

**\*\*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.com7tv.com](http://www.com7tv.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 Webinar 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."

**CITY COUNCIL  
REGULAR BUSINESS MEETING**

**AGENDA**

**FEBRUARY 27, 2023**

**5:30 P.M.**

**COUNCIL CHAMBERS**

**CALL TO ORDER:** Mayor Cole

**PLEDGE OF ALLEGIANCE:** Mayor Cole

**INVOCATION:** Councilmember Neese

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

**MINUTES:**

- February 13, 2023 - PENDING

**COURTESIES:**

**PROCLAMATIONS:** March - Colorectal Cancer Awareness Month

**COUNCIL REPORTS:**

**ADMINISTRATOR REPORTS - CHRIS KUKULSKI**

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

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

A. **Bid Awards:**

1. **W.O. 22-07: Mullowney Lane Improvements.** (Opened 1/17/23) Recommend Askin Construction.
2. **W.O. 22-15: WRF Admin Building Roof Replacement.** (Opened 2/7/2023) Recommend CentiMark Corporation.
3. **W.O. 22-21: Brewington Drive Reconstruction.** (Opened 1/17/2023) Recommend Askin Construction.
4. **W.O. 23-01: Contract 1, 2023 Billings Water Main Replacement.** (Opened 2/7/2023) Recommend COP Construction, LLC.

B. **Professional Services Agreement for W.O. 23-12: Zone 4 Pump Station and Waterline Improvements;** HDR Engineering.

C. **Professional Services Agreement for W.O. 23-24: Belknap Office Remodel, Phase 2; Collaborative Design Architects.**

- D. **Amendment No. 1, W.O. 19-42: West End Water Treatment Plant Project;** Garney Companies, Inc.
- E. **Amendment No. 2, W.O. 22-07: Mallowney Lane Improvements,** HDR Engineering, Inc.
- F. **Memorandum of Understanding** between the City and the Yellowstone Conservation District for West End Reservoir Conservation and Recreational Amenities.
- G. **Lease** with American Towers for cell tower located at Stewart Park.
- H. **MET Transit Agency Safety Plan Update.**
- I. **Donation** to Public Works for W.O. 23-09: 5th Avenue Corridor Project from Billings TrailNet.
- J. **Donation** to Police Department from Shield 616, Scheels, The Brosovich Family Foundation and The Buchanan Family Foundation for body armor.
- K. **Sidewalk Easement** with Josephine Corner Apartments, LLC and Traffic Signal Fixtures and Sidewalk Easement with the Roman Catholic Bishop of Great Falls.
- L. **Exempt Plat and Warranty Deeds** with McCall Properties, LLC and Brittany's Dream, LLC.
- M. **Final Plat** of Zimmerman Home Place Subdivision, 3rd Filing.
- N. **Resolution** authorizing the filing and acceptance of Transit Grant Funds.
- O. **Resolution** approving FY2024-2028 Capital Improvement Plan for Transportation and Parks and Recreation.
- P. **Resolution** ordering improvements for W.O. 22-07: Mallowney Lane Improvements.
- Q. **Resolution** ordering improvements for W.O. 22-21: Brewington Drive Reconstruction.
- R. **Second/Final Reading Ordinance** amending Ward Boundaries.
- S. **Second/Final Reading Ordinance** amending Ordinance 22-5819, Zone Change 1018.
- T. **Second/Final Reading Ordinance** for Zone Change 1021: located south of Bell Avenue and north of Rocky Vista Way. **\*Quasi-Judicial**
- U. **Second/Final Reading Ordinance** expanding Ward V (Annexation 21-15).
- V. **Second/Final Reading Ordinance** expanding Ward III (Annexation 22-08).
- W. **Bills for the Weeks of:**
  - 1. January 17, 2023
  - 2. January 23, 2023

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

#### **REGULAR AGENDA:**

- 2. **PUBLIC HEARING AND RESOLUTION** assessing nuisance property abatements. Staff recommends approval.

- Presented by: Andy Zoeller, Finance Director

**Recommended Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve a Resolution assessing nuisance property abatements, as recommended by staff.

3. **PUBLIC HEARING AND RESOLUTION** assessing weed abatements. Staff recommends approval.

- Presented by: Andy Zoeller, Finance Director

**Recommended Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve a Resolution assessing weed abatements, as recommended by staff.

4. **PUBLIC HEARING AND RESOLUTION** approving and adopting FY2023 budget amendments. Staff recommends approval.

- Presented by: Andy Zoeller, Finance Director

**Recommended Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve and adopt the FY2023 budget amendments, as recommended by staff.

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

**COUNCIL INITIATIVES:**

**ADJOURN:**

*Council Chambers are readily accessible to individuals with physical disabilities.*

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

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

**City Council Regular**

**Date:** 02/27/2023  
**Title:** W.O. 22-07 Mullowney Lane Improvements, Bid Award  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends that City Council award a contract for W.O. 22-07 Mullowney Lane Improvements to Askin Construction in the amount of \$3,481,496.

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

W.O. 22-07 Mullowney Lane Improvements will reconstruct and improve Mullowney Lane from the Midland Road/South Frontage Road intersection south to Elysian Road. Mullowney Lane will be constructed to a 3-lane street generally including a two-way-left-turn-lane, sidewalk on the west side, 10-foot wide multi-use trail on the east side), curb and gutter, storm drain, irrigation, streetlights, and a signalized intersection at the Elysian Road/Mullowney Lane intersection. A landscaped, traffic-calming intersection median is included at the Holiday Avenue/Mullowney Lane Intersection located mid-way between the South Frontage Road and Elysian Road.

The project was advertised on December 16, 23, 30, and January 6, and 13, 2023 in the Yellowstone County News and on the City's website. Bids were opened on January 17, 2023. Two bids were received. Askin Construction submitted the lowest responsible bid.

**ALTERNATIVES**

City Council may:

- Award W.O. 22-07 Mullowney Lane Improvements to Askin Construction in the amount of \$3,481,396; or,
- Not award a contract and reject all bids. If the contract is not awarded, the street will continue to degrade and the safety improvements such as missing pedestrian facilities, streetlights, and the Elysian/Mullowney intersection improvements cannot be constructed.

**FISCAL EFFECTS**

The following bids were received:

| <b>Contractor</b>  | <b>Base Bid</b> |
|--------------------|-----------------|
| Askin Construction | \$3,481,496.00  |
| Knife River        | \$5,169,469.55  |

The project was budgeted in FY23 using Gas Tax, Street Maintenance District, Developer Contributions, and Assessment funds. \$60,470 will be reimbursed by property owners for water, sewer, and storm utility stubs to proposed development. There is sufficient budget to award the contract.

**City Council Regular**

**Date:** 02/27/2023  
**Title:** W.O. 22-15, WRF Admin Building Roof Replacement, Bid Award  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends the City Council award a contract for W.O. 22-15, WRF Admin Building Roof Replacement, to CentiMark Corporation in the amount of \$231,605.

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

W.O. 22-15, WRF Admin Building Roof Replacement, will replace the roofing of the administration building at the Water Reclamation Facility (WRF). This roof was last replaced in the 1990s. This roof has been patched numerous times due to leaks and is starting to deteriorate past the point that it will be able to be repaired with patching. In addition to administration roles, this building also houses a server room, and the laboratory that is critical to daily operations and environmental compliance. These areas are sensitive to water damage and water leaks could become very costly.

The project was advertised on January 13th, January 20th, January 27th, and February 3rd, 2023, in the Yellowstone County News and on the City's website. Bids were opened on February 7th and one bid was received. Centimark Corporation submitted the only responsible bid.

**ALTERNATIVES**

City Council may:

- Award W.O. 22-15, WRF Admin Building Roof Replacement, to Centimark Corporation in the amount of \$231,605; or
- Not award a contract and reject all bids. If the project is not awarded, the roof will continue to deteriorate, which will result in increased maintenance costs and risk damage to buildings and equipment, including the server room, the laboratory responsible for environmental compliance and daily operations, and newly remodeled office rooms.

**FISCAL EFFECTS**

The following bid was received:

| Contractor            | Total Bid Price |
|-----------------------|-----------------|
| Centimark Corporation | \$231,605.00    |

In 2022, this roof was bid along with 12 additional roofs at the WRF under one work order. The project was not awarded at that time in order to rebid as a smaller project in a more advantageous bid cycle in an attempt to generate more local contractor interest. At that time, there were two bids were received. The bid received this time is in line with the bid prices given for the administration building roof for both contractors that bid in 2022.

The project was budgeted in FY23 using Wastewater funds. There is sufficient budget to award the contract.

**City Council Regular**

**Date:** 02/27/2023  
**Title:** W.O. 22-21: Brewington Drive Reconstruction, Bid Award  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends that City Council award a contract for W.O. 22-21 Brewington Drive Reconstruction to Askin Construction in the amount of \$1,313,500.

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

W.O. 22-21 Brewington Drive Reconstruction will reconstruct Brewington Drive and three adjacent cul-de-sacs (Dayton Circle, Lynch Circle, and Erb Circle) between Wicks Lane and Kyhl Lane in the Heights. The street improvements provide the typical residential street width of 34-ft back of curb to back of curb, install curb and gutter, and sidewalk on both sides of Brewington Drive. New storm drain infrastructure will be constructed, and minor adjustments to water and sewer infrastructure will be completed as needed.

The project was advertised on December 9, 16, 23, 30, January 6, and 13, 2023 in the Yellowstone County News and on the City's website. Bids were opened on January 17, 2023. Three bids were received. Askin Construction submitted the lowest, responsible bid.

**ALTERNATIVES**

City Council may:

- Award W.O. 22-21 Brewington Drive Reconstruction to Askin Construction in the amount of \$1,313,500; or,
- Do not award a contract and reject all bids. If the contract is not awarded, the street will continue to degrade and the street improvements will not be constructed.

**FISCAL EFFECTS**

The following bids were received:

| CONTRACTOR               | BID            |
|--------------------------|----------------|
| Askin Construction       | \$1,313,500.00 |
| Knife River Construction | \$1,559,496.50 |
| Weave Construction       | \$1,588,927.00 |

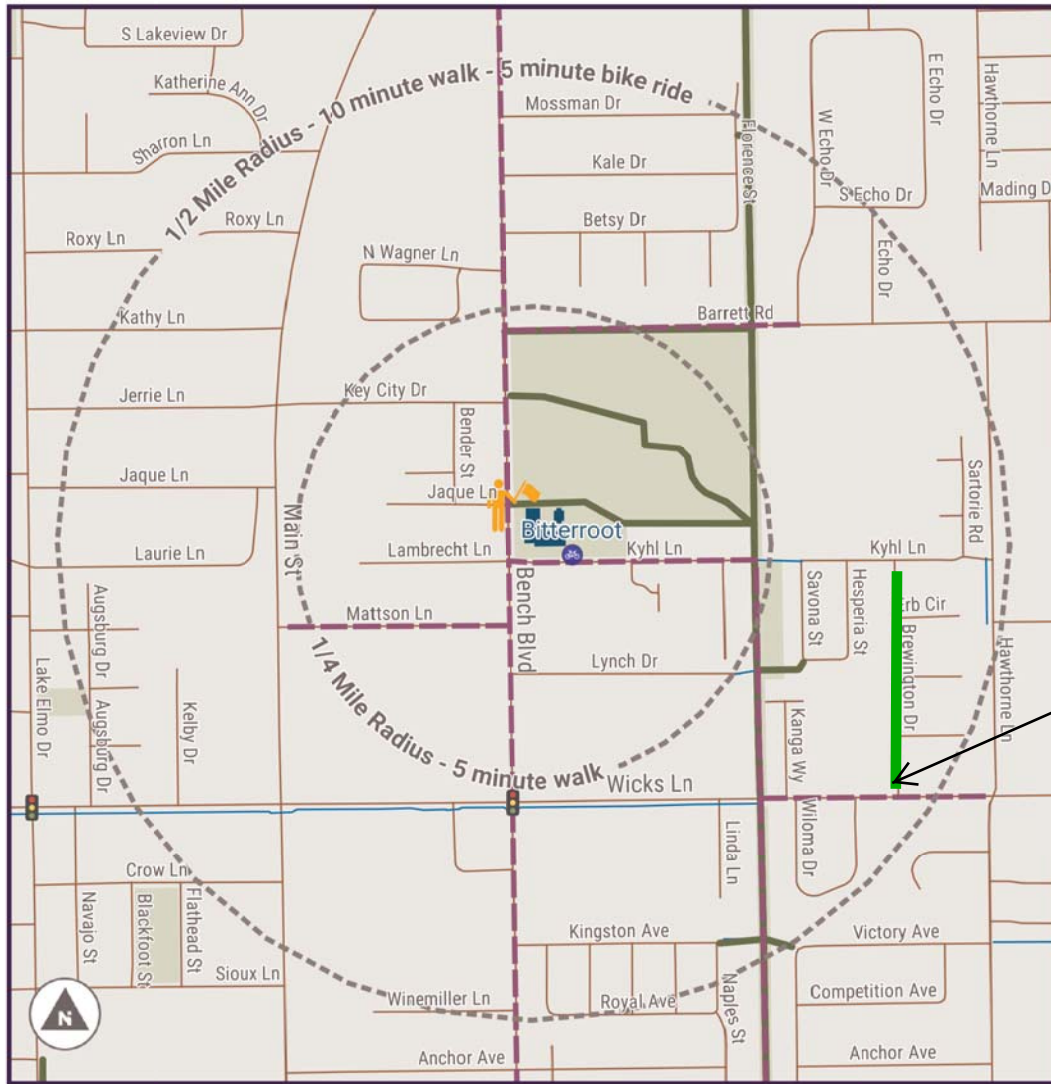
The project is funded through Gas Tax, Storm, and property owner assessments budgeted in FY23. There is adequate budget to award this contract. The assessments included in the resolution are in the amount of \$535,000 including sidewalk along Brewington Drive (\$400,775 construction and \$134,225 bonds/contingency/engineering cost).

