling 5.75 mills. Subject to the provisions of Mont. Code Ann. §§15-10-420, and 425, and Mont. Code Ann. §7-11-1112, the maximum property tax mill levy from property taxes the COUNTY may assess for YCCHD shall be no more than a total of 10.00 mills. Notwithstanding the maximum property tax mill levy stated herein, upon a determination that the general fund of the COUNTY is not sufficient to meet the approved budget of YCCHD, the COUNTY may assess additional mills as needed under the provisions of Mont. Code Ann. §50-2-114; and

vi. Through such other payments and appropriations as YCCHD may lawfully receive.

b. COUNTY Determination of Additional Funding. As long as BILLINGS and LAUREL have no obligation for financial contribution to the funding of YCCHD under this Article I, paragraph 5, the COUNTY may increase the funding of YCCHD as it shall determine and approval from BILLINGS or LAUREL to increase funding of YCCHD through an increased mill levy, or otherwise, shall not be required.

c. BILLINGS and LAUREL Funding. BILLINGS and LAUREL may provide such funding for YCCHD as agreed by the COUNTY, BILLINGS and LAUREL.

d. The funding described in this Article I, paragraph 5, is unrelated to the obligations of the COUNTY, BILLINGS and LAUREL to fund the PROGRAM, as provided and described in Article II, paragraph 9.

## **6. Organization of YCCHD.**

a. YCCHD shall be a separate legal entity, administered by the Board of Health (hereafter the "BOARD OF HEALTH").

b. The BOARD OF HEALTH shall be appointed as follows:

i. The BOARD OF HEALTH shall consist of members, hereafter "BOARD MEMBERS," of not less than twelve (12), nor more than fifteen (15). At least two (2) BOARD MEMBERS shall be appointed by the COUNTY; at least two (2) BOARD MEMBERS shall be appointed by the Mayor of BILLINGS with the consent of the COUNCIL; and at least one (1) BOARD MEMBER shall be appointed by the Mayor of LAUREL with the consent of the Laurel City Council. The remaining 7-10 BOARD MEMBER positions shall be filled by the BOARD OF HEALTH.

ii. Selection of the BOARD MEMBERS and their respective terms of appointment shall be as follows:

(1) By the Board of County Commissioners of COUNTY;

(a) One (1) member whose term shall expire December 31, 2005;

(b) One (1) member whose term shall expire December 31, 2006;

(2) By the Mayor of BILLINGS with the consent of the COUNCIL:

(a) One (1) member whose term shall expire December 31, 2005;

(b) One (1) member whose term shall expire December 31, 2006;

(3) By the Mayor of LAUREL with the consent of the LAUREL City Council:

(a) One (1) member whose term shall expire December 31, 2006;

(4) By the BOARD OF HEALTH:

(a) Three (3) members whose terms shall expire December 31, 2004;

(b) Two (2) members whose terms shall expire December 31, 2005;

(c) Two (2) members whose terms shall expire December 31, 2006;

iii. All BOARD MEMBER positions will run for a period of three (3) years.

c. The BOARD OF HEALTH shall adopt bylaws, rules, and regulations for its operation and administration.

7. **Delegation of Authority.** COUNTY, BILLINGS and LAUREL hereby delegate to YCCHD, through the BOARD OF HEALTH, authority for administration of HEALTH DEPARTMENT FUNCTIONS and HEALTH SERVICES.

8. **Chief Executive Officer.** The BOARD OF HEALTH shall appoint a chief executive officer for YCCHD (hereafter "CEO"), who will employ suitable personnel, including professionals licensed under Title 37, Montana Code Annotated, to carry out the purposes of this AGREEMENT. The CEO may also be the Health Officer, as that position is defined in Mont. Code Ann. § 50-2-116, (hereafter "HEALTH OFFICER"). The powers and duties of the HEALTH OFFICER are as specified in Mont. Code Ann. § 50-2-118.

9. **Manner of Acquiring, Holding and Disposing of Property.** YCCHD shall have all of the authority and power granted to it under this AGREEMENT to the extent entitled under Title 50, Chapter 2 and Title 7, Chapter 11 of the Montana Code Annotated, including but not limited to, the following:

a. YCCHD shall seek to cooperate with and, where appropriate, contract in its own right with other state, federal, and private organizations and individuals having mutual interests.

b. YCCHD is authorized to enter into contracts in its own name, including contracts to receive grant monies and enter into contracts for the provision of HEALTH SERVICES, HEALTH DEPARTMENT FUNCTIONS, and other activities not inconsistent with the terms of this AGREEMENT or with the laws of the State of Montana. All revenues from HEALTH SERVICES are to be contracted directly to the BOARD OF HEALTH. YCCHD shall annually establish and maintain a budget, which shall be adopted and approved by the BOARD OF HEALTH.

c. YCCHD, in its name or in the name of the BOARD OF HEALTH, may establish such bank or investment accounts, as it shall deem necessary to fulfill its duties and obligations as described herein.

d. YCCHD is authorized to acquire, receive, hold, and dispose of real and personal property through acquisition, sale, gift, lease, or otherwise, and may hold and own such property in the name of YCCHD or the BOARD OF HEALTH.

e. YCCHD is authorized to sue and be sued.

**10. Annual Reporting.** YCCHD shall annually render a report of its financial condition and a summary of its activities to the COUNTY, BILLINGS and LAUREL.

**11. Cooperation.** The COUNTY, BILLINGS and LAUREL agree to cooperate fully with YCCHD, the BOARD OF HEALTH, and the management staff of YCCHD in order to carry out this AGREEMENT, and will make all information and facilities reasonably available as needed for this purpose.

**12. Insurance, Claims, Defense.**

a. The COUNTY shall defend and shall pay or settle all claims asserted against YCCHD or its officers, BOARD MEMBERS and employees, relating in any way to HEALTH DEPARTMENT FUNCTIONS.

b. YCCHD will obtain appropriate insurance, which covers HEALTH SERVICES activities, including comprehensive liability insurance, naming the COUNTY, BILLINGS and LAUREL as additional insureds. YCCHD shall not be responsible for the defense of, payment or settlement of, claims for:

i. Those matters described in paragraph 12(a) of this Article I;

ii. Those matters and claims which the law mandates legal representation by the Yellowstone County Attorney, including, but not limited to, those matters set forth in Mont. Code Ann. §50-2-115;

iii. Those claims the COUNTY, BILLINGS or LAUREL is, or are obligated by law, to defend, settle or pay; or

iv. Those claims which COUNTY and YCCHD agree the COUNTY will defend, settle or pay.

**13. Retirement System Payment and Reporting.** YCCHD shall be responsible for reports and payments of retirement system contributions pursuant to Mont. Code Ann. §19-2-506.

**14. Termination.**

a. Notice of Termination. The COUNTY, BILLINGS or LAUREL may withdraw from this Article I (hereafter, the "WITHDRAWING PARTY"), by giving written notice to the BOARD OF HEALTH of its intention to withdraw from the AGREEMENT. Withdrawal shall only occur on the last day of the fiscal year of the WITHDRAWING PARTY and written notice of withdrawal must be given at least one year prior to the date the WITHDRAWING PARTY shall withdraw. The WITHDRAWING PARTY shall be obligated to fund YCCHD, as provided in Article I, paragraph 5, until it shall have withdrawn.

b. LAUREL's Withdrawal. In the event LAUREL withdraws from this Article I, the BOARD OF HEALTH may by majority vote determine to continue to operate under this AGREEMENT. The BOARD OF HEALTH MEMBER for LAUREL shall abstain from voting to continue to operate under this AGREEMENT. Upon withdrawal, LAUREL shall then have no further right of participation on the BOARD OF HEALTH.

c. BILLINGS Withdrawal. In the event BILLINGS shall withdraw from this Article I, the AGREEMENT shall terminate upon BILLINGS' withdrawal.

d. COUNTY Withdrawal. In the event the COUNTY shall withdraw from this Article I, this AGREEMENT shall terminate upon the COUNTY's withdrawal.

e. BOARD OF HEALTH Termination. In the event the BOARD OF HEALTH shall elect to terminate this AGREEMENT, it shall immediately terminate.

f. Effect of Termination. Upon termination, the assets of YCCHD shall revert to the COUNTY, or to a non-profit entity, qualified as an IRC § 501(c)(3) or similarly qualified entity, as the BOARD OF HEALTH shall determine. Termination of this Article I shall act as a termination of the entire AGREEMENT.

**15. Duration.** This Article I shall continue until termination as provided in Article I, paragraph 14.

16. **Current Assets and Reserves.** The assets and reserves of YCCHD as of the date of this AGREEMENT shall remain the property of YCCHD.

## ARTICLE II.

### MULTI-JURISDICTIONAL SERVICE DISTRICT AIR POLLUTION CONTROL BOARD

1. **Creation of Air Pollution Control Program.** The PARTIES hereby create the PROGRAM.

2. **Administration of the PROGRAM.** The AIR POLLUTION CONTROL BOARD shall administer the PROGRAM consistent with the provisions of the CLEAN AIR ACT.

3. **Delegation of Authority.** The PARTIES hereby delegate to the AIR POLLUTION CONTROL BOARD authority to administer the PROGRAM.

4. **Chief Executive Officer.** The AIR POLLUTION CONTROL BOARD shall appoint a chief executive officer for the PROGRAM (hereafter "PROGRAM CEO") who shall employ suitable personnel, including professionals licensed under Title 37, Montana Code Annotated, to carry out the purposes of Article II of this AGREEMENT.