**Attachments**

WO 22-21 Bitterroott SRTS

# BITTERROOT ELEMENTARY SCHOOL

## SUGGESTED WALKING ROUTES TO SCHOOL



### LEGEND

- Suggested Walking Route
- Crossing Guard
- Traffic Signal
- Bike Rack
- Shared Use Path

Brewington Drive



This map is intended for informational purposes only. The City of Billings or Billings Public Schools cannot and does not guarantee the safety of these routes, and assumes no responsibility or liability. We encourage families and students to use this map to explore options for going to and from school, but each family is responsible for choosing the most appropriate option based upon their knowledge of route conditions and the specific needs and/or experience level of their student.

**City Council Regular**

**Date:** 02/27/2023  
**Title:** W.O. 23-01, Contract 1: 2023 Billings Water Main Replacement, Bid Award  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends that City Council award a contract for W.O. 23-01, Contract 1: 2023 Water Main Replacement, Schedules 1, 2, and 3A to COP Construction, LLC in the amount of \$3,108,689.

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

W.O. 23-01, 2023 Water Main Replacement, will replace approximately 8,760 feet of existing water main. Water mains being replaced were selected based on several criteria including age, break history, lead joint pipe, fire flow deficiency, and undersized water mains. This project will replace water mains that are up to 74 years old, upsize 6-inch diameter water mains to 8-inch size, resulting in the reduction of maintenance costs from water main breaks. Upsizing to 8-inch diameter water main will also provide improved fire flows to adjacent properties.

The project was advertised on January 20, January 27, and February 3, 2023, in the Yellowstone County News and on the City's website. Bids were opened on February 7, 2023, and 3 bids were received. For Schedules 1, 2, 3A, 3B, and 3C, COP Construction, LLC, submitted the lowest, responsible bid.

**ALTERNATIVES**

City Council may:

- Award W.O. 23-01, Contract 1: 2023 Water Main Replacement, to COP Construction in the amount of \$3,108,689.00 for Schedules 1, 2, and 3A; or,
- Do not award a contract and reject all bids. If the project is not awarded, the City's water mains in these areas will continue to be unreliable and will experience ongoing maintenance problems and expenses.

**FISCAL EFFECTS**

The following bids were received:

| CONTRACTOR                              | Schedule 1<br>Southgate<br>Drive | Schedule 2<br>Avenue F<br>Area | Schedule 3A<br>Parkhill/Beverly<br>Hills | Schedule 3B<br>19th Street<br>West | Schedule 3C<br>21st Street<br>West | Total of All<br>Schedules |
|-----------------------------------------|----------------------------------|--------------------------------|------------------------------------------|------------------------------------|------------------------------------|---------------------------|
| COP Construction,<br>LLC                | \$1,731,486.00                   | \$713,126.00                   | \$664,077.00                             | \$138,050.00                       | \$190,450.00                       | \$3,437,189.00            |
| Askin Construction                      | \$1,870,620.00                   | \$807,025.00                   | \$887,545.00                             | \$181,800.00                       | \$250,655.00                       | \$3,997,645.00            |
| Western Municipal<br>Construction, Inc. | \$1,970,940.00                   | \$846,330.00                   | \$789,525.00                             | \$165,056.00                       | \$232,749.00                       | \$4,004,600.00            |

The project was budgeted in FY23 using water funds. The total project cost for all schedules, \$3,437,189, exceeds the available budget. To meet the project budget, only Schedules 1, 2, and 3A will be awarded in the amount of \$3,108,689.00. There is sufficient budget to award the contract.

**City Council Regular**

**Date:** 02/27/2023  
**Title:** W.O. 23-12 Zone 4 Pump Station and Waterline Improvements, Professional Services Contract  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends that City Council award a professional engineering services contract for W.O. 23-12 Zone 4 Pump Station and Waterline Improvements to HDR Engineering, Inc. in the amount of \$542,100.

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

Council is asked to consider authorizing and executing the Contract for Professional Services with HDR Engineering, Inc., to complete the design for W.O. 23-12 Zone 4 Pump Station and Waterline Improvements. This contract will provide services for preliminary and final design through bidding of the project. A contract for construction contract administration will be requested after the construction contract duration is determined and when additional budget is available in FY24. W.O. 23-12 is a project to design and construct a new pump station and waterline for Zone 4. The improvements will provide resiliency in Zone 4 and increase efficiency at the Chapple pump station. The new waterline will connect the 20-inch main in Grand Avenue to the 20-inch main in Rimrock Road. The pump station will be located along the new water pipeline between Grand Avenue and Rimrock Road, likely between 54th Street West and 58th Street West.

HDR Engineering, Inc. was selected based on city staff review of three project proposals submitted by prequalified firms that have considerable experience in pump station and waterline design. The other firms considered for the work were AE2S and Burns & McDonnell. The selection was based on Project Team and Availability; Project Approach; and Firm qualification and experience as related to project needs.

**ALTERNATIVES**

City Council may:

- Approve a Contract for Professional Services with HDR Engineering in the amount of \$542,100 ; or,
- Not approve a Contract for Professional Services with HDR Engineering. If the contract is not approved, the design for Zone 4 and Chapple Pump Station Resiliency cannot be completed.

**FISCAL EFFECTS**

The project was budgeted in FY23 using water funds. There is adequate budget to award this contract.

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**Attachments**

WO 2312 Contract for Professional Services  
WO 2312 Insurance 1  
WO 2312 Insurance 2

# Contract for Professional Architectural and Engineering Services

## W.O. 23-12 Zone 4 Pump Station and Waterline Improvements

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

Part I, consisting of 15 Sections of Special Provisions;

Part II, consisting of 11 Sections of General Provisions;

Appendix A consisting of 8 pages (Basic Services of Contractor);

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

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

Appendix D consisting of 4 pages (Schedule of Professional Fees);

Appendix E consisting of 1 page (Project Schedule);

Appendix F consisting of 19 pages (Certificate(s) of Insurance); and

### **PART I SPECIAL PROVISIONS**

#### Section 1. Definitions.

In this Contract:

- A. "Administrator" means the City Engineer of the Engineering Division of the Public Works Department or his designee.
- B. "Billings" means the City of Billings.
- C. "Contractor" means HDR Engineering, Inc.

#### Section 2. Scope of Services.

- A. The Contractor shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this Section by reference.
- B. Billings shall pay the Contractor in accordance with the Schedule of Professional Fees attached as Appendix D and incorporated herein by reference for services actually performed under this Contract.
- C. Billings shall not allow any claim for services other than those described in this Section. However, the Contractor may provide, at its own expense, any other services that are consistent with this Contract.
- D. The Engineer shall provide as-built drawings as approved by the City of Billings, to the Administrator within 30 days after the project completion date. Final payment will be withheld until the as-built drawings are received by the City of Billings.

Requirements for submitting as constructed documents of completed Private Contracts, Work Orders, Special Improvement Districts and Site plans involving any City of Billings infrastructure: a point file; 1 (\*.asc, \*.txt, comma delimited; point number, northing, easting, elevation and description) / 2 (\*.csv, with headings for; point number, northing, easting, elevation and description), with northings and eastings to the nearest tenth of a foot, elevations to the nearest hundredth of a foot, representing new, updated or relocated City of Billings infrastructure features such as, but not limited to Sanitary Sewer Manholes, Storm Drain Manholes, Water Valves, Water Bends, Signals, Street Light, etc., in the coordinates of Montana State Plane, Zone 2500 using NAD83(2011), Horizontal and NAVD88 Vertical, Horizontal units and Vertical units will be International feet; one half size paper copy to scale, one full size paper copy to scale, two CDs, DVDs, or flash drives with PDF files being half size to scale and full size to scale and AutoCAD DWG files as-constructed / as-built, Version 2016, or equivalent.

- ~~E. If required, the Contractor shall provide certified construction payrolls to the Administrator stating in writing that the payrolls have been reviewed and are acceptable.~~

### Section 3. Time for Performance.

- A. This Contract becomes effective when signed on behalf of Billings.
- B. The Contractor shall commence performance of the Work described in Section 2 on receipt of written Notice to Proceed and complete that performance in accordance with the schedule set forth in Appendix E.
- C. This Contract shall terminate at midnight on June 30, 2025.

### Section 4. Compensation; Method of Payment.

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

## Section 5. Termination of the Contractor's Services.

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

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

## Section 6. Duties Upon Termination

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

## Section 7. Insurance.

- A. The Contractor shall maintain in good standing the insurance described in Subsection B of this Section. Before rendering any services under this Contract, the Contractor shall furnish the Administrator with proof of insurance in accordance with Subsection B of this Section.
- B. The Contractor shall provide the following insurance:
  - 1. Workers' compensation and employer's liability coverage as required by Montana law.
  - 2. Commercial general liability, including contractual and personal injury coverage's -- \$1,500,000 per occurrence.
  - 3. Commercial automobile liability -- \$1,500,000 per accident.
  - 4. Professional liability in the amount of \$1,500,000 per claim.
- C. Each policy of insurance required by this Section shall provide for no less than 30 days' advance notice to Billings prior to cancellation.
- D. Billings SHALL be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies. In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against Billings.

## Section 8. Assignments.

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

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

- A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this Contract shall be the property of Billings, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents, or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright. Contractor shall retain rights to pre-existing proprietary property including but not limited to interactive models. The Contractor shall have the right to include photographic or artistic representations of the design and construction of the Project among the Contractor's promotional and professional materials. The Contractor's materials shall not include Billings' confidential or proprietary information regardless of whether Billings has previously advised the Contractor in writing of the specific information considered by Billings to be confidential and proprietary.
- B. Equipment purchased by the Contractor with Contract funds: See Appendix A, Section 3. Scope of Work.

- C. Should Billings elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Billings will indemnify and hold harmless the Contractor from any and all claims, demands and causes of action of any kind or character arising as a result of reusing the documents developed under this contract. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation, and the original Contractor's or subcontractor's signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

Section 10. Notices.

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

Billings: Ken Ard  
City of Billings  
Public Works/Engineering  
2224 Montana Avenue  
Billings, Montana 59101  
e-mail: [ardk@billingsmt.gov](mailto:ardk@billingsmt.gov)  
FAX: (406) 237-6291

Contractor: Craig Habben, PE  
HDR Engineering, Inc.  
2913 Millennium Circle  
Billings, MT 59102  
e-mail : [Craig.Habben@hdrinc.com](mailto:Craig.Habben@hdrinc.com)

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or 5 days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this Contract, the Contractor shall not make expenditures other than as provided in line items in the Contract budget.

Section 12. Force Majeure.

- A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
- B. As used in this Contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this Contract, including without limitation:
1. Any interruption, suspension or interference resulting solely from the act of Billings or neglect of Billings not otherwise governed by the terms of this Contract.
  2. Strikes or Work stoppages.

3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
4. Order of court, administrative agencies or governmental officers other than Billings.

### Section 13. Financial Management System.

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

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

### Section 14. Funding Requirements.

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

### Section 15. Subcontracts.

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

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

## PART II GENERAL CONTRACT PROVISIONS

### Section 1. Relationship of Parties.

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

### Section 2. Nondiscrimination.

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability" (as that phrase is defined in the Americans With Disabilities Act of 1990). The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical impairment/disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. The Contractor shall state, in all solicitations or advertisements for employees to Work on Contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.
- C. The Contractor shall comply with any and all reporting requirements that may apply to it which the City of Billings may establish by regulation.
- D. The Contractor shall include the provisions of Subsections A through C of this Section in every subcontract or purchase order under this Contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this Contract.
- E. The Contractor shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.
- F. The Contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.
- G. The Contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4, which states employees or applicants may not be discharged or in any other manner discriminated against because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to

compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information.

Section 3. Permits, Laws, and Taxes.

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

Section 4. Nonwaiver.

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

Section 5. Amendment.

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

Contractor: Area Manager  
(title of position)

Billings: City Council or Authorized Designee

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

Section 6. Jurisdiction; Choice of Law.

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

Section 7. Severability.

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

Section 8. Integration.

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

Section 9. Liability.

The Contractor shall indemnify, defend, save, and hold Billings harmless from any and all claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any agent, employee or subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this Contract.

- A. The Contractor shall not indemnify, defend, save and hold Billings harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Billings occurring during the course of or as a result of the performance of the Contract.
- B. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Contractor, the Contractor shall indemnify, defend, save, and hold Billings harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result from the Contractor's performance pursuant to this Contract.

Section 10. Inspection and Retention of Records.

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

Section 11. Availability of Funds.

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

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

City of Billings

HDR Engineering, Inc.

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

\_\_\_\_\_

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

Name: \_\_\_\_\_

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

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

ATTEST:

IRS Tax ID # \_\_\_\_\_

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

APPROVED AS TO FORM:

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

By \_\_\_\_\_

City Attorney

## Appendix A

### Basic Services of Engineer

#### W.O. 23-12 Zone 4 Pump Station and Waterline Improvements

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##### Section 1. Engineer's Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Engineer's portion of the project as defined in the scope of work and to prepare and deliver to Billings all plans, specifications, bid documents, and other material as designated herein.
- B. Ascertain such information as may have a bearing on the work from local units of government, utility companies, and private organizations and shall be authorized to procure information from other authorities besides Billings but shall keep Billings advised as to the extent of these contacts and the results thereof.
- C. Prepare and present such information as may be pertinent and necessary in order for Billings to pass critical judgment on the features of the work. The Engineer shall make changes, amendments or revisions in the detail of the work as may be required by Billings. When alternates are being considered, Billings shall have the right of selection.
- D. Engineer's work shall be in accordance with the standards of sound engineering and present City, State, and National standards and policies currently in use.
- E. Conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.
- F. The Engineer shall certify with the submission of final plans that the plans are in conformance with applicable sections of Title 69, Chapter 4, Part 5, of the Montana Code Annotated as pertaining to existing utilities.
- G. To perform professional services in connection with the project and will serve as Billings' representative in those phases of the project to which this agreement applies.
- H. Where Federal funds are involved, the necessary provisions to meet all requirements will be complied with and documents secured and placed in the bidding documents.
- I. Submit an estimated progress schedule as to time and costs at the beginning of the work, and monthly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen by the Engineer. Reports will be submitted in a timely manner to permit prompt resolution of problems.

- J. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project the Task Director designated for the Engineer is Craig Habben working under, Jared Harris.

Section 2. Billings Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete Billings' portion of the project as designated in the scope of work.
- B. Name a Task Director who shall be the liaison between the Engineer and Billings. For this project, the Task Director designated is Ken Ard, working under the City Engineer, Mac Fogelsong.

Section 3. Scope of Work.

The project consists of engineering services for the design, bidding, construction and programming phases for the City of Billings Zone 4 Pump Station and Waterline Improvements. The project generally involves a new Zone 4 pump station on the West End of Billings and waterline connections to Zone 3 and Zone 4.

The proposed improvements and corresponding scope of work are summarized below.

- Pump Station Siting
  - HDR to provide comparative analysis of locations for the pump station and routing of the associated pipelines. Following recommendation and City approval, HDR will proceed with design.
  - HDR to complete plats, exhibits, easement exhibits as necessary for land purchase or easements). Provide 2 in person meetings to assist with Right-of-Way) (R/W) issues.
- Pump Station
  - Design for 3 pumps initially with space for a 4<sup>th</sup> pump with each pump having a capacity of 3 mgd. Bid schedules will be set up for the 3<sup>rd</sup> pump to be bid as a separate schedule.
  - Provide surge relief valve that could also be used as a Zone 4 to Zone 3 transfer station.
  - Evaluate option of pumps provided on a pump skid.
  - Use model to determine pump design conditions.
  - Ancillary Rooms
    - Electrical Room
    - Unisex Restroom. The restroom will be completed pending final location of the pump station and the distance to nearest sewer.
    - Mechanical Room as necessary and pending available room.
    - Chlorine Residual Booster Room.
  - Monorail for hoisting and moving pumps and motors.
- Architecture/Structural
  - Precast walls with brick face and hollow core roof. Architecture to potentially resemble a shouse.
- Mechanical
  - Air conditioning for Electrical Room and ventilation for all other rooms.

- Heating of facility
- Floor drains
- Potable water for restroom.
- Non potable water for washdown water.
- Electrical
  - Coordinate a new service to pump station site
  - Provide Variable Frequency Drives (VFDs) for all pumps including harmonic filter(s) as needed.
  - Provide Motor Control Center/Switchgear
  - Provide docking station for connecting to existing City portable generators.
- Controls
  - Control panel with ControlLogix Programmable Logic Controller.
  - Wired layer between VFDs, control panel and pumps
  - Communication with existing SCADA system via radio or fiber optic cable
- Site Work
  - Paved driveway to adjoining street
  - Sidewalks as applicable
  - Stormwater provisions
  - Seeding or sodding with irrigation piping
- Waterlines
  - New Zone 3 waterline from Grand Ave to pump station. Routing based on pump station location.
  - New Zone 4 waterline from pump station to Rimrock Road Waterline.
  - Stub-outs/connections to existing or planned waterlines in Zone 3 and Zone 4.
  - Evaluate a connection to the Zone 3 12-inch waterline in Colton Blvd.
- Agency Coordination
  - Yellowstone County
  - Montana Department of Transportation (MDT)
  - Department of Environmental Quality (DEQ)
  - Various utilities
  - High Ditch Company
  - US Army Corps of Engineers (USACE)
- Environmental
  - Wetlands Delineation
  - Joint Application (if disturbance of any wetlands) including 404 Nationwide Permit if under 0.5 acres or Individual Permit if over 0.5 acres. 404 permit maybe required for High Ditch Crossing as well if open cut.
- Permitting
  - State Building Permit
  - DEQ Permit to Construct
- Survey
  - Topo and utility survey along pipeline routes and pump station location
  - Construction survey staking for pump station.
- Geotech
  - Bore holes along waterline routes and pump station location and associated report
  - Quality assurance during construction
- Traffic Control

- HDR to provide detour, construction traffic control ideas for working in arterials and provide specifications as necessary.
- Bidding Services.
- Construction, Training and Startup Services (to be added later by amendment).
- Programming Services (to be added later by amendment).
- Items not included in scope of work:
  - Upsizing 12-inch waterline in Grand Ave.
  - Permanent backup power
  - Landscaping aside from seeding/sodding and associated irrigation provisions.
  - Public involvement
  - Pre-purchasing of equipment
  - SRF assistance
  - Structure survey of facilities near work where waterline construction is occurring and dewatering
  - Joint Application and 404 Permit assistance
  - Land purchase and easement assistance

## **DETAIL SCOPE OF SERVICES**

The scope of services that will be utilized on the Zone 4 Pump Station and Waterline Improvements is presented in the summaries for Tasks 100 through 600. The scope of services is organized as follows:

| <u>Task Series</u> | <u>Description</u>                                                         |
|--------------------|----------------------------------------------------------------------------|
| 100                | Project Initiation, Coordination and Management                            |
| 200                | Preliminary Design Phase                                                   |
| 300                | Final Design Phase                                                         |
| 400                | Bidding Services                                                           |
| 500                | Construction Services (to be added later by amendment)                     |
| 600                | Application Software Programming Services (to be added later by amendment) |

### **TASK SERIES 100**

#### **101 – Project Initiation and Design/Bidding Project Management**

The purpose of this task is to kick off the project externally and internally. A project guide and the support paperwork will be developed for team members to have available to understand the project, the project team, and the project requirements. The project guide is updated with significant changes in the project. The project will be kicked off with the City with pertinent staff from the City and HDR to review the project components and the process for completing the design. Project manager and project accountant will monitor project schedule and financials and prepare monthly invoices for services through design and bidding.

#### **102 – Meetings with City Staff**

During the preliminary design and final design phases of the project, two members of the Consultant design team will meet with the City staff to review the project. Meeting minutes will be prepared and distributed to parties attending the meeting.

- Deliverables – Electronic meeting minutes

## **TASK SERIES 200 – PRELIMINARY DESIGN PHASE**

The tasks associated with the preliminary design include the following:

### **201 – Establish Facilities Location**

Perform analysis to determine pump station location and waterline routing. Analysis to consider access to pump station, ability to obtain land/easements, pipeline routing in right-of-way (existing or future), proximity to utilities, potential wetlands locations and relative location to Zone 3/4 border. Use hydraulic water system model to confirm location and pump selection compatibility with Chapple and Staples Zone 4 pumps. Include in model analysis pump range of operation for the Zone 4 Pump Station based on selection of pumps optimal pump curves for comparison of pump curves/operation range of Chapple and Staples Zone 4 pumps.

- Deliverable – Recommended Site

### **202 – Pump Station Layout**

Layout pump station for planned current and future pumps as well as ancillary facilities, considering selected site and waterlines locations. Determine rough site grading and utility routing. Evaluate using pump skids versus custom pump design approach.

- Deliverable – Pump Station and Site Layout

### **203 – Geotechnical Investigations**

A soils consultant will perform geotechnical investigations to determine the structural design requirements and limitations for the pump station as well as ground conditions along pipeline route. Two test borings 20 feet in depth will be provided at the pump station building area. Five test borings 15 feet in depth will be provided along the waterline routes. Two of the watermain borings and one of the pump station site borings will be used as groundwater monitoring wells. Vibrating wire piezometers will be installed to measure groundwater levels.

- Deliverables – Geotechnical Report, Groundwater Level Information

### **204 – Perform Design Surveys**

The overall scope is to provide topographic and utility survey of the pipeline route and pump station site. The horizontal coordinates will be Montana coordinate system NAD 83 and the vertical will be NAVD 88. Survey will be based on a maximum of 1.5 miles of waterline.

### **205 – Agency Coordination**

Coordinate preliminary design with various agencies including: Yellowstone County, MDT, DEQ, High Ditch, USACE and applicable utilities.

### **206 – Wetlands Delineation Report**

This task consists of services necessary to complete the wetland delineation for the Project. The project area will include potential pump station sites and final waterline locations. A formal delineation needs to be completed to confirm the presence and boundaries of wetlands and other waters of the U.S. The following items are included with the preparation of the wetland delineation report:

- Winter Field Visit. To assist with deciding on a pump station location, a walkthrough of potential wetlands locations in the areas of proposed pump station sites will be conducted.
- *Field Visit.* A wetland delineation will be conducted in the spring for the chosen pump station site and waterline routes utilizing the US Army Corps of Engineers (USACE) current methodology in order to determine the waters of the U.S. and determine the wetland boundaries within the designated Study Area. A GPS unit with sub-meter accuracy will be utilized to capture the boundaries.
- *Prepare Wetland Delineation Report.* The delineation report will consist of a narrative discussing wetland delineation methodology and information regarding the findings of the field investigation. Figures will be developed that utilize the electronic file of the wetland area boundaries collected in the field. The wetland delineation report containing methodology and findings of the wetland delineation will be provided in pdf format. The findings of the delineation include identification of the type, size, and location of potential waters of the U.S. USACE data forms will be provided for areas of investigation.
- Deliverables: Wetland Delineation Report

### **207 – Prepare a Design Report**

Prepare a design report that describes the project and summarizes key design criteria. Preliminary drawings will be developed showing plan views of proposed pump station, key sections, site layout and waterline routing.

- Deliverable – Draft Design Report.

### **208 – Review Design Report (30% Review)**

Conduct internal reviews of Design Report. Incorporate review comments and submit to City for review.

- Deliverable – Final draft Design Report

### **209 – Finalize Design Report**

Incorporate City review comments and finalize design report.

- Deliverable – Final Design Report (5 hard copies and one electronic copy).

## **TASK SERIES 300 – FINAL DESIGN**

In this task, the Preliminary Design will be developed into more detailed engineered project elements. The Building Information Management (BIM) model will be developed to the 60% design level and then 95% level before being finalized for bid documents. Specific tasks will include the following:

### **301 – Prepare 60% BIM Model and Drawings**

The BIM model will be further developed from the Design Report for disciplines providing structural sizing, equipment location, piping routing and electrical facility location. 2D site drawings, waterline plan and profile drawings, P&IDs drawings and electrical one-line drawings will be updated from preliminary design.

- Deliverable – See Task 303.

### **302 – Internal and External 60% Review**

BIM models and 2D drawings will be reviewed internally. Review comments will be resolved and applicable comments incorporated in City review set. BIM model will be reviewed with City as well as the improvements developed on 2D drawings. City review comments will be resolved and applicable comments will be carried forward into the 95% review.

- Deliverables – BIM model and 2D drawings (4 half sized sets) for review. List of City review comments and how the comments were resolved.
- City responsibility – Provide one set of review comments

### **303 – Prepare 95% BIM Model and Drawings**

The BIM models for all disciplines will be fully developed showing details necessary for construction. Plan and section drawings will be extracted from the Building Information Model. Notes and additional details will be added to the drawings to complete the design. 2D site drawings, plan and profile drawings, P&IDs drawings and 2D electrical drawings will be detailed for construction.

- Deliverable – 305.

### **304 – Prepare Detailed Specifications**

Final detailed specifications suitable for bidding and construction will be developed. These detailed specifications will be incorporated with the City's front-end documents.

- Deliverable – See Task 305.