5. **Duties of the AIR POLLUTION CONTROL BOARD.** Subject to the approval from the BOARD OF REVIEW, the AIR POLLUTION CONTROL BOARD shall provide procedures for public notice, public hearing, public comment, and appeal for any proposed new or revised rules, ordinances, or local laws adopted pursuant to this Article II. The procedures must comply with the requirements of the CLEAN AIR ACT.

6. **Authority of the AIR POLLUTION CONTROL BOARD.** Subject to approval from the BOARD OF REVIEW, the AIR POLLUTION CONTROL BOARD may:

a. subject to the provisions of the CLEAN AIR ACT, provide by rule, ordinance, or local law for requirements compatible with, more stringent than, or more extensive than those imposed by Mont. Code Ann. §§75-2-203, 75-2-204, 75-2-211, 75-2-212, 75-2-215, 75-2-217 through 75-2-219, and 75-2-402 and rules adopted under these provisions;

b. provide for the enforcement of requirements established under paragraph 6(a) of this Article II, through COUNTY action, by appropriate administrative and judicial processes; and

c. provide for administrative organization, staff, financial resources, and other resources necessary to effectively and efficiently carry out the PROGRAM; and

d. as part of meeting the requirement in Article II, paragraph 6, administer the permit fee provisions of the CLEAN AIR ACT. The permit fees collected by the PROGRAM shall be deposited in the COUNTY's special revenue fund to be used by the PROGRAM for administration of permitting activities.

**7. Emergency Powers.** The PROGRAM shall have those emergency powers provided under the CLEAN AIR ACT, as approved by the BOARD OF REVIEW.

**8. Boundary.** The Boundary of the PROGRAM shall be the COUNTY, except as modified under the provisions of the CLEAN AIR ACT.

**9. Funding the PROGRAM.** The annual budget of the PROGRAM (the "BUDGET") shall be funded by:

a. federal aid and state aid;

b. permit fees received by the PROGRAM;

c. assessments, fines and penalties, received by the PROGRAM;

d. contractual payments;

e. reserves of the PROGRAM to the extent that such reserves exceed 25%

of the BUDGET; and

f. Funding by the PARTIES - Arbitration. The remainder of the BUDGET shall be funded and paid by the PARTIES in proportion to the services provided to each

PARTY by the PROGRAM (the "ALLOCATION"). The PROGRAM shall submit the BUDGET, the COUNTY shall advance the ALLOCATION, and the PARTIES shall pay the ALLOCATION as follows:

i. Submission and Payment of the BUDGET. On or before March 1 of each year, the PROGRAM CEO, with approval of the PROGRAM BOARD, shall submit the BUDGET to the COUNTY for the upcoming year.

(1) The BUDGET shall include the ALLOCATION, which initially shall be:

- (a) For BILLINGS - 62%
- (b) For LAUREL - 3%
- (c) For the COUNTY - 35%; and
- (d) For BROADVIEW - 0%.

(2) A PARTY's proportionate share of the ALLOCATION may be adjusted annually based upon services provided by the PROGRAM, but shall not increase more or decrease less than 25% from the previous year, unless the increase or decrease is based upon a service level change requested by a PARTY and approved by the PROGRAM BOARD.

(3) The COUNTY shall pay the total ALLOCATION to the PROGRAM as follows:

(a) Upon receipt from the PROGRAM BOARD, the COUNTY shall place the BUDGET on its consent agenda and accept or reject the BUDGET at its next regularly scheduled meeting.

(b) The approved BUDGET shall be available from the COUNTY and paid to the PROGRAM BOARD by July 1 of each year.

ii. Reimbursement. On or before April 1 of each year, the COUNTY shall submit the BUDGET to BILLINGS, LAUREL and BROADVIEW for reimbursement of each PARTY's ALLOCATION, which shall, subject to sub-paragraph (iii) below, be timely approved and reimbursed to the COUNTY.

iii. Arbitration.

(1) If any PARTY shall not have acted on, or shall have rejected all or any portion of, the BUDGET within thirty days of receipt from the COUNTY, (hereafter "REJECTION") a representative of each PARTY shall, within thirty days of REJECTION, meet (hereafter the "JOINT MEETING") and resolve any issue concerning the BUDGET.

(2) If within thirty days of the JOINT MEETING, the PARTIES are unable to resolve every issue pertaining to the BUDGET, then the COUNTY shall immediately submit all unresolved issues to arbitration, pursuant to the provisions of the Uniform Arbitration Act, Mont. Code Ann. §§27-5-111, *et seq.*, to an arbitrator appointed by a majority of the PARTIES, or in lieu of the PARTIES failing to agree on an arbitrator, to an arbitrator appointed by the COUNTY. The PARTIES agree to be bound by the orders and final determination of the arbitrator.

iv. Failure to Fund PROGRAM. If the BUDGET shall not be funded by July 1 of each year, the PROGRAM BOARD shall have no obligation, and may immediately cease, to provide services under the PROGRAM.

**10. Manner of Acquiring, Holding and Disposing of Property.** The AIR POLLUTION CONTROL BOARD shall have all of the authority and power granted to it under this AGREEMENT and as approved by the BOARD OF REVIEW, including but not limited to the following:

a. The AIR POLLUTION CONTROL BOARD shall seek to cooperate with and, where appropriate, contract in its own right with other state, federal, and private organizations and individuals having mutual interests.

b. The AIR POLLUTION CONTROL BOARD is authorized to enter into contracts in its own name, or in the name of the PROGRAM, including, but not limited to, contracts to receive grant monies and enter into contracts for the provision of the administrative services the PROGRAM may perform by law or as provided herein, as well as other activities not inconsistent with the terms of this AGREEMENT or with the laws of the State of Montana.

c. The AIR POLLUTION CONTROL BOARD, in its name, or in the name of the PROGRAM, may establish such bank or investment accounts, as it shall deem necessary to fulfill its duties and obligations as described herein.

d. The AIR POLLUTION CONTROL BOARD is authorized to acquire, receive, hold, and dispose of real and personal property through acquisition, sale, gift, lease, or otherwise, and may hold and own such property in its name, or in the name of the PROGRAM.

e. The AIR POLLUTION CONTROL BOARD, in its name, or in the name of the PROGRAM, is authorized to sue and be sued.

**11. Annual Reporting.** The PROGRAM shall annually render a report of its financial condition and a summary of PROGRAM activities to the PARTIES.

**12. Cooperation.** The PARTIES agree to cooperate fully with the PROGRAM, the AIR POLLUTION CONTROL BOARD, and the management staff of the PROGRAM in order to carry out this AGREEMENT, and will make all information and facilities reasonably available as needed for this purpose.

**13. Retirement System Payment and Reporting.** YCCHD shall be the party responsible for reports and payments of retirement system contributions pursuant to Mont. Code Ann. §19-2-506.

**14. Termination.**

a. Termination by a PARTY. The provisions of this Article II shall automatically renew and be binding upon each PARTY for additional one year terms from the EFFECTIVE DATE, until any PARTY shall withdraw from the provisions of this Article II by giving at least one year's notice of such withdrawal, PROVIDED:

i. Withdrawal shall only occur on the last day of the fiscal year of the PARTY intending to withdraw, and written notice of withdrawal must be given at least one year prior to the date the PARTY shall withdraw; and

ii. The PARTY intending to withdraw shall continue to provide funding for the PROGRAM in amounts at least equal to the amount funded by the PARTY in the year notice of the PARTY's intent to terminate its participation was given.

b. Termination by the AIR POLLUTION CONTROL BOARD. The AIR POLLUTION CONTROL BOARD may terminate this Article II at any time if the AIR

POLLUTION CONTROL BOARD reasonably determines there is insufficient funding to implement the PROGRAM or for any other legitimate business reason.

15. **Effect of Termination.** Upon termination, the assets of the PROGRAM shall revert to the COUNTY. Termination of this Article II shall not constitute a termination of any other Article of this AGREEMENT.

16. **Duration.** This Article II shall continue until termination as provided in Article II, paragraph 14.

17. **Claims, Representation and Insurance.** It shall be the duty of the COUNTY to pay, satisfy or resolve by judicial or administrative proceeding, or otherwise, any and all claims asserted against the AIR POLLUTION CONTROL BOARD, the PROGRAM, or the employees of the PROGRAM, acting in the course and scope of their duties, (hereafter "PROGRAM EMPLOYEES"), and to defend any and all claims made against the AIR POLLUTION CONTROL BOARD, the PROGRAM and the PROGRAM EMPLOYEES. The COUNTY may obtain such insurance as the COUNTY deems appropriate to insure against such claims, demands or losses, but such insurance shall not relieve the COUNTY of any obligations of this paragraph.

18. **Boundary.** The boundary of the PROGRAM shall be the COUNTY, as identified in Exhibit "B," unless expanded or modified by the BOARD OF REVIEW, as provided under Mont. Code Ann. §75-2-301(6).

19. **Current Assets and Reserves.** Upon execution of this AGREEMENT, the assets and reserves of the existing air pollution control program shall immediately transfer and be vested in the PROGRAM BOARD.

## ARTICLE III.

### MISCELLANEOUS

1. **Filing of Agreement.** Upon the execution of this AGREEMENT by the PARTIES, it shall be filed with the Yellowstone County Clerk and Recorder and with the Montana Secretary of State, in accordance with the provisions of Mont. Code Ann. § 7-11-107.
2. **Incorporation of Recitals.** The recitals to this AGREEMENT are incorporated into every section of this AGREEMENT.
3. **Additional Documentation.** Each PARTY agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this AGREEMENT.
4. **Written Consent.** The provisions of this AGREEMENT may be waived, altered, amended, or repealed, in whole or in part, by written consent of all the PARTIES and the BOARD OF HEALTH, and only upon the written consent of all the PARTIES and the BOARD OF HEALTH. The AGREEMENT may be amended by written modification between the PARTIES without an ordinance approving the amendment, except for those matters described in Mont. Code Ann. §7-11-1106, which require an amendment to each PARTY's ordinance approving the AGREEMENT.
5. **Governing Law.** This AGREEMENT shall be construed in accordance with, and governed by, the laws of the State of Montana.

6. **Execution in Counterparts.** This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7. **Superceding Document.** This AGREEMENT shall supersede any previous Interlocal Agreement, or other agreement, establishing YCCHD or the PROGRAM.

8. **Waiver of Breach.** The waiver by any PARTY of a breach or violation of any provision of this AGREEMENT shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provisions hereof.

9. **Captions and Construction.** The captions used herein as headings for the various paragraphs are for convenience only, and the PARTIES agree that such captions are not to be construed to be part of this AGREEMENT or to be used in determining or construing the intent or context of this AGREEMENT.

10. **Severability of Provisions.** Should any portion of this AGREEMENT be held unenforceable or inoperative for any reason, such portion of this AGREEMENT shall not affect any other portion of this AGREEMENT, but the remainder shall be as effective as though such ineffective portion had not been contained in this AGREEMENT.

11. **Assignment.** This AGREEMENT shall inure to the benefit of and shall be binding upon the PARTIES. No right or duty under this AGREEMENT, except as set forth in it, may be assigned without the express written consent of all of the PARTIES.

12. **Attorneys' Fees.** In the event of breach of this AGREEMENT, the party at fault shall pay to the other party all costs, including reasonable attorneys' fees, which may be incurred by such other parties in enforcing its rights under this AGREEMENT.

**13. Legal Interpretation of AGREEMENT.** In the event that any state or federal laws or regulations, now existing or enacted or promulgated after the effective date of this AGREEMENT, are interpreted by judicial decision, regulatory agency, or legal counsel in such a manner as to indicate that the terms of this AGREEMENT may be in violation of such laws or regulations, the PARTIES shall amend or terminate this AGREEMENT as necessary to comply with said laws or regulations to the maximum extent possible any such amendment shall preserve the underlying economic and financial arrangements between the PARTIES.

CITY OF BILLINGS, MONTANA



By: Charles F. Tooley  
MAYOR

Date: 5/24/04

ATTEST:

By: Marita Herold  
CITY CLERK

CITY OF LAUREL, MONTANA

By:   
MAYOR

Date: 06/01/04

ATTEST:

By:   
CITY CLERK

TOWN OF BROADVIEW, MONTANA

By: *John G. Dangel*  
MAYOR

Date: 6-8-04

ATTEST:

By: *Carol Terpstra*  
TOWN CLERK

BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

By: Bill Kennedy  
CHAIRMAN

Date: May 18, 2004

ATTEST:

By: Cathy Lane  
COUNTY CLERK AND RECORDER

YELLOWSTONE CITY-COUNTY BOARD OF  
HEALTH

By:   
CHAIRMAN

Date: 5/27/04

ATTEST:

By:   
VICE CHAIRMAN

**EXHIBIT "A"**  
**FIRST INTERLOCAL AGREEMENT**

## INTERLOCAL AGREEMENT

### DEFINITION OF PUBLIC HEALTH:

Public Health in Montana is defined as an applied science designed to promote individual, community and environmental health by understanding, anticipating and responding to the health-related needs of Montanans in their community. Public health responsibilities and activities are extensive and their contributions are vitally important to the health of Montana's citizens.

### PUBLIC HEALTH CORE FUNCTIONS ARE:

1. Assessment of health status, trends, risks and resources.
2. Health promotion.
3. Protection from health risks.
4. Assurances of health service availability and quality.
5. Policy development.
6. Leadership, technical expertise and administration.

WHEREAS, the Board of County Commissioners, Yellowstone County, Montana, created a multijurisdictional health service district named Yellowstone City-County Health Department (hereinafter called YCCHD), pursuant to Section 7-11-1102, MCA, on October 3, 1997;

The following political subdivisions of the State of Montana enter into this Agreement, to be effective January 1, 1998:

- ♦ Yellowstone County, Montana, called County;
  - ♦ City of Billings, Montana, called Billings;
  - ♦ City of Laurel, Montana, called Laurel.
1. The parties propose by this Agreement that the District shall have all authority permitted to be held by local Boards of Health according to Part 1, Chapter 2, of Title 50, of Montana Code Annotated.
  2. Board membership is as follows:
    - a. Existing Board membership will expire December 31, 1997.
    - b. The Bylaws of the Board shall require that the Board membership be of not less than twelve (12) members, nor more than fifteen (15) members, and shall require that at least two (2) Board members shall be appointed by the Board of County Commissioners of Yellowstone County, at least two (2) Board members shall be appointed by the Mayor with consent of the City Council of the City of Billings, Montana, at least one (1) member shall be appointed by the Mayor with consent of the City Council of the City of Laurel, Montana (MCA 50-2-106), and the remaining 7-

10 board positions will be filled by the Board of Health. Initial selection shall be as follows:

- i. By the Board of County Commissioners of Yellowstone County:
    - 1) One (1) members whose term shall expire December 31, 1999
    - 2) One (1) member whose term shall expire December 31, 2000
  - ii. By the Mayor with the consent of the City Council of Billings, Montana
    - 1) One (1) members whose term shall expire December 31, 1999
    - 2) One (1) member whose term shall expire December 31, 2000
  - iii. By the Mayor with the consent of the City Council of Laurel, Montana
    - 1) One (1) member whose term shall expire December 31, 2000
  - iv. By the Board of Health
    - 1) Three (3) members whose term shall expire December 31, 1998
    - 2) Two (2) members whose term shall expire December 31, 1999
    - 3) Two (2) members whose term shall expire December 31, 2000
- c. After the initial staggered appointments, all positions will be for a period of three (3) years.
3. Bylaws of the existing Board of Health shall continue in effect until such time as the Board revises or repeals current by-laws (MCA 50-2-106).
  4. Each party agrees that it hereby delegates authority for administration of the health-related programs under its jurisdiction to the Board. This authority shall include administration of approved budgets, the existing equipment, existing space utilized, and employment of the Executive Director who will employ suitable personnel to carry out the purposes of the District. All assets and liabilities of the current YCCHD shall transfer to the new, multi-jurisdictional health service effective January 1, 1998.
  5. The intent of this Agreement is to integrate all appropriate city and county health activities into the District as of January 1, 1998. Current employees of the YCCHD shall be transferred to the employment of the District as of such date and shall be guaranteed transfer of their existing personal benefits, including annual leave, sick leave and retirement.
  6. The Board of Health shall employ a Health Officer as defined in MCA 50-2-116. The power and duties of the Health Officer are as specified in MCA 50-2-118.
  7. YCCHD shall provide such reasonable and necessary services as are consistent with the purpose of the enabling legislation to the limit of available funds. In discharging such responsibility YCCHD shall seek to cooperate with and, where appropriate, to contract with other state, federal and private organizations having mutual interests. YCCHD is empowered to enter into contracts, including contracts to receive grant monies and contracts for personnel assistance, so far as the same shall be consistent with the purpose of enabling legislation. All YCCHD monies are to be contracted directly to the District governed by the Board of Health.

8. YCCHD shall be funded through federal, state, private funds and the Health Mill through the County mill levy (MCA 50-2-111). The Board of Health will present the budget on County mill dollars each year to the Board of County Commissioners for approval.
9. YCCHD shall annually render a report of its financial condition to the City Councils of Laurel and Billings and the Board of County Commissioners of Yellowstone County, Montana.
10. Each party agrees they will cooperate fully with YCCHD, the Board, and the management staff of YCCHD, in order to carry out this program, and will make all information and facilities available as needed for this purpose.
11. YCCHD will obtain appropriate insurance, which covers all activities within their responsibility including comprehensive liability insurance, which names each political subdivision as an additional insured party.
12. This agreement can be terminated by the unanimous agreement of the participating groups, the County Commissioners of Yellowstone County, the City Council of the City of Billings, Montana, and the City Council of the City of Laurel, Montana.