### **305 – Internal and External 95% Review**

BIM model, 2D drawings and specifications will be reviewed internally. Review comments will be resolved and applicable comments incorporated in City review set. BIM model will be reviewed with City as well as the 2D drawing set. Key components for the specifications will be reviewed with the City. City review comments will be resolved and applicable comments will be carried forward into the final bid set.

- Deliverables – BIM model, 2D drawing set and specifications for review. List of City review comments and how the comments were resolved.
- City responsibility – Provide one set of review comments

### **306 – Finalize Design**

Based on review comments, update BIM model and finalize 2D drawings and specifications.

- Deliverable – Bid Documents for advertisement. 4 sets (half-sized drawings) for the City and an electronic set for the City and each plan room.

### **307 – Building Permit**

Assist the City in submitting building permit.

- Deliverables – Building permit application and backup information.

### **308 – DEQ Permit to Construct**

Complete checklist and associated information for waterlines and assemble the rest of the information required for DEQ Permit to Construct.

- Deliverables – Information required for DEQ Permit to Construct.

### **309 – Construction Cost Estimate**

The estimated capital costs for the project will be updated from the preliminary design.

- Deliverable – Summary of Cost Estimate

## **TASK SERIES 400 – BID PHASE**

### **401 – Bidding Administrative Assistance**

Produce and distribute bid documents to the City and plan rooms. Answer bidder questions and prepare addendums as needed. Prepare for and conduct pre-bid meeting. Attend Bid opening.

- Deliverables – Bid Documents (3 hard copies for the City and an electronic copy for the City and plan rooms), Advertisement, Pre-Bid Agenda and Addendums.

### **402 – Post-Bid Administrative Assistance**

Receive, evaluate and tabulate bids. Assess completeness of bids. Review qualifications of bidders. Make recommendations to the City on award of contract.

- Deliverable – Bid Tabulation and Recommendation of Award.

## Appendix B

### Methods and Times of Payment

#### W.O. 23-12 Zone 4 Pump Station and Waterline Improvements

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##### Section 1. Payments for Basic Services.

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

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

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

|                                      |                   |
|--------------------------------------|-------------------|
| Task Series 100 – Project Management | \$ 17,800         |
| Task Series 200 – Preliminary Design | \$ 87,800         |
| Task 300 – Final Design              | \$ 420,200        |
| <u>Task 400 – Bid Phase</u>          | <u>\$ 16,300</u>  |
| <b>TOTAL</b>                         | <b>\$ 542,100</b> |

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

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

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

##### Section 3. Corrections.

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

#### Section 4. Fee Increases

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

## **Appendix C**

### **Additional Services of Engineer**

#### **W.O. 23-12 Zone 4 Pump Station and Waterline Improvements**

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

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

## **Appendix D**

### **Schedule of Professional Fees**

#### **W.O. 23-12 Zone 4 Pump Station and Waterline Improvements**

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

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



**MONTANA AREA  
2023 HOURLY RATE SCHEDULE**

| <b>BILLING CLASSIFICATION</b>                    | <b>RATE RANGES</b> |   |           |
|--------------------------------------------------|--------------------|---|-----------|
| <b>ENGINEERS</b>                                 |                    |   |           |
| <i>Design Engineers</i>                          | \$ 112.00          | - | \$ 142.00 |
| <i>Project Engineers / Project Managers</i>      | \$ 151.00          | - | \$ 213.00 |
| <i>Sr Engineers / Sr Project Managers</i>        | \$ 205.00          | - | \$ 260.00 |
| <i>Project Principal / Sr Technical Advisors</i> | \$ 249.00          | - | \$ 366.00 |
| <b>DESIGNERS / TECHNICIANS / INSPECTORS</b>      | \$ 96.00           | - | \$ 209.00 |
| <b>CADD / BIM Specialist</b>                     | \$ 68.00           | - | \$ 158.00 |
| <b>Project Support</b>                           | \$ 68.00           | - | \$ 185.00 |

**2023 CHARGEABLE EXPENSE SCHEDULE**

Direct project expenses will be charged at the rates listed below unless a separate rate is negotiated for a specific project.

**SUBSISTENCE (PER DIEM)**

Subsistence such as meals and lodging while out on a project will be charged at actual cost or at the per diem rate negotiated for a specific project.

**TRAVEL**

Travel expenses will be charged at the following rates unless a separate rate is negotiated for a specific

|                            |    |             |
|----------------------------|----|-------------|
| 2 Wheel Drive Vehicle      | \$ | 0.75 /mile  |
| 4 x 4 Vehicle              | \$ | 0.75 /mile  |
| Rental Vehicles & Aircraft | \$ | Actual Cost |

**TELEPHONE/FAX/POSTAGE**

Long distance calls, telegrams, fax, cellular phone, and any special class postage will be charged at actual cost.

**SPECIAL EQUIPMENT CHARGES**

|                                    |    |          |
|------------------------------------|----|----------|
| Electronic Distance Measuring      | \$ | 10 /hr.  |
| GPS - GEO XT                       | \$ | 20 /hr.  |
| GPS - RTK                          | \$ | 40 /hr.  |
| Manta 3-Phase Test Set             | \$ | 40 /hr.  |
| Megger Testing Equipment           | \$ | 250 /day |
| Soil Resistivity Testing Equipment | \$ | 500 /day |
| UTV                                | \$ | 10 /hr.  |



## 2023 CHARGEABLE EXPENSE SCHEDULE (continued)

### PRINTING

|                           |    |            |
|---------------------------|----|------------|
| B&W 8.5x11 30% RECYCLED   | \$ | 0.04 each  |
| B&W 11x17 30% RECYCLED    | \$ | 0.08 each  |
| COLOR 11X17               | \$ | 0.9 each   |
| COLOR ON CARD STOCK 11X17 | \$ | 1.5 each   |
| COLOR 30% RECYCLED 8.5x11 | \$ | 0.14 each  |
| COLOR 30% RECYCLED 11x17  | \$ | 0.28 each  |
| PLASTIC COIL BIND TO 1 IN | \$ | 1.45 each  |
| PAGE INSERTING            | \$ | 0.01 each  |
| 3 HOLE DRILL              | \$ | 0.01 each  |
| 8.5x11 5-TAB DIVIDERS     | \$ | 0.48 each  |
| 11x17 CLEAR COVERS        | \$ | 1.78 each  |
| 11x17 Black COVERS        | \$ | 1.82 each  |
| 8.5x11 BLACK BINDERS      | \$ | 12.19 each |
| 3" BINDERS                | \$ | 14.39 each |
| 11x17 BLACK BINDERS       | \$ | 19 each    |
| 11x17 TABS                | \$ | 0.48 each  |

### SURVEYING SUPPLIES (Includes: Flagging, Stakes, Etc.)

|              |    |          |
|--------------|----|----------|
| Distribution | \$ | 20 /mile |
| Transmission | \$ | 30 /mile |

### OVERHEAD

Overhead costs, such as rent, insurance, utilities, office furniture, employee benefits, and taxes are included in the hourly billing rates.

## Appendix E

### Project Schedule

#### W.O. 23-12 Zone 4 Pump Station and Waterline Improvements

---

Based on a notice to proceed by Billings no later than February 23, 2023, the targeted completion dates for the Engineer's work shall be:

1. Preliminary Design Excluding Final Wetland Delineation – April 28, 2023
2. 60% Design – June 30, 2023
3. Wetlands Delineation and 95% Design – September 1, 2023
4. Final Design/Bid Package – October 6, 2023
5. Award – November 27, 2023
6. Construction Complete – December 20, 2024

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

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

## **Appendix F**

### **Certificate(s) of Insurance**

#### **W.O. 23-12 Zone 4 Pump Station and Waterline Improvements**

---

Attach Certificate(s) of Insurance



# CERTIFICATE OF LIABILITY INSURANCE

6/1/2023

DATE (MM/DD/YYYY)

11/28/2022

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

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

**PRODUCER** Lockton Companies  
444 W. 47th Street, Suite 900  
Kansas City MO 64112-1906  
(816) 960-9000  
kctsu@lockton.com

|                                      |                       |
|--------------------------------------|-----------------------|
| <b>CONTACT NAME:</b>                 |                       |
| <b>PHONE (A/C, No, Ext):</b>         | <b>FAX (A/C, No):</b> |
| <b>E-MAIL ADDRESS:</b>               |                       |
| <b>INSURER(S) AFFORDING COVERAGE</b> |                       |
| <b>INSURER A : Lloyd's of London</b> |                       |
| <b>NAIC #</b>                        |                       |
| 38253                                |                       |
| <b>INSURER B :</b>                   |                       |
| <b>INSURER C :</b>                   |                       |
| <b>INSURER D :</b>                   |                       |
| <b>INSURER E :</b>                   |                       |
| <b>INSURER F :</b>                   |                       |

**INSURED** 1016040 HDR ENGINEERING, INC.  
1917 SOUTH 67TH STREET  
OMAHA NE 68106

**COVERAGES \* CERTIFICATE NUMBER: 19153766 REVISION NUMBER: XXXXXXXX**

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

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                  | ADDL INSD | SUBR WVD | POLICY NUMBER  | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                                                                         |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|----------------|-------------------------|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          | <b>COMMERCIAL GENERAL LIABILITY</b><br><input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC<br>OTHER:   |           |          | NOT APPLICABLE |                         |                         | EACH OCCURRENCE \$ XXXXXXXX<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$ XXXXXXXX<br>MED EXP (Any one person) \$ XXXXXXXX<br>PERSONAL & ADV INJURY \$ XXXXXXXX<br>GENERAL AGGREGATE \$ XXXXXXXX<br>PRODUCTS - COMP/OP AGG \$ XXXXXXXX<br>\$ |
|          | <b>AUTOMOBILE LIABILITY</b><br><input type="checkbox"/> ANY AUTO<br><input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY                  |           |          | NOT APPLICABLE |                         |                         | COMBINED SINGLE LIMIT (Ea accident) \$ XXXXXXXX<br>BODILY INJURY (Per person) \$ XXXXXXXX<br>BODILY INJURY (Per accident) \$ XXXXXXXX<br>PROPERTY DAMAGE (Per accident) \$ XXXXXXXX<br>\$ XXXXXXXX                                             |
|          | <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR<br><b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE<br>DED RETENTION \$                                                                                                                                 |           |          | NOT APPLICABLE |                         |                         | EACH OCCURRENCE \$ XXXXXXXX<br>AGGREGATE \$ XXXXXXXX<br>\$ XXXXXXXX                                                                                                                                                                            |
|          | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A<br>If yes, describe under DESCRIPTION OF OPERATIONS below |           |          | NOT APPLICABLE |                         |                         | PER STATUTE OTH-ER<br>E.L. EACH ACCIDENT \$ XXXXXXXX<br>E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX<br>E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX                                                                                                      |
| A        | ARCH & ENG PROFESSIONAL LIABILITY                                                                                                                                                                                                                                  | N         | N        | P001412200     | 6/1/2022                | 6/1/2023                | PER CLAIM: \$2,000,000<br>AGGREGATE: \$2,000,000.                                                                                                                                                                                              |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
RE: ZONE 4 PUMP STATION AND WATERLINE IMPROVEMENTS

### CERTIFICATE HOLDER

### CANCELLATION See Attachment

19153766  
CITY OF BILLINGS  
ATTENTION: KEN ARD  
2224 MONTANA AVENUE  
BILLINGS MT 59101

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

**This endorsement, effective:** 06/01/2022 12:01 A.M.

**Forms a part of policy no.:** P001412200

**Issued to:** HDR, Inc

**By:** Lloyd's of London

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### NOTICE OF CANCELLATION TO CERTIFICATE HOLDERS ENDORSEMENT

Except respect cancellation non-payment premium (10 day notice cancellation), the **Insurer** shall give 30 day notice cancellation the Certificate Holder(s) set forth herein, provided that:

The **First Named Insured** is required by contract give notice cancellation the Certificate Holder, and

Prior the **Insurer** sending notice cancellation the **First Named Insured** the **First Named Insured** shall provide the **Insurer** in writing, either directly or through the **First Named Insured** broker record, the name each person or organization requiring notice cancellation and the corresponding address such person or other employee responsible receipt of notice of cancellation on behalf of such organization.

Notice cancellation be sent in accordance the terms and conditions the policy, except that the **Insurer** may provide written notice individually or collectively the Certificate Holders by email at the current email address given by the **First Named Insured** Proof sending the notice of cancellation by email shall be sufficient proof of notice.

Any failure provide notice cancellation the Certificate Holder due inaccurate or incomplete information provided by the **First Named Insured** shall remain the sole responsibility the **First Named Insured**

The following definitions apply to this endorsement:

- 1. First Named Insured** means the Named Insured shown in Item 1. of Declarations.
- 2. Insurer** means the insurance company shown in the header on the Declarations.