ATTEST:

  
COUNTY CLERK & RECORDER

BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

  
CHAIRMAN

ATTEST:

  
CITY CLERK



CITY OF BILLINGS, MONTANA

  
MAYOR

ATTEST:

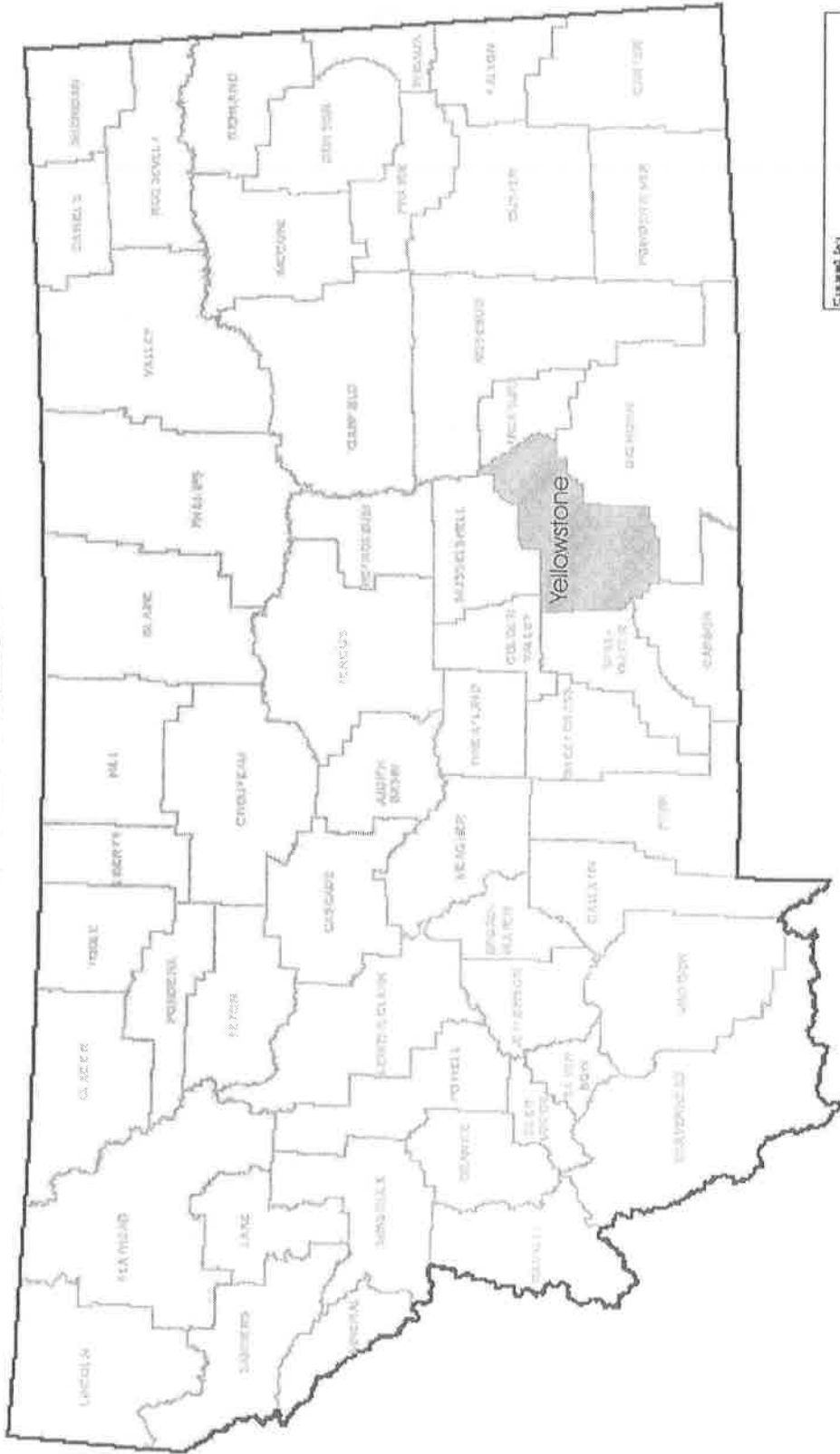
  
CITY CLERK

CITY OF LAUREL, MONTANA

  
MAYOR

**EXHIBIT "B"**  
**BOUNDARY MAP**  
**HEALTH DEPARTMENT FUNCTIONS**  
**AND**  
**THE AIR POLLUTION CONTROL PROGRAM**

# Montana Counties



Created by:  
 Montana Council on Economic Information Center  
 Montana Department of Commerce  
 1424 North Ave., Helena, MT 59602-0002  
 406-444-3323  
 mtinfo@mt.gov



January 11, 2001







AN ACT REVISING LAWS RELATED TO LOCAL BOARDS OF HEALTH; REQUIRING THAT CERTAIN RULES, REGULATIONS, AND FEES BE PROPOSED BY A LOCAL BOARD OF HEALTH AND ADOPTED BY THE GOVERNING BODY; ALLOWING A LOCAL BOARD OF HEALTH TO ADOPT RULES TO IMPLEMENT A REGULATION ADOPTED BY A LOCAL GOVERNING BODY; ALLOWING A GOVERNING BODY TO AMEND A DIRECTIVE, MANDATE, OR ORDER GIVEN BY A LOCAL BOARD OF HEALTH DURING A TIME OF EMERGENCY OR DISASTER; ALLOWING A GOVERNING BODY TO AMEND AN ORDER GIVEN BY A LOCAL HEALTH OFFICER DURING A TIME OF EMERGENCY OR DISASTER; PROVIDING FOR RELIGIOUS FREEDOM; REVISING PENALTIES ALLOWED FOR THE VIOLATION OF A LOCAL BOARD RULE; REVISING AND PROVIDING DEFINITIONS; AMENDING SECTIONS 50-1-101, 50-2-116, 50-2-118, 50-2-124, AND 50-2-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 50-1-101, MCA, is amended to read:

**"50-1-101. Definitions.** Unless the context indicates otherwise, in chapter 2 and this chapter, the following definitions apply:

(1) "Communicable disease" means an illness because of a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal, or inanimate reservoir to a susceptible host. The transmission may occur either directly or indirectly through an intermediate plant or animal host, a transmitting entity, or the inanimate environment.

(2) "Condition of public health importance" means a disease, injury, or other condition that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community.

(3) "Department" means the department of public health and human services provided for in 2-15-

2201.

(4) "Inanimate reservoir" means soil, a substance, or a combination of soil and a substance:

- (a) in which an infectious agent normally lives and multiplies;
- (b) on which an infectious agent depends primarily for survival; and
- (c) where an infectious agent reproduces in a manner that allows the infectious agent to be

transmitted to a susceptible host.

(5) "Institutional controls" means legal or regulatory mechanisms designed to protect public health and safety that:

- (a) limit access to or limit or condition the use of environmentally contaminated property or media;
- (b) provide for the protection or preservation of environmental cleanup measures; or
- (c) inform the public that property or media is or may be environmentally contaminated.

(6) "Isolation" means the physical separation and confinement of an individual or groups of individuals who are infected ~~or reasonably believed to be infected~~ with a communicable disease ~~or possibly communicable disease~~ from nonisolated individuals to prevent or limit the transmission of the communicable disease to nonisolated individuals.

(7) "Local board of health" or "local board" means a county, city, city-county, or district board of health.

(8) "Local governing body" or "governing body" means:

(a) the board of county commissioners that oversees a county local board of health;

(b) the elected governing body of a city that oversees a city local board of health; or

(c) the entity identified as the governing body as established in the bylaws, interlocal agreement, or memorandum of understanding creating a city-county local board of health or a local district board of health.

~~(8)~~(9) "Local health officer" means a county, city, city-county, or district health officer appointed by a local board of health. With regard to the exercise of the duties and authorities of a local health officer, the term may include an authorized representative of the local health officer.

~~(9)~~(10) "Local public health agency" means an organization operated by a local government in the state, including local boards of health or local health officers, that principally acts to protect or preserve the public health.

~~(10)~~(11) "Physician" has the meaning provided in 37-3-102.

~~(11)~~(12) "Public health services and functions" means those services and functions necessary to promote the conditions in which the population can be healthy and safe, including:

(a) population-based or individual efforts primarily aimed at the prevention of injury, disease, or premature mortality; or

(b) the promotion of health in the community, such as assessing the health needs and status of the community through public health surveillance and epidemiological research, developing public health policy, and responding to public health needs and emergencies.

~~(12)~~(13) "Public health system" means state and local public health agencies and their public and private sector partners.

~~(13)~~(14) "Quarantine" means the physical separation and confinement of an individual or groups of individuals who ~~are or may have been exposed to a communicable disease or possibly communicable disease~~ and who do not show signs or symptoms of a communicable disease from nonquarantined individuals to prevent or limit the transmission of the communicable disease to nonquarantined individuals.

~~(14)~~(15) "Screening" means diagnostic or investigative analysis or medical procedures that determine the presence or absence of or exposure to a condition of public health importance or the condition's precursor in an individual.

~~(15)~~(16) "Testing" has the same meaning as screening."

**Section 2.** Section 50-2-116, MCA, is amended to read:

**"50-2-116. Powers and duties of local boards of health.** (1) It is a purpose of this chapter to address ongoing issues or conditions created during a declared state of emergency as a result of orders, directives, or mandates issued by the governor as allowed under Title 10, chapter 3, for a state of emergency acting longer than 7 days. It is not a purpose of this chapter to hinder, slow, or remove nonemergency-related powers granted to a local board of health.

(2) In order to carry out the purposes of the public health system, in collaboration with federal, state, and local partners, each local board of health shall:

(a) ~~appoint and fix the salary~~ recommend to the governing body the appointment of a local health

officer who is:

- (i) a physician;
- (ii) a person with a master's degree in public health; or
- (iii) a person with equivalent education and experience, as determined by the department;
- (b) elect a presiding officer and other necessary officers;
- ~~(c)~~ employ qualified staff;
- ~~(d)~~(c) adopt bylaws to govern meetings;
- ~~(e)~~(d) hold regular meetings at least quarterly and hold special meetings as necessary;
- ~~(f)~~(e) identify, assess, prevent, and ameliorate conditions of public health importance through:
  - (i) epidemiological tracking and investigation;
  - (ii) screening and testing;
  - (iii) isolation and quarantine measures;
  - (iv) diagnosis, treatment, and case management;
  - (v) abatement of public health nuisances;
  - (vi) inspections;
  - (vii) collecting and maintaining health information;
  - (viii) education and training of health professionals; or
  - (ix) other public health measures as allowed by law;
- ~~(g)~~(f) protect the public from the introduction and spread of communicable disease or other conditions of public health importance, including through actions to ensure the removal of filth or other contaminants that might cause disease or adversely affect public health;
- ~~(h)~~(g) supervise or make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the conditions;
- ~~(i)~~(h) bring and pursue actions and issue orders necessary to abate, restrain, or prosecute the violation of public health laws, rules, and local regulations;
- ~~(j)~~(i) identify to the department an administrative liaison for public health. The liaison must be the local health officer in jurisdictions that employ a full-time local health officer. In jurisdictions that do not employ a full-time local health officer, the liaison must be the highest ranking public health professional employed by the

jurisdiction.

~~(k)~~(j) subject to the provisions of 50-2-130, ~~adopt~~ propose for adoption by the local governing body necessary regulations that are not less stringent than state standards for the control and disposal of sewage from private and public buildings and facilities that are not regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the board of environmental review and must provide for appeal of variance decisions to the department as required by 75-5-305. If the local board of health regulates or permits water well drilling, the regulations must prohibit the drilling of a well if the well isolation zone, as defined in 76-4-102, encroaches onto adjacent private property without the authorization of the private property owner.

~~(2)~~(3) Local boards of health may:

(a) accept and spend funds received from a federal agency, the state, a school district, or other persons or entities;

(b) ~~adopt~~ propose for adoption by the local governing body necessary fees to administer regulations for the control and disposal of sewage from private and public buildings and facilities;

(c) ~~adopt~~ propose for adoption by the local governing body regulations that do not conflict with 50-50-126 or rules adopted by the department:

(i) for the control of communicable diseases;

(ii) for the removal of filth that might cause disease or adversely affect public health;

(iii) subject to the provisions of 50-2-130, for sanitation in public and private buildings and facilities that affects public health and for the maintenance of sewage treatment systems that do not discharge effluent directly into state water and that are not required to have an operating permit as required by rules adopted under 75-5-401;

(iv) subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing establishments and that are not less stringent than state standards for tattooing and body-piercing establishments;

(v) for the establishment of institutional controls that have been selected or approved by the:

(A) United States environmental protection agency as part of a remedy for a facility under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or

(B) department of environmental quality as part of a remedy for a facility under the Montana Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7; and

(vi) to implement the public health laws;

(d) adopt rules necessary to implement and enforce regulations adopted by the local governing body;

and

~~(d)~~(e) promote cooperation and formal collaborative agreements between the local board of health and tribes, tribal organizations, and the Indian health service regarding public health planning, priority setting, information and data sharing, reporting, resource allocation, service delivery, jurisdiction, and other matters addressed in this title.

~~(3)~~(4) A local board of health may provide, implement, facilitate, or encourage other public health services and functions as considered reasonable and necessary.

(5) A directive, mandate, or order issued by a local board of health in response to a declaration of emergency or disaster by the governor as allowed in 10-3-302 and 10-3-303 or by the principal executive officer of a political subdivision as allowed in 10-3-402 and 10-3-403:

(a) remains in effect only during the declared state of emergency or disaster or until the governing body holds a public meeting and allows public comment and the majority of the governing body moves to amend, rescind, or otherwise change the directive, mandate, or order; and

(b) may not interfere with or otherwise limit, modify, or abridge a person's physical attendance at or operation of a religious facility, church, synagogue, or other place of worship."

**Section 3.** Section 50-2-118, MCA, is amended to read:

**"50-2-118. Powers and duties of local health officers.** (1) In order to carry out the purpose of the public health system, in collaboration with federal, state, and local partners, local health officers or their authorized representatives shall:

~~(1)~~(a) make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the condition;

~~(2)~~(b) take steps to limit contact between people in order to protect the public health from imminent threats, including but not limited to ordering the closure of buildings or facilities where people congregate and

canceling events;

~~(3)(c)~~ report communicable diseases to the department as required by rule;

~~(4)(d)~~ establish and maintain quarantine and isolation measures as adopted by the local board of health; and

~~(5)(e)~~ pursue action with the appropriate court if this chapter or rules adopted by the local board or department under this chapter are violated.

(2) A directive, mandate, or order issued by a local health officer in response to a declaration of emergency or disaster by the governor as allowed in 10-3-302 and 10-3-303 or by the principal executive officer of a political subdivision as allowed in 10-3-402 and 10-3-403:

(a) remains in effect only during the declared state of emergency or disaster or until the governing body holds a public meeting and allows public comment and the majority of the governing body moves to amend, rescind, or otherwise change the directive, mandate, or order; and

(b) may not interfere with or otherwise limit, modify, or abridge a person's physical attendance at or operation of a religious facility, church, synagogue, or other place of worship."

**Section 4.** Section 50-2-124, MCA, is amended to read:

**"50-2-124. Penalties for violations.** (1) (a) A person who does not comply with rules adopted by a local board is guilty of a misdemeanor. On conviction, the person shall be fined is subject to a civil penalty of not less than \$10 or more than \$200.

(b) A business entity that does not comply with rules adopted by a local board is subject to a civil penalty of not more than \$250.

(2) Except as provided in 50-2-123 and subsection (1) of this section, a person who violates the provisions of this chapter or rules adopted by the department under the provisions of this chapter is guilty of a misdemeanor. On conviction, the person shall be fined not less than \$10 or more than \$500 or be imprisoned for not more than 90 days, or both.

(3) Each day of violation constitutes a separate offense.

(4) The local board or the county attorney of the county in which a violation allowed in subsection (1) occurred may petition a court of limited jurisdiction to impose the civil penalties allowed in subsection (1).

Venue for an action to collect a civil penalty pursuant to subsection (1) is in the county in which the violation occurred or in a court of limited jurisdiction.

~~(4)~~(5) Fines, except justice's court fines, must be paid to the county treasurer of the county in which the violation occurs.

(6) (a) As used in this section, "business entity" means a corporation, association, partnership, limited liability partnership, limited liability company, sole proprietorship, or other legal entity recognized under state law.

(b) The term does not include an individual."

**Section 5.** Section 50-2-130, MCA, is amended to read:

**"50-2-130. Local regulations no more stringent than state regulations or guidelines.** (1) After April 14, 1995, except as provided in subsections (2) through (4) or unless required by state law, the local board may not ~~adopt~~ propose for adoption by the local governing body a rule under ~~50-2-116(1)(k), (2)(c)(iii), or (2)(c)(iv)~~ 50-2-116(2)(j), (3)(c)(iii), or (3)(c)(iv) that is more stringent than the comparable state regulations or guidelines that address the same circumstances. The local board may incorporate by reference comparable state regulations or guidelines.

(2) The local board may ~~adopt~~ propose for adoption by the local governing body a rule to implement ~~50-2-116(1)(k), (2)(c)(iii), or (2)(c)(iv)~~ 50-2-116(2)(j), (3)(c)(iii), or (3)(c)(iv) that is more stringent than comparable state regulations or guidelines only if the local board makes a written finding, after a public hearing and public comment and based on evidence in the record, that:

(a) the proposed local standard or requirement protects public health or the environment; and  
 (b) the local board standard or requirement to be imposed can mitigate harm to the public health or environment and is achievable under current technology.

(3) The written finding must reference information and peer-reviewed scientific studies contained in the record that forms the basis for the local board's conclusion. The written finding must also include information from the hearing record regarding the costs to the regulated community that are directly attributable to the proposed local standard or requirement.

(4) (a) A person affected by a rule of the local board adopted after January 1, 1990, and before April

14, 1995, that that person believes to be more stringent than comparable state regulations or guidelines may petition the local board to review the rule. If the local board determines that the rule is more stringent than comparable state regulations or guidelines, the local board shall comply with this section by either revising the rule to conform to the state regulations or guidelines or making the written finding, as provided under subsection (2), within a reasonable period of time, not to exceed 12 months after receiving the petition. A petition under this section does not relieve the petitioner of the duty to comply with the challenged rule. The local board may charge a petition filing fee in an amount not to exceed \$250.

(b) A person may also petition the local board for a rule review under subsection (4)(a) if the local board adopts a rule after January 1, 1990, in an area in which no state regulations or guidelines existed and the state government subsequently establishes comparable regulations or guidelines that are less stringent than the previously adopted local board rule."