All other terms and conditions of the policy remain the same



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/28/2022

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

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

|                                                                                                                                |                                                                                                                                                                                                      |  |
|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>PRODUCER</b><br>Willis Towers Watson Midwest, Inc.<br>c/o 26 Century Blvd<br>P.O. Box 305191<br>Nashville, TN 372305191 USA | <b>CONTACT NAME:</b> Willis Towers Watson Certificate Center<br><b>PHONE (A/C No. Ext):</b> 1-877-945-7378<br><b>FAX (A/C, No):</b> 1-888-467-2378<br><b>E-MAIL ADDRESS:</b> certificates@willis.com |  |
|                                                                                                                                | <b>INSURER(S) AFFORDING COVERAGE</b>                                                                                                                                                                 |  |
| <b>INSURED</b><br>HDR Engineering, Inc.<br>1917 South 67th Street<br>Omaha, NE 68106                                           | <b>INSURER A:</b> Liberty Mutual Fire Insurance Company<br><b>NAIC #</b> 23035                                                                                                                       |  |
|                                                                                                                                | <b>INSURER B:</b> Ohio Casualty Insurance Company<br><b>NAIC #</b> 24074                                                                                                                             |  |
|                                                                                                                                | <b>INSURER C:</b> Liberty Insurance Corporation<br><b>NAIC #</b> 42404                                                                                                                               |  |
|                                                                                                                                | <b>INSURER D:</b>                                                                                                                                                                                    |  |
|                                                                                                                                | <b>INSURER E:</b>                                                                                                                                                                                    |  |
|                                                                                                                                | <b>INSURER F:</b>                                                                                                                                                                                    |  |

**COVERAGES**

CERTIFICATE NUMBER: W26755237

REVISION NUMBER:

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

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                                                                                                                                       | ADDL INSD | SUBR WVD | POLICY NUMBER      | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                                                                      |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|--------------------|-------------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A        | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br><input checked="" type="checkbox"/> Contractual Liability<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC<br>OTHER: | Y         | Y        | TB2-641-444950-032 | 06/01/2022              | 06/01/2023              | EACH OCCURRENCE \$ 2,000,000<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000<br>MED EXP (Any one person) \$ 10,000<br>PERSONAL & ADV INJURY \$ 2,000,000<br>GENERAL AGGREGATE \$ 4,000,000<br>PRODUCTS - COMP/OP AGG \$ 4,000,000 |
| A        | <b>AUTOMOBILE LIABILITY</b><br><input checked="" type="checkbox"/> ANY AUTO<br><input type="checkbox"/> OWNED AUTOS ONLY<br><input type="checkbox"/> HIRED AUTOS ONLY<br><input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> NON-OWNED AUTOS ONLY                                                                                                                      | Y         | Y        | AS2-641-444950-042 | 06/01/2022              | 06/01/2023              | COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$                                                                                   |
| B        | <input type="checkbox"/> UMBRELLA LIAB<br><input checked="" type="checkbox"/> EXCESS LIAB<br><input type="checkbox"/> OCCUR<br><input type="checkbox"/> CLAIMS-MADE<br>DED <input checked="" type="checkbox"/> RETENTION \$ 0                                                                                                                                                           | Y         | Y        | EUO (23) 57919363  | 06/01/2022              | 06/01/2023              | EACH OCCURRENCE \$ 5,000,000<br>AGGREGATE \$ 5,000,000                                                                                                                                                                                      |
| C        | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below                                                                                                                                                                                           | Y/N<br>No | N/A      | WA7-64D-444950-012 | 06/01/2022              | 06/01/2023              | <input checked="" type="checkbox"/> PER STATUTE<br><input type="checkbox"/> OTHER<br>E.L. EACH ACCIDENT \$ 1,000,000<br>E.L. DISEASE - EA EMPLOYEE \$ 1,000,000<br>E.L. DISEASE - POLICY LIMIT \$ 1,000,000                                 |

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

Certificate Holder is named as Additional Insured on General Liability, Automobile Liability and Umbrella/Excess Liability on a Primary, Non-contributory basis where required by written contract. Waiver of Subrogation applies on General Liability, Automobile Liability, Umbrella/Excess Liability and Workers Compensation where required by written contract and as permitted by law. Umbrella/Excess policy is follow form over General Liability, Auto Liability and Employers Liability.

**CERTIFICATE HOLDER**

City of Billings  
 Attn: Ken Ard  
 2224 Montana Avenue  
 Billings, MT 59101

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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## ADDITIONAL REMARKS SCHEDULE

|                                                                                                                                                                                                                                                                            |                                                                                                      |                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|--------------------------------------|
| <p><b>AGENCY</b><br/>Willis Towers Watson Midwest, Inc.</p>                                                                                                                                                                                                                | <p><b>NAMED INSURED</b><br/>HDR Engineering, Inc.<br/>1917 South 67th Street<br/>Omaha, NE 68106</p> |                                      |
| <p><b>POLICY NUMBER</b><br/>See Page 1</p>                                                                                                                                                                                                                                 | <p><b>EFFECTIVE DATE:</b> See Page 1</p>                                                             |                                      |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><b>CARRIER</b><br/>See Page 1</p> </td> <td style="width: 50%; vertical-align: top;"> <p><b>NAIC CODE</b><br/>See Page 1</p> </td> </tr> </table> |                                                                                                      | <p><b>CARRIER</b><br/>See Page 1</p> |
| <p><b>CARRIER</b><br/>See Page 1</p>                                                                                                                                                                                                                                       | <p><b>NAIC CODE</b><br/>See Page 1</p>                                                               |                                      |

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance

RE: Zone 4 Pump Station and Waterline Improvements.

Additional Insured and Waiver of Subrogation: Billings.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## DESIGNATED LOCATION(S) GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

|                                                                                                               |
|---------------------------------------------------------------------------------------------------------------|
| <p><b>Designated Location(s):</b></p> <p><b>All locations owned by or rented to the Named Insured</b></p>     |
| <p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p> |

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage **A**, and for all medical expenses caused by accidents under Section I – Coverage **C**, which can be attributed only to operations at a single designated "location" shown in the Schedule above:
1. A separate Designated Location General Aggregate Limit applies to each designated "location", and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
  2. The Designated Location General Aggregate Limit is the most we will pay for the sum of all damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage **C** regardless of the number of:
    - a. Insureds;
    - b. Claims made or "suits" brought; or
    - c. Persons or organizations making claims or bringing "suits".
  3. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the Designated Location General Aggregate Limit for that designated "location". Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Location General Aggregate Limit for any other designated "location" shown in the Schedule above.
  4. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Location General Aggregate Limit.

- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section **I** – Coverage **A**, and for all medical expenses caused by accidents under Section **I** – Coverage **C**, which cannot be attributed only to operations at a single designated "location" shown in the Schedule above:
1. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
  2. Such payments shall not reduce any Designated Location General Aggregate Limit.
- C.** When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Location General Aggregate Limit.
- D.** For the purposes of this endorsement, the **Definitions** Section is amended by the addition of the following definition:
- "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
- E.** The provisions of Section **III** – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

|                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Designated Construction Project(s):</b><br><b>All construction projects not located at premises owned, leased or rented by a Named Insured</b> |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations.                                            |

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section **I** – Coverage **A**, and for all medical expenses caused by accidents under Section **I** – Coverage **C**, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
  - 1.** A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
  - 2.** The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage **C** regardless of the number of:
    - a.** Insureds;
    - b.** Claims made or "suits" brought; or
    - c.** Persons or organizations making claims or bringing "suits".
  - 3.** Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
  - 4.** The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.

- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage **A**, and for all medical expenses caused by accidents under Section I – Coverage **C**, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
  2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D.** If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E.** The provisions of Section III – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

Location(s) Of Covered Operations

Any person or organization with whom you have agreed through written contract, agreement or permit to provide additional insured coverage

All locations as required by a written contract or agreement entered into prior to an "occurrence" or offense

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

### SCHEDULE

Name Of Additional Insured Person(s)  
Or Organization(s):

Any person or organization to whom or to which you are required to provide additional insured status in a written contract, agreement or permit except where such contact or agreement is prohibited.

Location And Description Of Completed Operations

Any location where you have agreed, through written, contract, agreement, or permit, to provide additional insured coverage for completed operations

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PRIMARY AND NONCONTRIBUTORY –  
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to Section IV – Conditions 4. Other Insurance and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed prior to a loss, that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.
- (3) This insurance is excess over any other insurance available to the additional insured for which it is also covered as an additional insured by attachment of an endorsement to another policy providing coverage for the same "occurrence", claim or "suit".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

### **SCHEDULE**

|                                                                                                               |
|---------------------------------------------------------------------------------------------------------------|
| <p><b>Name Of Person(s) Or Organization(s):</b><br/>As required by written contract</p>                       |
| <p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p> |

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.

Policy Number: AS2-641-444950-042  
Issued by: Liberty Mutual Fire Insurance Company

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DESIGNATED INSURED - NONCONTRIBUTING**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIERS COVERAGE FORM  
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage form.

**Schedule**

**Name of Person(s) or Organizations(s):**

Any person or organization where the Named Insured has agreed by written contract to include such person or organization

**Regarding Designated Contract or Project:**

Any

Each person or organization shown in the Schedule of this endorsement is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in Section II of the Coverage Form.

The following is added to the **Other Insurance Condition:**

**If** you have agreed in a written agreement that this policy will be primary and without right of contribution from any insurance in force for an Additional Insured for liability arising out of your operations, and the agreement was executed prior to the "bodily injury" or "property damage", then this insurance will be primary and we will not seek contribution from such insurance.

## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

|                                                                                                        |
|--------------------------------------------------------------------------------------------------------|
| <b>Name Of Person Or Organization: As required by written contract or agreement</b>                    |
|                                                                                                        |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. |

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of Section IV – Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

### **SCHEDULE**

**Name(s) Of Person(s) Or Organization(s):**

Any person or organization for whom you perform work under a written contract of the contract requires you to obtain this agreement from us but only if the contract is executed prior to the injury or damage occurring.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

## WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Where required by contract or written agreement prior to loss.

Issued by: Liberty Insurance Corporation

For attachment to Policy No WA7-64D-444950-012  
\$

Effective Date 06/01/2022

Premium

Issued to: HDR Engineering, Inc.

Policy Number TB2-641-444950-032  
Issued by Liberty Mutual Fire Insurance Company

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**NOTICE OF CANCELLATION OR MATERIAL REDUCTION IN COVERAGE TO THIRD PARTIES**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE PART  
MOTOR CARRIER COVERAGE PART  
GARAGE COVERAGE PART  
TRUCKERS COVERAGE PART  
EXCESS AUTOMOBILE LIABILITY INDEMNITY COVERAGE PART  
SELF-INSURED TRUCKER EXCESS LIABILITY COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
EXCESS COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
COMMERCIAL LIABILITY – UMBRELLA COVERAGE FORM

| <b>Schedule</b>                                      |                                                      |                            |
|------------------------------------------------------|------------------------------------------------------|----------------------------|
| <b>Name of Other Person(s) / Organization(s):</b>    | <b>Email Address or mailing address:</b>             | <b>Number Days Notice:</b> |
| As required by written contract or written agreement | As required by written contract or written agreement | 30                         |

- A. If we cancel this policy for any reason other than nonpayment of premium, or make a material reduction in coverage, we will notify the persons or organizations shown in the Schedule above. We will send notice to the email or mailing address listed above at least 10 days, or the number of days listed above, if any, before the cancellation becomes effective. In no event does the notice to the third party exceed the notice to the first named insured.
- B. This advance notification of a pending cancellation or material reduction of coverage is intended as a courtesy only. Our failure to provide such advance notification will not extend the policy cancellation date nor negate cancellation of the policy.

All other terms and conditions of this policy remain unchanged.

Policy Number AS2-641-444950-042  
Issued by Liberty Mutual Fire Insurance Company

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**NOTICE OF CANCELLATION OR MATERIAL REDUCTION IN COVERAGE TO THIRD PARTIES**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE PART  
MOTOR CARRIER COVERAGE PART  
GARAGE COVERAGE PART  
TRUCKERS COVERAGE PART  
EXCESS AUTOMOBILE LIABILITY INDEMNITY COVERAGE PART  
SELF-INSURED TRUCKER EXCESS LIABILITY COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
EXCESS COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
COMMERCIAL LIABILITY – UMBRELLA COVERAGE FORM

| <b>Schedule</b>                                      |                                          |                            |
|------------------------------------------------------|------------------------------------------|----------------------------|
| <b>Name of Other Person(s) / Organization(s):</b>    | <b>Email Address or mailing address:</b> | <b>Number Days Notice:</b> |
| As required by written contract or written agreement |                                          | 30                         |

- A. If we cancel this policy for any reason other than nonpayment of premium, or make a material reduction in coverage, we will notify the persons or organizations shown in the Schedule above. We will send notice to the email or mailing address listed above at least 10 days, or the number of days listed above, if any, before the cancellation becomes effective. In no event does the notice to the third party exceed the notice to the first named insured.
- B. This advance notification of a pending cancellation or material reduction of coverage is intended as a courtesy only. Our failure to provide such advance notification will not extend the policy cancellation date nor negate cancellation of the policy.

All other terms and conditions of this policy remain unchanged.