**Section 6. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
HB 121, originated in the House.

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Chief Clerk of the House

---

Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

---

President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

HOUSE BILL NO. 121

INTRODUCED BY D. BEDEY, J. ELLSWORTH

AN ACT REVISING LAWS RELATED TO LOCAL BOARDS OF HEALTH; REQUIRING THAT CERTAIN RULES, REGULATIONS, AND FEES BE PROPOSED BY A LOCAL BOARD OF HEALTH AND ADOPTED BY THE GOVERNING BODY; ALLOWING A LOCAL BOARD OF HEALTH TO ADOPT RULES TO IMPLEMENT A REGULATION ADOPTED BY A LOCAL GOVERNING BODY; ALLOWING A GOVERNING BODY TO AMEND A DIRECTIVE, MANDATE, OR ORDER GIVEN BY A LOCAL BOARD OF HEALTH DURING A TIME OF EMERGENCY OR DISASTER; ALLOWING A GOVERNING BODY TO AMEND AN ORDER GIVEN BY A LOCAL HEALTH OFFICER DURING A TIME OF EMERGENCY OR DISASTER; PROVIDING FOR RELIGIOUS FREEDOM; REVISING PENALTIES ALLOWED FOR THE VIOLATION OF A LOCAL BOARD RULE; REVISING AND PROVIDING A DEFINITION DEFINITIONS; AND AMENDING SECTIONS 50-1-101, 50-2-116, 50-2-118, 50-2-124, AND 50-2-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

**City Council Work Session**

**Date:** 12/05/2022  
**Title:** FY24 - Technology Replacement Plan (TRP)  
**Presented by:** David Watterson, IT Director  
**Department:** Information Technology  
**Presentation:** Yes  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Staff recommends that City Council review the FY24 Technology Replacement Plan (TRP) and make recommendations to staff for any desired changes to the draft TRP. Council action to follow at a regular City Council meeting scheduled for December.

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

The City of Billings Technology Replacement Program (TRP) is a plan to systematically fund replacement of City technology equipment and software. The TRP ensures that all technology equipment is purchased, replaced, or upgraded on a regular schedule, so that no departments fall behind on technology or make unnecessary or premature investments in technology. The TRP replacement and funding guidelines include all PCs, laptops, servers, software, and other technology equipment, such as copiers, security equipment and specialized technology equipment. Replacement funding is maintained within each department/division budget for technologies that are used solely within that department/division. Enterprise-wide hardware and software systems, both new and enhancements/upgrades to existing systems may be funded through multi-departmental funding sources including debt financing.

**ALTERNATIVES**

No Council Action is needed at the work session.

**FISCAL EFFECTS**

The total technology investment for FY24 is \$1,114,792. Technology Replacement Plan items are funded by individual departments and will be included as part of their annual budget presented to City Council in the FY24 budget process.

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**Attachments**

- FY24 TRP Plan
- FY24 TRP Presentation
- FY24 TRP Capital Items

# City of Billings

## FY2023 - Technology Replacement Program

**Statement of Purpose:** The program is a plan to assist departments with technology replacement cost projections and the ability to anticipate funding requirements without experiencing dramatic fluctuations in replacement costs.

**Committee Members:** David Watterson, Liz Kampa, Denise Bohlman, Derek Yeager, Kory Thomson, Tammy Deines, Becky Shay, Kelsie Rubich, Marita Herold, and Amanda Skewis.

The City of Billings Technology Replacement Program (TRP) is a plan to systematically fund replacement of City technology equipment and software. The term “technology equipment” shall hereinafter also include software. The TRP ensures that all technology equipment is purchased, replaced, or upgraded on a regular schedule, so that no departments fall behind on technology or make unnecessary or premature investments in technology.

- The TRP replacement and funding guidelines include all PCs, laptops, servers, and other technology equipment, such as copiers, security equipment and specialized technology equipment.
- Replacement guidelines are presented in **Exhibit 1** attached.
- The replacement plan covers a 10-year planning period and will be reviewed and updated annually. This will require some pieces of equipment to be replaced more than once during the 10-year planning period.
- Each piece of equipment will be assigned a replacement fiscal year and replacement cost. Enterprise software systems that are not planned for a specific replacement year will be evaluated on an annual basis to determine any need for future replacement.
- Estimated replacement costs are determined by manufacturer average annual percentage increases ranging from 0% to 5%. Some exceptions will apply.

Replacement funding is maintained within each department/division budget for technologies that are used solely within that department/division. Enterprise-wide hardware and software systems, both new and enhancements/upgrades to existing systems may be funded through debt financing.

- On an annual basis, the Technology Replacement Committee will:
  1. Review technology equipment scheduled for replacement,
  2. Make required changes to the plan, and
  3. Submit recommendations to the City Administrator. The committee will provide these recommendations at a time which coincides with the Equipment Replacement Plan (ERP) calendar.
  
- On an annual basis, the Technology Replacement Committee will review PC standards and make necessary changes to the recommended standards, such as flat screen monitors. Every 3-4 years, the Committee may also analyze and recommend changing PC vendors.
  
- PC orders can be placed at any time with Information Technology. Periodically, IT will coordinate orders to encourage departments to upgrade their PC's throughout the year and not wait until spring for the majority of the orders.

# Technology Replacement Committee

## Department / Division Representatives

**Group 1**  
Amanda Skewis  
PW Administration  
PW Engineering  
PW Solid Waste  
PW Streets  
PW Utilities Service Center  
PW Water Treatment Plant  
PW Water Reclamation Facility

**Group 2**  
Tammy Deines  
Community Development  
City County Planning  
Building  
Code Enforcement

**Group 3**  
Denise Bohlman  
Administration  
Human Resources

**Group 4**  
David Watterson  
Municipal Court  
Information Technology  
Legal

**Group 5**  
Liz Kampa  
Parking  
Motor Pool  
Facilities  
Finance

**Group 6**  
Kory Thomson  
Parks & Recreation  
Cemetery  
Community Center

**Group 7**  
Becky Shay  
Police  
Animal Shelter  
Volunteer Center

**Group 8**  
Derek Yeager  
Fire Stations  
Communications Center

**Group 9**  
Marita Herold  
Airport  
MET Transit

**Group 10**  
Kelsie Rubich  
Library

## Exhibit 1

### TECHNOLOGY REPLACEMENT GUIDELINES

Class Code	Equipment Class	Years
100	General Office PCs	3-5
125	Training / Public Access / Non-critical use PCs	4-6
150	Laptops	3-5
160	Tablets (Android/iPad/Mobile Windows)	3-4
175	High-End PCs (GIS, Engineering, IT)	2-3
200	Intel Windows Servers	3-5
225	Other Servers (Library Catalog)	4-5
230	Network Attached Storage & Storage Controllers	4-6
250	Ruggedized mobile data laptops	3-4
275	Police mobile data equip. (Data Radio, etc)	4-6
300	Routers	4-5
325	Switches	4-5
350	Backup Systems	4-5
375	iSeries Servers	5-6
400	Telephone System	4-6
410	Voice Mail Systems	4-6
425	Wireless Network Equipment (>\$2,000)	4-6
450	Copiers	7-10
475	Network Printers (>\$2,000)	4-6
500	Uninterruptible Power Supplies (>\$1,000)	3-5
525	Book Checkout systems	5-10
550	Other Library systems	5-10
575	Radio systems (800 MHz and other)	8-12
600	Security Systems	5-8
610	Software Security Systems	5-6
625	Gas meter systems	5-10
650	911 Equipment (Recorders, phone systems, radio)	5-10
675	Credit Card equipment	3-5
700	GPS Equipment	3-5
725	High End Scanners (>\$2,000)	4-6
750	Plotters	3-5
775	Parking Systems	8-12
800	Video Surveillance Systems	5-8
805	Sound System Equipment	4 - 10
810	Vending Machines	10+
825	Microfilm Readers	5-10
850	Data Projectors	3-5
860	Digital Displays	5-6
875	Cash Registers	4-6
900	Mail Equipment	5-10
925	Specialized Airport Equipment	8-12
950	High-End Hand Held Equipment	3-6
960	Specialized Public Works Equipment	4 - 10

975	Specialized Motor Pool Equipment	4-10
980	Enterprise software systems (H.T.E., New World, etc)	15+
982	Major Software Systems	5+
983	Network Management Software	5+
985	Specialized lab and testing equipment	6-10
990	Document Management/Imaging	6-10



# **FY24 Technology Replacement Plan**

**December 5, 2022**

# COMMITTEE MEMBERS

(10 Group representatives)

1. **Amanda Skewis** (Public Works)
2. **Tammy Deines**(Planning, Community Dev., Building, Code Enforcement)
3. **Denise Bohlman** (Administration, City Clerk, HR)
4. **David Watterson** (Municipal Court, Info. Technology, Legal)
5. **Liz Kampa** (Finance, Parking, Motor Pool, Facilities)
6. **Kory Thomson** (Parks & Rec, Cemetery, Community Center)
7. **Becky Shay** (Police, Animal Shelter, Volunteer Center)
8. **Derek Yeager** (Fire Stations, Communications Center)
9. **Marita Herold** (Airport, MET Transit)
10. **Kelsie Rubich** (Library)

# PLAN OVERVIEW


 Mechanism To Replace City Technology

 Useful Life of 3 Years Or More

 Multiple Year Replacement Schedule

 Annual standards review for PCs

 Established Guidelines For Review Consideration  
(age, standards, cost-benefit analysis, regulatory requirements, best practices, operational needs)

 Replacement funding is maintained within each department/division budget

 Annual Committee Plan Review (Departmental Justifications)

# FY24 TRP PLAN

## Replacement Highlights



87 General Office PC's  
14 High-End Systems



5 Main Copiers & Printers



60 Laptops/Tablets



6 Application Servers

# FY24 TRP PLAN

## Replacement Highlights



Library RFID Sorter



Water Reading Radios



Library Sorter  
Conveyance



Network Switches



City Facilities - Wi-Fi (Part 2)

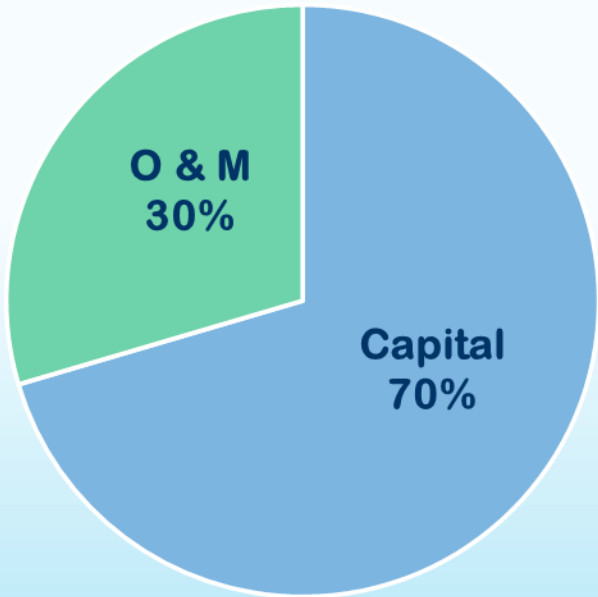
# FY24 TRP PLAN

## Hand-Me Down Program

- **Increases ROI by extending the years of service to the organization.**
- **Provides cost effective devices for:**
  - **Employee Kiosks**
  - **Senior Citizens / Community Center**
  - **Crime Prevention Center Volunteers**
  - **Low use environments**
  - **Toxic areas where hardware failure is high**
  - **Temporary workspaces**

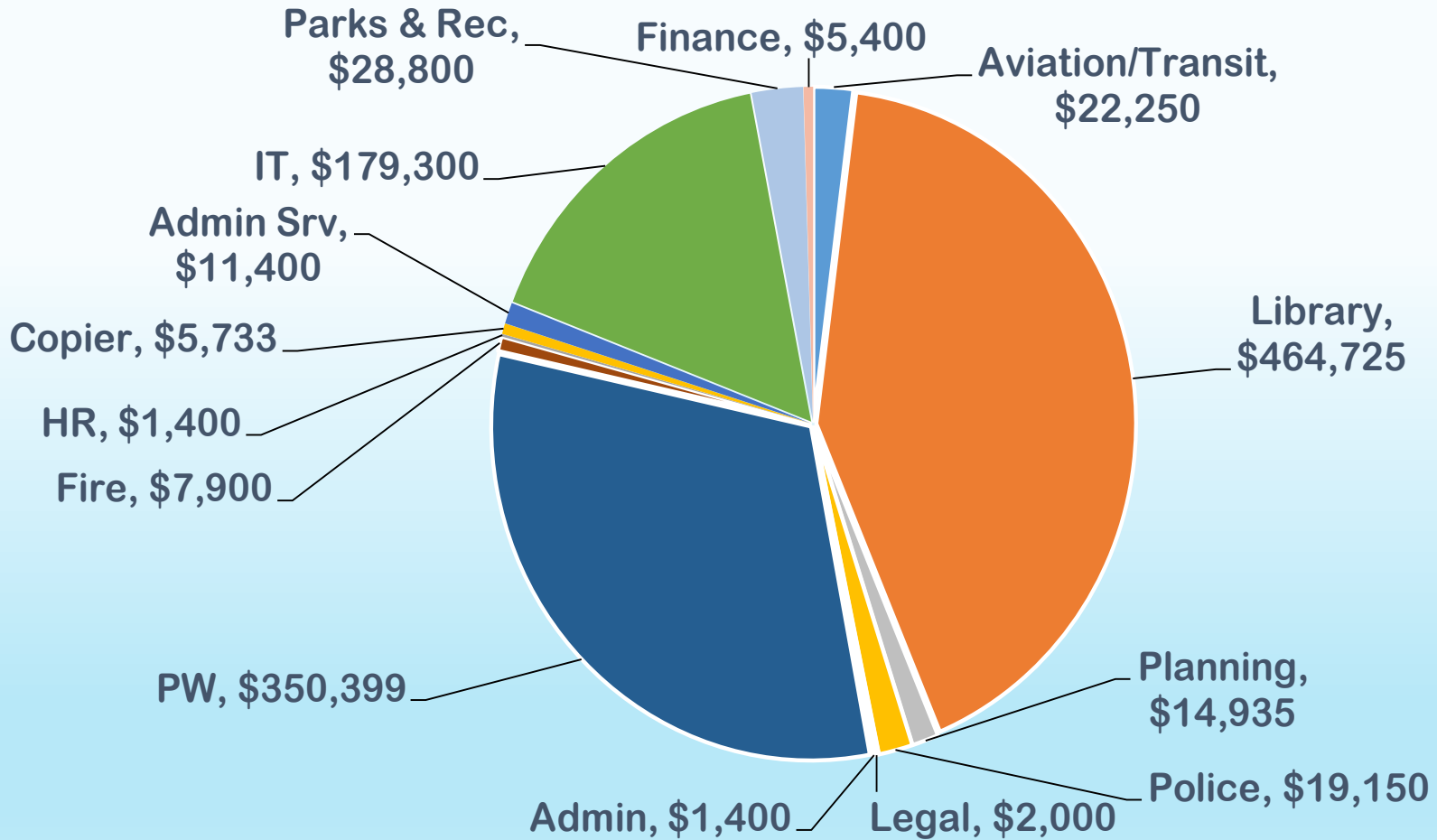


# FY24 TRP PLAN Financial Summary



<b>Capital:</b>	<b>\$</b>	<b>785,233</b>
<b>O &amp; M:</b>	<b>\$</b>	<b>329,559</b>
<b>TOTAL:</b>	<b>\$</b>	<b>1,114,792</b>