**NOTICE OF CANCELLATION TO THIRD PARTIES**

- A.** If we cancel this policy for any reason other than nonpayment of premium, we will notify the persons or organizations shown in the Schedule below. We will send notice to the email or mailing address listed below at least 10 days, or the number of days listed below, if any, before cancellation becomes effective. In no event does the notice to the third party exceed the notice to the first named insured.
- B.** This advance notification of a pending cancellation of coverage is intended as a courtesy only. Our failure to provide such advance notification will not extend the policy cancellation date nor negate cancellation of the policy.

**Schedule**

| <b>Name of Other Person(s) / Organization(s):</b>   | <b>Email Address or mailing address:</b> | <b>Number Days Notice:</b> |
|-----------------------------------------------------|------------------------------------------|----------------------------|
| <b>As required by written contract or agreement</b> |                                          | <b>30</b>                  |

All other terms and conditions of this policy remain unchanged.

**Issued by Liberty Insurance Corporation**

**For attachment to Policy No. WA7-64D-444950-012 Effective Date 06/01/2022**

**Premium \$**

**Issued to HDR Engineering, Inc.**

**Endorsement**

**No.**

**City Council Regular**

**Date:** 02/27/2023  
**Title:** W.O. 23-24 Belknap Office Remodel Phase 2, Professional Services Agreement  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends that Council approve the Professional Architectural and Engineering Services Agreement with Collaborative Design Architects in the amount of \$105,950 for W.O. 23-24 Belknap Office Remodel, Phase 2.

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

Council is asked to award a professional architectural and engineering services agreement to Collaborative Design Architects for W.O. 23-24 Belknap Office Remodel, Phase 2. The agreement consists of professional services for preliminary evaluation, design, bidding, and construction phases. The purpose of the project is to address maintenance issues that are due to the age of the building including window replacement, an evaluation of the roof drains and installation of a new fire alarm system to bring the building into fire code compliance. The remodel will also include a parking lot expansion, the relocation of the some staff, and the remodel of restrooms.

A Request for Proposals for this project was publicly advertised September 16, 23, and 30, 2022 in the Yellowstone County News. Collaborative Design Architects was selected based on a committee of City Staff review of project proposals. Two other firms submitted proposals which included Durward K. Sobek and Cushing Terrell Architects.

**ALTERNATIVES**

City Council may:

- Approve the Contract for Professional Services with Collaborative Design Architects; or,
- Not approve the Contract for Professional Services with Collaborative Design Architects. If the contract is not approved, the remaining Belknap office remodel cannot be completed. The building will continue to be out of fire code compliance and the indoor spaces cannot be upgraded and improved.

**FISCAL EFFECTS**

Funding for this project was budgeted in FY23 using Water and Sewer Funds. There is sufficient budget to award this contract.

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**Attachments**

W.O. 23-24 Contract for Professional Services  
WO 2324 Insurance 1

# Contract for Professional Architectural and Engineering Services

## Project W.O. 23-24 Belknap Office Remodel Phase 2

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In consideration of the mutual promises herein, City of Billings Contractor agree as follows. This Contract consists of:

Part I, consisting of 15 Sections of Special Provisions;

Part II, consisting of 10 Sections of General Provisions;

Appendix A consisting of 5 pages (Basic Services of Contractor);

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

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

Appendix D consisting of 1 page (Schedule of Professional Fees);

Appendix E consisting of 1 page (Project Schedule);

Appendix F consisting of 2 pages (Certificate(s) of Insurance); and

### **PART I SPECIAL PROVISIONS**

#### Section 1. Definitions.

In this Contract:

- A. "Administrator" means the City Engineer of the Engineering Division of the Public Works Department or his designee.
- B. "Billings" means the City of Billings.
- C. "Contractor" means Collaborative Design Architects.

#### Section 2. Scope of Services.

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

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

Section 3. Time for Performance.

- A. This Contract becomes effective when signed on behalf of Billings.
- B. The Contractor shall commence performance of the Work described in Section 2 on receipt of written Notice to Proceed and complete that performance in accordance with the schedule set forth in Appendix E.
- C. This Contract shall terminate at midnight on May 1, 2024.

Section 4. Compensation; Method of Payment.

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

## Section 5. Termination of the Contractor's Services.

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

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

## Section 6. Duties Upon Termination

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

Section 7. Insurance.

- A. The Contractor shall maintain in good standing the insurance described in Subsection B of this Section. Before rendering any services under this Contract, the Contractor shall furnish the Administrator with proof of insurance in accordance with Subsection B of this Section.
- B. The Contractor shall provide the following insurance:
  - 1. Workers' compensation and employer's liability coverage as required by Montana law.
  - 2. Commercial general liability, including contractual and personal injury coverage's -- \$1,500,000 per occurrence.
  - 3. Commercial automobile liability -- \$1,500,000 per accident.
  - 4. Professional liability in the amount of \$1,500,000 per claim.
- C. Each policy of insurance required by this Section shall provide for no less than 30 days' advance notice to Billings prior to cancellation.
- D. Billings SHALL be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies. In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against Billings.

Section 8. Assignments.

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

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

- A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this Contract shall be the property of Billings, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents, or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright. Contractor shall retain rights to pre-existing proprietary property including but not limited to interactive models. The Contractor shall have the right to include photographic or artistic representations of the design and construction of the Project among the Contractor's promotional and professional materials. The Contractor's materials shall not include Billings' confidential or proprietary information regardless of whether Billings has previously advised the Contractor in writing of the specific information considered by Billings to be confidential and proprietary.
- B. Equipment purchased by the Contractor with Contract funds: See Appendix A, Section 3. Scope of Work.
- C. Should Billings elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Billings will indemnify and hold harmless

the Contractor from any and all claims, demands and causes of action of any kind or character arising as a result of reusing the documents developed under this contract. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation, and the original Contractor's or subcontractor's signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

#### Section 10. Notices.

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

Billings: City Engineer (Mac Fogelson, PE)  
City of Billings  
Public Works/Engineering  
2224 Montana Avenue  
Billings, Montana 59101 FAX: (406) 237-6291

Contractor: Collaborative Design Architects  
William J. Haynes, AIA  
2280 Grant Road, Suite C  
Billings, Montana 59102 FAX: (406) 248-3765

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or 5 days after proof of proper posting.

#### Section 11. Contract Budget.

In connection with its performance under this Contract, the Contractor shall not make expenditures other than as provided in line items in the Contract budget.

#### Section 12. Force Majeure.

- A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
- B. As used in this Contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this Contract, including without limitation:
  - 1. Any interruption, suspension or interference resulting solely from the act of Billings or neglect of Billings not otherwise governed by the terms of this Contract.
  - 2. Strikes or Work stoppages.
  - 3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.

4. Order of court, administrative agencies or governmental officers other than Billings.

### Section 13. Financial Management System.

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

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

### Section 14. Funding Requirements.

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

### Section 15. Subcontracts.

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

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

**PART II**  
**GENERAL CONTRACT PROVISIONS**

Section 1. Relationship of Parties.

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

Section 2. Nondiscrimination.

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability" (as that phrase is defined in the Americans With Disabilities Act of 1990). The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical impairment/disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. The Contractor shall state, in all solicitations or advertisements for employees to Work on Contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.
- C. The Contractor shall comply with any and all reporting requirements that may apply to it which the City of Billings may establish by regulation.
- D. The Contractor shall include the provisions of Subsections A through C of this Section in every subcontract or purchase order under this Contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this Contract.
- E. The Contractor shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.
- F. The Contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.
- G. The Contractor and subcontractor shall abide by the requirements of 41 CRF 60-1.4, which states employees or applicates may not be discharges or in any other manner discriminated against because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees

or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information.

Section 3. Permits, Laws, and Taxes.

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

Section 4. Nonwaiver.

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

Section 5. Amendment.

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

Contractor: William J. Haynes, AIA, Principal  
(Vice President)

Billings: City Council or Authorized Designee

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

Section 6. Jurisdiction; Choice of Law.

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

Section 7. Severability.

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

Section 8. Integration.

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

Section 9. Liability.

The Contractor shall indemnify, defend, save, and hold Billings harmless from any and all claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any agent, employee or subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this Contract.

- A. The Contractor shall not indemnify, defend, save and hold Billings harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Billings occurring during the course of or as a result of the performance of the Contract.
- B. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Contractor, the Contractor shall indemnify, defend, save, and hold Billings harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result from the Contractor's performance pursuant to this Contract.

Section 10. Inspection and Retention of Records.

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

Section 11. Availability of Funds.

Payments under this Contract may require funds from future appropriations. If sufficient funds are not appropriated for payments required under this Contract, this Contract

shall terminate without penalty to Billings; and Billings shall not be obligated to make payments under this Contract beyond those which have previously been appropriated.

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

City of Billings

Contractor

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

\_\_\_\_\_  
Name: William J. Haynes, AIA

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

Title: Vice President

ATTEST:

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

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

IRS Tax ID # 81-0505505

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

APPROVED AS TO FORM:

By \_\_\_\_\_  
City Attorney

## Appendix A

### Basic Services of Architect

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#### Section 1. Engineer's Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Architect's portion of the project as defined in the scope of work and to prepare and deliver to Billings all plans, specifications, bid documents, and other material as designated herein.
- B. Ascertain such information as may have a bearing on the work from local units of government, utility companies, and private organizations and shall be authorized to procure information from other authorities besides Billings but shall keep Billings advised as to the extent of these contacts and the results thereof.
- C. Prepare and present such information as may be pertinent and necessary in order for Billings to pass critical judgment on the features of the work. The Architect shall make changes, amendments or revisions in the detail of the work as may be required by Billings. When alternates are being considered, Billings shall have the right of selection.
- D. Architect's work shall be in accordance with the standards of sound engineering and present City, State, and National standards and policies currently in use.
- E. Conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.
- F. The Architect shall certify with the submission of final plans that the plans are in conformance with applicable sections of Title 69, Chapter 4, Part 5, of the Montana Code Annotated as pertaining to existing utilities.
- G. To perform professional services in connection with the project and will serve as Billings' representative in those phases of the project to which this agreement applies.
- H. Where Federal funds are involved, the necessary provisions to meet all requirements will be complied with and documents secured and placed in the bidding documents.
- I. Submit an estimated progress schedule as to time and costs at the beginning of the work, and monthly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen by the Architect. Reports will be submitted in a timely manner to permit prompt resolution of problems.
- J. Contract administration duties will include review of contractor certified payrolls for wage rate compliance. Discrepancies in certified payrolls will be resolved with the

Contractor. A signed Engineer's Payroll Check Sheet (included in the Standard Modifications to MPWSS) will be submitted as proof of this review with one copy of each payroll.

- K. Name a Task Director who shall be the liaison between Billings and the Architect. For this project the Task Director designated for the Engineer is Bill Hayne, Principal-in-Charge.

Section 2. Billings Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete Billings' portion of the project as designated in the scope of work.
- B. Name a Task Director who shall be the liaison between the Architect and Billings. For this project, the Task Director designated is Ken Ard, PE.

Section 3. Scope of Work.

**PROJECT UNDERSTANDING:**

We understand the project to consist primarily of three components: 1) Interior remodeling of designated portions of the building (areas not remodeled in recent projects), 2) Site improvements including expanding the existing west parking lot to add spaces, and 3) Repairs to the roof and building envelope including window replacement on the west facade.

1. **Interior Remodeling:** Interior remodeling work will consist of demolition, and new construction including walls, doors and frames, ceilings, materials, cabinetry, plumbing fixtures, light fixtures, and extension of mechanical and piping building systems. Building-wide remodeling will include a new of building fire alarm and related fire and life safety system improvements. A main goal of the project is to provide accessible work, toilet room and locker room facilities and providing equitable spaces for both men and women. Planning exercises will include envisioning how to best configure work environments to promote teamwork and efficiency. The project will be including studying options for creating a larger conference room and improving teamwork by finding to best arrange workstations, offices, and support spaces.
2. **Site Work:** Site work will include surveying and civil engineering for expansion of existing parking lot including utility relocation, site lighting, surface drainage, paving, curb and gutter, signage and parking stripping.
3. **Envelope Repairs:** The project will include evaluating roofing and exterior envelope with recommendations for repairs or correction and improve building integrity and reduce energy consumption. The project will include replacing windows on the west elevation.

**Construction Schedule:** It is anticipated that the work will be in mid to late 2023. The intent is to occupy portions of the building during construction requiring a phasing of construction and tight coordination with the selected Contractor.

**Project Delivery Method:** The selection of a Contractor will either be by: 1) competitive bidding, or 2) through an advertised RFQ selection process to select a Construction Manager as General Contractor (GCCM). The method of project delivery method will be determined at the conclusion of the Design Phase. Due to the nature of the project, the budget, and the urgency of the schedule the GCCM method is recommended.

**PROJECT SCOPE - PHASING:** We propose the following project phases. The timelines are flexible based on the City's review schedule and as you direct:

### **Design Phase - Information Gathering and Design | 4 Weeks**

#### **Tasks and Activities:**

- Kick-off Meeting with management team and users.
- Collect digital information on building and previous remodel phases.
- Building survey and field measurements - site photography and digital scanning. Roof inspection.
- Project Scoping document: Overall project goals, performance objectives, concept diagrams, preliminary project budget, building code analysis, and construction delivery schedule.
- User group meetings with staff and building users — to be in the building at convenient times.
- Meetings to review Facility Program, estimates and schematic plans.
- Material sampling as needed to determine presence of hazardous materials in designated demolition areas that have not already been sampled and tested.
- Selection of Project Delivery Method at conclusion of Design Phase.

#### **Design Phase Deliverables:**

- Facility Space Program - space areas and restatement of project goals.
- Schematic Floor Plans and Site Plan.
- Interior Renderings of key spaces. List of equipment and furnishings.
- Outline Specifications.
- Preliminary Estimate of Probable Construction Costs.

### **Construction Documents Phase | 8 Weeks**

Following approval of the outcome of the Design Phase we would proceed to producing Construction Documents for bidding, permitting and construction.

#### **Tasks and Activities:**

- Engineering services and plans, details for mechanical, plumbing, electrical, fire alarm.
- Scoping for fire alarm to be by delegated design to fire alarm installer.
- Architectural and interior design, including plans, schedules, interior elevations, and details.

- Bi-Weekly review meetings with City project manager to review progress and discuss issues.
- Pre-Application Meetings with Billings Fire Department and Building Division.
- GC Construction Manager at Risk: At 50% completion, prepare RFQ, interview and advise on selection of GCCM followed by pre-construction meetings and reviews for cost studies. Value Engineering exercises planned for between 50% and 90% documents.
- Phasing schedule and plan for disruption to building users and department functioning.

**Construction Documents Deliverables:**

- Building Code Analysis, Interior Finish boards, cost estimate, site plan paving specification.
- 50% complete construction documents—drawings, and specifications.
- 90% complete construction documents—drawings, and specifications.
- 100% complete construction documents—drawings, and specifications.

**Bidding and Permitting | 4 Weeks**

Following approval of Construction Document Phase, we will proceed to pricing the project and permitting.

**Tasks and Activities:**

- Permit Application and plan review, plan review responses.
- Presentation to City Council
- Bidding: Prepare bidding documents, advertise, pre-bid conference, addenda and bid opening (should the GCCM method be selected this stage will be coordinated with the GCCM).

**Phase 3 Deliverables with owner and GC:**

- Building Permit, Contract for Construction, approval for expenditure from City Council.

**Construction Administration | 16-20 Weeks**

**Tasks and Activities:**

- Weekly OAC meetings on-site and using MS Teams platform—agenda and minutes.
- Inspections and documentation of progress of work. Submittal Review.
- Review of Monthly Applications for Payment, lien waiver review, and documentation.
- Punchlist, Substantial Completion, Final Inspection, and Owner’s Final Acceptance.
- Presentation to City Council.

**Construction Administration Deliverables:**

- Weekly meeting minutes, inspection reports, submittals, correspondence.
- As-built drawings
- 1-year warranty walk-through
- Punchlist and certificate of substantial completion

- Owner's final acceptance.

**ADDITIONAL SERVICES:** The fee structure in Appendix B does not include other services that may be required for the project. Upon request, additional services can be added to our scope of work for items such as:

- Construction staking and code-required special inspections/testing for concrete, steel welding, etc; (not anticipated).
- Traffic studies, Storm Water Pollution Plans, and similar studies (not anticipated).
- Selection of furniture, furnishings and moveable equipment (FFE).
- Environmental reviews, hazardous materials studies. It is our understanding that a hazardous materials report has been conducted. However, should an area or suspected ACM be discovered we can assist in securing these services.

## Appendix B

### Methods and Times of Payment

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#### Section 1. Payments for Basic Services.

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

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

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

|                                                                                                                                        |                     |
|----------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 1. Design Phase                                                                                                                        | \$20,000.00         |
| 2. Construction Documents Phase                                                                                                        | \$26,000.00         |
| 3. Bidding and Permitting Phase                                                                                                        | \$3,200.00          |
| 4. Construction Administration                                                                                                         | \$16,000.00         |
| 5. Civil Engineering – Performance Engineering<br>Survey Update, Grading/Drainage Plan/Site Plans                                      | \$8,750.00          |
| 6. Mechanical, Electrical, Plumbing and Fire Alarm –<br>Coneer Engineering<br>Mechanical, Electrical, Plumbing and Spec for Fire Alarm | \$20,000.00         |
| 7. <u>Reimbursables (printing, plan reviews, permit fees, etc.)</u>                                                                    | <u>\$12,000.00</u>  |
| <b>Total</b>                                                                                                                           | <b>\$105,950.00</b> |

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

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

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

Section 3. Corrections.

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

Section 4. Fee Increases

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

## **Appendix C**

### **Additional Services of Architect**

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

- A. Field and laboratory testing of materials and reports.
- B. Requests made or conditions identified by interested groups at the agency or public meetings, which are beyond the scope and intent of this study.

## Appendix D

### Schedule of Professional Fees

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

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

#### Section 1. Professional Services.

#### **HOURLY RATE SCHEDULE:**

##### **COLLABORATIVE DESIGN ARCHITECTS**

|                     |       |
|---------------------|-------|
| Principal-in-Charge | \$160 |
| Project Manager     | \$150 |
| Project Architect   | \$150 |
| Intern Architect    | \$110 |
| Interior Designer   | \$80  |
| Clerical Staff      | \$60  |

#### **REIMBURSABLE EXPENSES:**

##### **Plotting and Printing:**

- 8.5x11 Black & White \$0.25/Page
- Color \$0.50/Page
- Oversize Black & White \$0.25/SF
- Oversize Color \$0.50/SF

##### **Additional Expenses**

- Staff Travel Per Diem \$1.00/Mile
- Car Rental (\$70/Day + Per Diem), Fuel, Lodging, Meals, Postage/Shipping, Airline Tickets
- Miscellaneous Travel Costs
- Postage and shipping (at cost)
- Plan Review Fees and other jurisdictional fees (at cost)

## **Appendix E**

### **Project Schedule**

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Based on a notice to proceed by Billings date no later than March 1, 2023, the completion date for the Engineer's work through final design shall be:

|                 |                               |
|-----------------|-------------------------------|
| A. 30% Design   | April 1, 2023                 |
| B. 50% Design   | May 1, 2023                   |
| C. Final Design | July 1, 2023                  |
| D. Bidding      | August 1, 2023                |
| E. Construction | September 2023 –February 2024 |

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

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



COLLDES-02

STJAALAND

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/3/2023

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

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

|                                                                                                                                                                         |                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PRODUCER</b><br><b>Billings Office</b><br><b>PayneWest Insurance, a Marsh McLennan Agency LLC Company</b><br><b>P.O. Box 30638</b><br><b>Billings, MT 59107-0638</b> | <b>CONTACT NAME:</b> <b>Shawna Tjaaland</b><br><b>PHONE (A/C, No, Ext):</b> <b>(406) 869-4405</b> <b>FAX (A/C, No):</b><br><b>E-MAIL ADDRESS:</b> <b>stjaaland@paynewest.com</b>                                                                                  |
| <b>INSURER(S) AFFORDING COVERAGE</b>                                                                                                                                    |                                                                                                                                                                                                                                                                   |
| <b>INSURED</b>                                                                                                                                                          | <b>NAIC #</b>                                                                                                                                                                                                                                                     |
| <b>Collaborative Design Architects Inc</b><br><b>2280 Grant Rd Suite C</b><br><b>Billings, MT 59102</b>                                                                 | <b>INSURER A : Twin City Fire Insurance Company</b> <b>29459</b><br><b>INSURER B : Montana State Fund</b> <b>15819</b><br><b>INSURER C : Travelers Casualty and Surety Company</b> <b>19038</b><br><b>INSURER D :</b><br><b>INSURER E :</b><br><b>INSURER F :</b> |

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

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

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                                                                                                                                          | ADDL INSD | SUBR WVD     | POLICY NUMBER      | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                                                                                                                                                              |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|--------------|--------------------|-------------------------|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | <input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b><br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br><input checked="" type="checkbox"/> <b>EPL \$50,000- Ded \$2,</b><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC<br>OTHER: | <b>X</b>  | <b>X</b>     | <b>41SBAAC6425</b> | <b>4/1/2022</b>         | <b>4/1/2023</b>         | EACH OCCURRENCE \$ <b>2,000,000</b><br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>1,000,000</b><br>MED EXP (Any one person) \$ <b>10,000</b><br>PERSONAL & ADV INJURY \$ <b>2,000,000</b><br>GENERAL AGGREGATE \$ <b>4,000,000</b><br>PRODUCTS - COMP/OP AGG \$ <b>4,000,000</b><br><b>TENANTS LEGAL L</b> \$ <b>1,000,000</b> |
| <b>A</b> | <input type="checkbox"/> <b>AUTOMOBILE LIABILITY</b><br><input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY<br><input checked="" type="checkbox"/> HIRED AUTOS ONLY<br><input type="checkbox"/> SCHEDULED AUTOS<br><input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY                                                                                                                 | <b>X</b>  | <b>X</b>     | <b>41SBAAC6425</b> | <b>4/1/2022</b>         | <b>4/1/2023</b>         | COMBINED SINGLE LIMIT (Ea accident) \$ <b>2,000,000</b><br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$<br>\$                                                                                                                                                        |
|          | <input type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR<br><input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE<br>DED      RETENTION \$                                                                                                                                                                                                  |           |              |                    |                         |                         | EACH OCCURRENCE \$<br>AGGREGATE \$<br>\$                                                                                                                                                                                                                                                                                            |
| <b>B</b> | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N<br>If yes, describe under DESCRIPTION OF OPERATIONS below                                                                                                                             |           | <b>N / A</b> | <b>030836647</b>   | <b>7/1/2022</b>         | <b>7/1/2023</b>         | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER<br>E.L. EACH ACCIDENT \$ <b>1,000,000</b><br>E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b><br>E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>                                                                                                       |
| <b>C</b> | <b>Professional Liabili</b>                                                                                                                                                                                                                                                                                                                                                                |           |              | <b>105420278</b>   | <b>4/1/2022</b>         | <b>4/1/2023</b>         | <b>Each Claim</b> <b>2,000,000</b>                                                                                                                                                                                                                                                                                                  |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Hired / Non-Owned Auto Coverage Limit \$2,000,000 per attached endorsement.

2247 COB Belknap Bldg Remodel  
 Additional Insured and Waiver of Subrogation per SS00080405 when required in a written contract.  
 30 Day Notice of Cancellation

**CERTIFICATE HOLDER****CANCELLATION**

|                                                                                                                        |                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>City of Billings</b><br><b>Public Works/ Engineering</b><br><b>2224 Montana Avenue</b><br><b>Billings, MT 59101</b> | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.<br><br>AUTHORIZED REPRESENTATIVE<br> |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**City Council Regular**

**Date:** 02/27/2023  
**Title:** W.O. 19-42: West End Water Treatment Plant Project, GC/CM Preconstruction Services Contract, Amendment No. 1  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends that the City Council approve Amendment No. 1 to the City's General Contractor/Construction Manager (GC/CM) Preconstruction Services Contract with Garney Companies, Inc. for W.O. 19-42: West End Water Treatment Plant (WEWTP) Project in the amount of \$471,747.

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

On February 8, 2021, Council approved Resolution 21-10925 allowing the use of an alternative project delivery method as authorized by MCA 18-2-502 for construction of water system projects on Billings' West End, including the water treatment plant under current consideration. The City has elected to move forward with the General Contractor / Construction Manager (GC/CM) contract format since the contracting structure is more conducive to ensuring integral City staff involvement in project direction and decisions as developed by the project Team to consist of City staff, Burns & McDonnell (Engineer), and Garney Companies, Inc (GC/CM). Some major benefits of GC/CM contracts are that they bring the contractor, procured through an open public process, onto the project team as early as possible in order to take advantage of the expert contributions the contractor can bring to the project design and early cost development. GC/CM contractors are often able to identify opportunities to reduce overall project costs by introducing concepts for the team that are potentially more cost-effective to build. Information is gained quickly about actual construction means, methods and materials, which leads to improved design accuracy and completeness. During the pre-construction phase, the GC/CM contractor brings a level of cost certainty to the project before the design is complete, which informs overall budgets and the scope of current and future projects.

On September 27, 2021, City Council approved a Preconstruction Services Contract with Garney Companies, Inc. in the amount of \$273,035.20 for the West End Water Treatment Plant. Under this Preconstruction Services Contract, the project Team continues to work through project design that Burns & McDonnell is advancing toward 60% completion. Preconstruction efforts have resulted in the team implementing a number of project cost reduction measures including condensing the facility into a single building, utilizing membrane filtration technology, eliminating the Zone 2 transmission main and sludge lagoons, and relocating the WEWTP. The Team will continue to look for opportunities to value engineer the project and will develop progressively more detailed and accurate cost estimates as the design advances.

Based on anticipated long lead times for manufacturers to supply raw water treatment equipment to the project, the project team is initiating early procurement of the required equipment. Garney solicited and received competitive pricing from suppliers on all the equipment. After evaluating the bids and incorporating value engineering measures, the project team has selected solids removal equipment, horizontal flocculation equipment, inclined plate settlers, and membrane filtration equipment for the project.