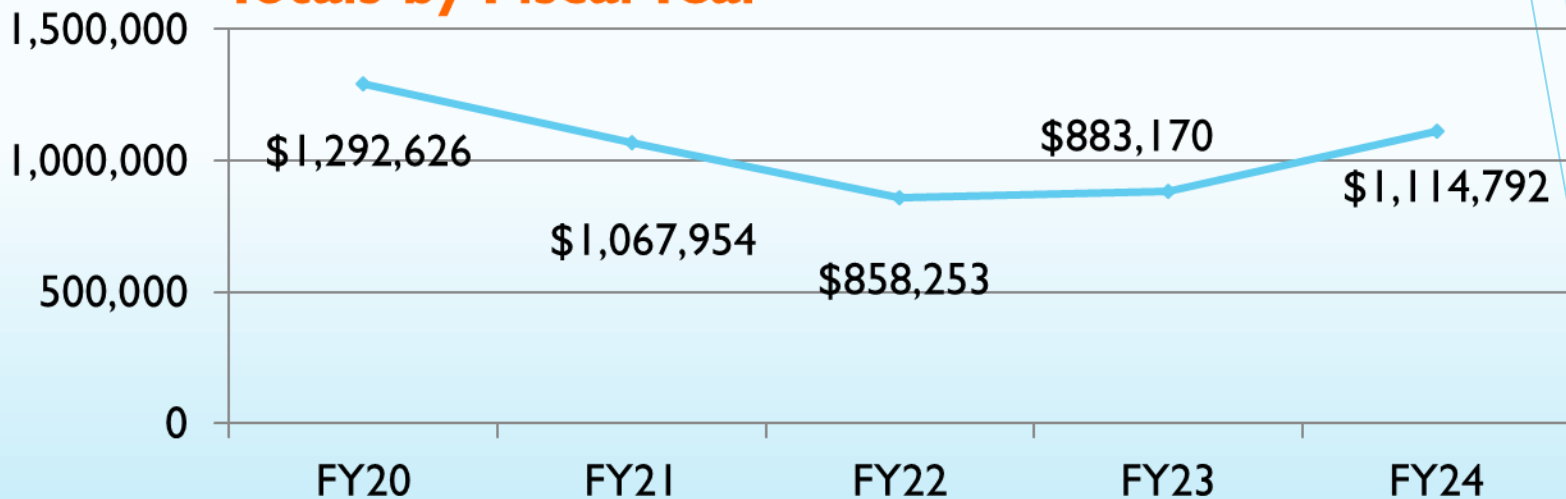
# FY24 TRP Totals by Department



# FY24 TRP PLAN

## Past Year Comparison

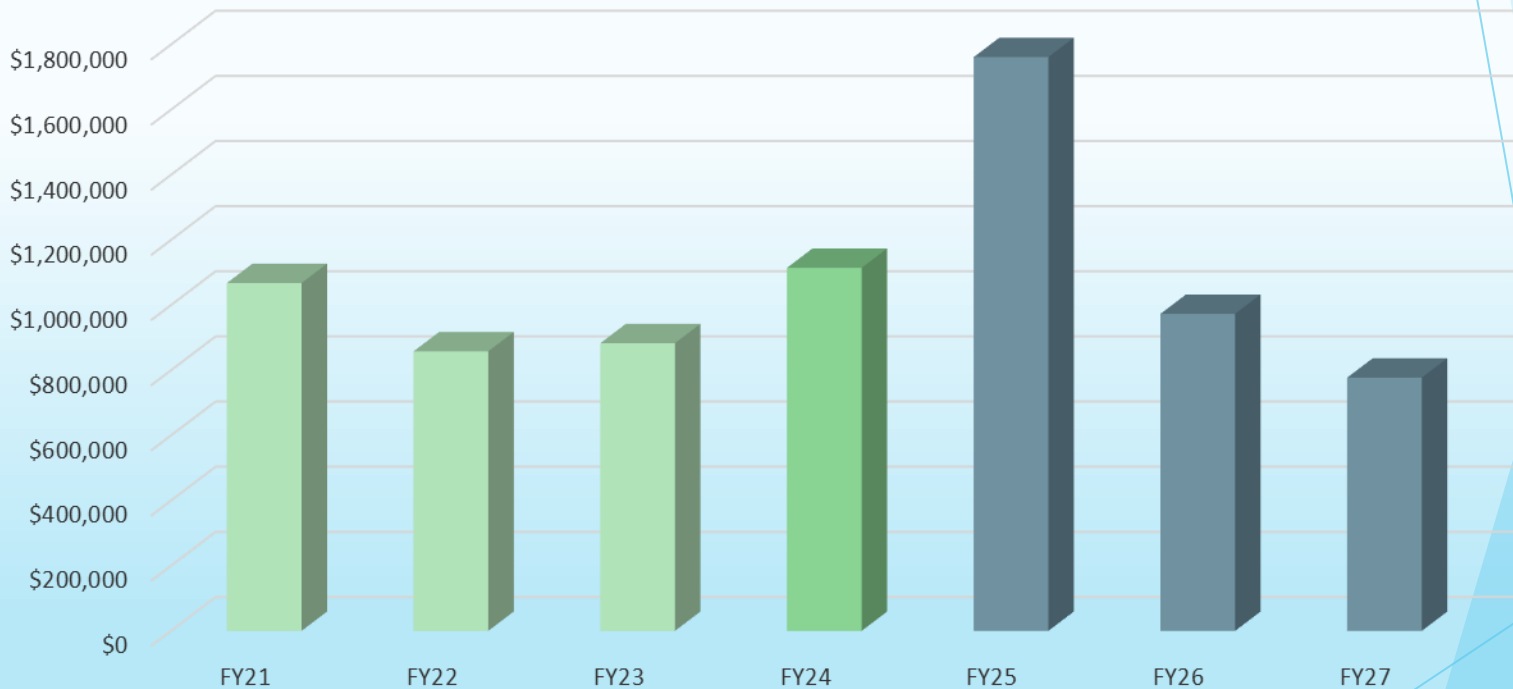
Totals by Fiscal Year



	FY20	FY21	FY22	FY23	FY24
Capital	\$ 849,186	\$ 496,500	\$ 412,303	\$ 502,400	\$ 785,233
O & M	\$ 443,420	\$ 571,454	\$ 445,950	\$ 380,770	\$ 329,559
<b>Totals</b>	<b>\$ 1,292,606</b>	<b>\$ 1,067,954</b>	<b>\$ 858,253</b>	<b>\$ 883,170</b>	<b>\$ 1,114,792</b>



# FY24 TRP PLAN Looking Forward



**Thank-You!**

# Technology Replacement Plan

## Capital Expenditures for FY2024

<u>Department/Division</u>	<u>Description</u>	<u>Price</u>
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<b>Information Technology</b>	<b>Wireless Network (Part 2)</b>	<b>\$ 70,000</b>
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The City of Billings currently provides Wi-Fi access in and around every facility within the organization. Part 2 of the Wi-Fi replacement will provide all of the Wi-Fi Access Points for the new Stillwater building along with AP's to cover all of the Billings Operations Center facilities. Part 1 of this project, which was approved last year, is underway in the current fiscal year and will replace out more than 50% of our wireless network. The new wireless solution replaces our existing system which is over 6 years old and is manufacturer "End of Life/End of Support".

<b>Information Technology</b>	<b>Network Switches (13 @ \$6K each)</b>	<b>\$ 78,000</b>
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These switches are replacement for various City Hall & Depot switches. They are over 6 years old and will serve as main closet switches in the new Stillwater Building.

<b>Information Technology</b>	<b>Network Switch – Ethernet Core</b>	<b>\$ 7,500</b>
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This switch will be 8 years old and serves as the Ethernet connection to the main network core switches.

<b>Aviation – Transit</b>	<b>File Server</b>	<b>\$ 20,000</b>
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MET Transit's Windows file server is nearing seven years old and the end of its useful life. This server provides storage for MET's on-board video system management for the bus fleet, fuel system management, and MET's local file storage. This critical storage device is in need of replacement with an updated operating system, storage capacity and backup and is scheduled for replacement in FY2024.

<b>Copier Fund</b>	<b>Canon IRA4245 – Legal 2<sup>nd</sup> Floor</b>	<b>\$ 5,733</b>
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This printer is used by the Legal Department's 2<sup>nd</sup> Floor staff. At the time of replacement, it will be nearly 10 years old, which has been determined to be past the useful life of a copier. Additionally, it will have finished over 100,000 copies and repair or replacement parts are becoming difficult to acquire.

<b>Library</b>	<b>Sorter Conveyance</b>	<b>\$180,000</b>
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The sorter conveyance transports library materials returned via the interior book drop through a tunnel spanning a distance of over 95' to the RFID sorter in the circulation workroom. The existing conveyance has been in operation since the library opened in 2014 and has experienced numerous equipment failures in recent years, including many requiring staff to crawl into the conveyance tunnel to clear trapped materials. A new conveyance solution will transport materials more efficiently, reduce equipment

# Technology Replacement Plan

## Capital Expenditures for FY2024

<u>Department/Division</u>	<u>Description</u>	<u>Price</u>
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downtime, and eliminate the need for staff to be placed in dangerous situations to remove blocked materials.

<b>Library</b>	<b>RFID Sorter</b>	<b>\$165,000</b>
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Returned materials are transported via the conveyance and are physically placed into the RFID sorter through the staff induction unit. The equipment checks in and transfers items to designated storage containers for shelving within the library. This equipment has been operating since 2014 and experiences frequent issues resulting in lengthy equipment downtimes. The vendor for the product has also become highly unreliable and unresponsive to service calls in the past year and a half. A new RFID sorter will make the return process more efficient, reduce equipment noise, feature ergonomic return bins, and utilize technology that eliminates the need for library staff to feed materials into the sorter manually.

<b>Library</b>	<b>Avaya/Nortel Network Switch</b>	<b>\$11,000</b>
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The Avaya/Nortel switch was purchased in 2014 to provide 96 POE powered ports to support the Library staff needs. This switch is now over 8 years old, maintenance and support is not available, represents a reliability & security concerns, and is in need of replacement.

<b>Public Works – Water Quality</b>	<b>File Server (5 units)</b>	<b>\$125,000</b>
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This is for replacement of five (5) units with an estimated cost of \$25,000 each and a total cost of \$125,000. These servers are Virtual Machine Host servers which host virtual servers within the City Hall Domain that supports plant processes and operations. They provide a variety of functions, including network management tools and applications, primary computer backup, and file sharing.

<b>Public Works – Water Quality</b>	<b>Network Switch (3 units)</b>	<b>\$39,000</b>
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This is for replacement of three (3) units with an estimated cost of \$13,000 each and a total cost of \$39,000. These switches enable to exchange of data between devices within the City Hall Domain that supports plant processes and operations. They enable a variety of functions, including network management tools and applications, primary computer backup, and file sharing.

<b>Public Works – Water Quality</b>	<b>Millipore Water System (1 unit)</b>	<b>\$26,000</b>
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This is the reverse osmosis and deionizing unit for pure water used in quality testing measures in the state certified laboratory in the Water Quality Division.

<b>Public Works – D &amp; C</b>	<b>Neptune Gateway (5 units)</b>	<b>\$ 57,500</b>
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radio frequency. The replacement cost per unit is estimated at \$11,500 for a total of \$57,500. These units are strategically located throughout our community to constantly

# Technology Replacement Plan

## Capital Expenditures for FY2024

<u>Department/Division</u>	<u>Description</u>	<u>Price</u>
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collect meter readings from homes and businesses and automatically feed these readings into our utility billing system. The readings are used for monthly billing, for routine service on & off orders, to help detect increase usage in a building due to potential leaks, and more.

**City Council Work Session**

**Date:** 12/05/2022  
**Title:** Capital Improvement Plan Discussion - Public Works and Transportation Projects  
**Presented by:** Andy Zoeller, Finance Director  
**Department:** Finance  
**Presentation:** Yes  
**Legal Review** Not Applicable

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**RECOMMENDATION**

No staff recommendation is being provided for the work session.

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

The entire Capital Improvement Plan (CIP) was presented to City Council at the November 7th work session.

Staff is providing an opportunity to Council to discuss the Public Works Department projects in the FY2024 CIP.

Click below for link:

[FY2024 - FY2028 CIP](#)

**ALTERNATIVES**

No alternatives were analyzed for the work session

**FISCAL EFFECTS**

Public Works projects in the FY24-28 CIP total \$264,315,000 within the following areas:

<b>FY24-28 Public Works Projects</b>	
Solid Waste	18,905,000
Storm Sewer	14,320,000
Transportation Projects	99,830,000
Utility Projects	131,260,000
<b>Total Public Works 24-28 CIP</b>	<b>264,315,000</b>

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