City Council is asked to approve Amendment No. 1 to the City's preconstruction contract with Garney in the amount of \$471,747 in order to authorize Garney to enter into contracts with selected equipment manufacturers to work on providing the equipment submittals required by the project specifications. Approved submittals provide critical information to advance the project design. The \$471,747 total value of the supplier contracts represents 6% of the total \$8.0 million equipment value. City Council would consider actual procurement and manufacturing of the equipment under a future and separate construction contract with Garney.

After the project team further advances the design, Garney may present a Guaranteed Maximum Price (GMP) to construct either an initial phase of the project or the entire project. City Council may or may not approve the GMP and associated construction contract at that time. If Council does not approve the GMP, the current preconstruction contract allows for the City's relationship with Garney to be terminated. The price and terms of the Garney equipment purchase orders are transferrable to the City if the City elects to continue with the suppliers to procure the equipment but terminate their relationship with Garney. The City could then proceed with other options to construct the project.

## **ALTERNATIVES**

City Council may:

- Approve amendment No. 1 to the General Contractor/Construction Manager (GC/CM) Preconstruction Services Contract with Garney Companies, Inc.; or,
- Not approve Amendment No. 1. If this project is not completed, the City will be unable to proceed with the plans needed to provide for the present and future drinking water redundancy and capacity needs of City of Billings residents.

## **FISCAL EFFECTS**

The W.O. 19-42: West End Water Treatment Plant (WEWTP) Project was budgeted in FY23 using Water Funds. There is sufficient budget to award this contract.

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### **Attachments**

WO1942 WEWTP GC/CM Preconstruction Contract, Amend No. 1

**AMENDMENT NO. 1**

**TO**

**General Contractor/Construction Manager (GC/CM) Preconstruction  
Services Contract**

**W.O. 19-42, West End Water Treatment Plant Project**

THIS AGREEMENT, made and entered into on \_\_\_\_\_, 2023, by and between  
the following:

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

and

Garney Companies, Inc.  
7911 Shaffer Parkway  
Littleton, CO 80127  
Hereinafter designated the Contractor

WITNESSETH:

WHEREAS, the City and Contractor have entered into a contract dated September 30, 2021, for Contractor to provide preconstruction services to the City for Work Order 19-42 West End Water Treatment Plant Project, and;

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

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

WHEREAS, the Contractor represents that he is qualified to perform such services and is willing to furnish such services to the City;

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

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

C. The Contract shall terminate at midnight on December 31, 2023.

*Appendix A, Section 3.* Add the following to the Scope of Work.

The City and Contractor desire to establish a Guaranteed Maximum Price (GMP) for performance of a portion of Work consisting of equipment supplier submittals in accordance with the exhibits listed below, which are a part of this Agreement:

1. EXHIBIT A: The Drawings, Technical Specifications, Request for Proposal (RFP), and Bid Evaluation Criteria for the City of Billings W.O. 19-42, West End Water Treatment Plant; Preliminary Design, Burns & McDonnell Project No. 118386, September 2022
  - Drawings: Issued for 30% Design Review, September 2022
  - Technical Specifications: Issued for Equipment Procurement, September 2022
  - RFP: Work Package 1 Equipment Supply, September 2022 & Addendums 1,2,3
  - Bid Evaluation Criteria: From H2O Innovation dated 10/14/22
2. EXHIBIT B: Unit Prices attached herein.
3. EXHIBIT C: Assumptions and Calculations on which the GMP is based attached herein. This scope is specifically for Submittals to be provided from the selected Equipment Suppliers as further described in EXHIBIT C.
4. EXHIBIT D: Project Schedule attached herein.
5. EXHIBIT E: Labor Rates attached herein.

All subsequent Work not included in the GC/CM Preconstruction Services Contract and this Amendment No. 1 shall be established in authorized future Amendment(s) or in a future Construction Contract. Separate GMP(s) shall be established for all future Work according to the provisions of the GC/CM Preconstruction Services Contract.

*Appendix B, Section 1.* add the following:

For services rendered under this Amendment No. 1 only, the Contractor shall be paid in accordance with the Unit Prices in EXHIBIT B attached herein. The estimated \$21,960 in General Conditions costs shall be based on actual time accrued in accordance with the labor rates in EXHIBIT E attached herein. The Contractor's GMP for services rendered under is Amendment No. 1 is \$471,747.

**TOTAL, Amendment No. 1**

**\$471,747.00**

CONSULTANT

NAME: MATT WAMPLER

BY: 

TITLE: SENIOR PROJECT MANAGER

DATE: 2/13/23

CITY OF BILLINGS, MONTANA

BY: \_\_\_\_\_  
Mayor

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

**W.O. 19-42 West End Water Treatment Plant Project**  
**Work Package 1 – Submittals**  
**Scope of Work Exhibits**

**Exhibit A: Drawings and Specifications**

The Drawings, Technical Specifications, Request for Proposal (RFP), and Bid Evaluation Criteria for the City of Billings W.O. 19-42, West End Water Treatment Plant; Preliminary Design, Burns & McDonnell Project No. 118386, as listed below.

Drawings: Issued for 30% Design Review, September 2022  
 Technical Specs: Issued for Equipment Procurement, September 2022  
 RFP: Work Package 1 Equipment Supply, September 2022 & Addendums 1,2,3  
 Bid Evaluation Criteria: From H2O Innovation dated 10/14/22 attached herein

**Exhibit B: Unit Prices**

The Price authorized in this Agreement is \$471,747.00 and is calculated using the Cost Summary Worksheet shown below.

| <b>DIRECT COST</b>                  |                                           | <b>WORK PACKAGE 1 -<br/>SUBMITTALS</b> |
|-------------------------------------|-------------------------------------------|----------------------------------------|
| DIV11                               | DIVISION 11 - PROCESS EQUIP - SUBMITTALS  | 401,233                                |
| <b>SUBTOTAL DIRECT COSTS</b>        |                                           | <b>401,233</b>                         |
| 9.50%                               | Construction Fee                          | 38,117                                 |
|                                     | General Conditions (No Fee Added)         | 21,960                                 |
| 1.25%                               | Bonds and Insurance                       | 5,766                                  |
| 1.00%                               | Montana Tax                               | 4,671                                  |
| <b>SUBTOTAL INDIRECT COSTS</b>      |                                           | <b>471,747</b>                         |
|                                     | GC/CM Escalation Allowance (to Materials) | -                                      |
|                                     | GC/CM Contingency                         | -                                      |
| <b>PROJECT TOTAL COST - PHASE 1</b> |                                           | <b>471,747</b>                         |

**Markups**

- Construction Fee of 9.50% will be applied to the Direct Cost
- General Conditions are included and allow for Garney to provide supervision of this portion of work which includes submittal review.
- Bonds and Insurance Fee of 1.25% will be Applied to the Direct Cost, Construction Fee, and General Conditions Cost
- Montana Tax Fee of 1.00% will be Applied to the Direct Cost, Construction Fee, General Conditions, and Bonds and Insurance Cost.

**Exhibit C: Assumption and Calculations on Which the GMP is Based**

This Agreement is for the **Equipment Supply Submittals (Phase 1)** and formally documents the approval to award Equipment Supply Packages to the vendors listed below.

|               |                                   |                 |
|---------------|-----------------------------------|-----------------|
| Spec 46-40-13 | Solids Removal Equipment          | Jim Myers       |
| Spec 46-41-33 | Horizontal Flocculation Equipment | Jim Myers       |
| Spec 46-43-76 | Inclined Plate Settlers           | Jim Myers       |
| Spec 46-61-33 | Membrane Filtration System        | H2O Innovations |

Phase 1 – Submittals – Authorized by This Agreement

Phase 1 authorizes Garney to enter into agreements with the selected vendors, upon which the Vendors will provide Submittals as required in the specifications. This provides critical inputs into the Burns and McDonnell design and will result in a customized and efficient design. This also allows the Submittals to begin prior to reaching an Overall GMP agreement.

No procurement, fabrication, or manufacturing shall be performed under Phase 1. In the event Garney and the City are not able to enter into an agreement for the Overall GMP, the City will only be responsible to pay for Phase 1 Submittals. Phase 2 for the Balance of Scope will be canceled.

Phase 2 - Balance of Scope – NOT AUTHORIZED AT THIS TIME

If Garney and the City execute an Overall GMP for the balance of the construction project, then at that time Garney will amend the Agreements with the chosen vendors to include the Balance of the Equipment Supply Scope, which includes the manufacturing, supply, and startup of the listed equipment.

In the event Garney and the City are unable to reach agreement for Phase II, The Balance of the Construction Project, the terms of the Garney Purchase Orders are transferrable to the City if the City elects to continue the project with the Vendor.

- Membrane Filtration System (H2O Innovations): The Vendor's price for Phase II shall be subject to escalation if the release to manufacture is not received by January 1, 2024.
- Solids Removal Equipment/Horizontal Flocculation Equipment/Inclined Plate Settlers (Jim Myers), Vendor's price for Phase II shall be subject to escalation if the release to manufacture is not received by June 1, 2023.

Vendor Pricing

The table below shows the Vendor pricing for Phase 1 and Phase 2. Phase 1 Authorizes Garney to enter into agreements with the selected vendors in the amount of \$401,233.00. This amount includes the Value Engineering items reviewed and approved by the City as listed below.

*Table is on next page.*

|                                                |                                                                                                                                    |                                       |             |                    |                                                          |                                                          |  |
|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|-------------|--------------------|----------------------------------------------------------|----------------------------------------------------------|--|
| <b>PROJECT:</b> WEST END WATER TREATMENT PLANT |                                                                                                                                    | <b>COMPANY NAME:</b> JIM MYERS        |             | H2O INNOVATION USA |                                                          | <b>SELECTED</b>                                          |  |
| <b>LOCATION:</b> CITY OF BILLINGS, MT          |                                                                                                                                    | <b>MFG CONTACT:</b> DON BERSELL       |             | SHAYAN YAGHOUBI    |                                                          | <b>SUPPLIERS</b>                                         |  |
| <b>DATE/TIME:</b> 12/14/2022                   |                                                                                                                                    | <b>MFG PHONE NUMBER:</b> 980-867-3532 |             | 619-884-5834       |                                                          | <b>12.14.22</b>                                          |  |
| <b>SPEC.</b>                                   | <b>DESCRIPTION OF WORK / MATERIAL</b>                                                                                              | <b>QTY</b>                            | <b>UNIT</b> | <b>H2O</b>         |                                                          | <b>SELECTED SUPPLIER</b>                                 |  |
| <b>46-40-13</b>                                | <b>SOLIDS REMOVAL EQUIPMENT</b>                                                                                                    |                                       |             |                    |                                                          | <b>JIM MYERS</b>                                         |  |
|                                                | PURCHASE SOLIDS REMOVAL EQUIPMENT                                                                                                  | 4                                     | EA          | \$268,104          |                                                          | \$268,104                                                |  |
|                                                | BID BOND PRICE                                                                                                                     |                                       |             | \$2,681            |                                                          | \$2,681                                                  |  |
| <b>46-41-33</b>                                | <b>HORIZONTAL FLOCCULATION EQUIPMENT</b>                                                                                           |                                       |             |                    |                                                          | <b>JIM MYERS</b>                                         |  |
|                                                | PURCHASE HORIZONTAL FLOC EQUIPMENT                                                                                                 | 6                                     | EA          | \$306,952          |                                                          | \$306,952                                                |  |
|                                                | BID BOND PRICE                                                                                                                     |                                       |             | \$3,070            |                                                          | \$3,070                                                  |  |
| <b>46-43-76</b>                                | <b>INCLINED PLATE SETTLERS</b>                                                                                                     |                                       |             |                    |                                                          | <b>JIM MYERS</b>                                         |  |
|                                                | PURCHASE INCLINED PLATE SETTLERS                                                                                                   | 2                                     | EA          | \$862,461          |                                                          | \$862,461                                                |  |
|                                                | BID BOND PRICE                                                                                                                     |                                       |             | \$8,625            |                                                          | \$8,625                                                  |  |
| <b>46-61-33</b>                                | <b>MEMBRANE FILTRATION SYSTEM</b>                                                                                                  |                                       |             |                    |                                                          | <b>H2O INNOVATIONS</b>                                   |  |
|                                                | PURCHASE MEMBRANE EQUIPMENT                                                                                                        | 7                                     | EA          |                    | \$7,837,904                                              | \$7,837,904                                              |  |
|                                                | BID BOND PRICE                                                                                                                     |                                       |             |                    | \$117,568                                                | \$117,568                                                |  |
| <b>VALUE ENGINEERING ITEMS ACCEPTED</b>        |                                                                                                                                    |                                       |             |                    |                                                          |                                                          |  |
| JMS                                            | SUPPLY STANDARD SLUDGE COLLECTOR PANELS (2, 2-UNIT PANELS WITH AN AB MICROLOGIX 1400 PLC, POWERFLEX 4M VFD'S, AND 5.7" MAGELIS HMI | 1                                     | LS          | -\$80,000          |                                                          | SEE ITEMS BELOW                                          |  |
| JMS                                            | JMS PRICE ESCALTION INCREASE TO 2/13 AND BASED ON JUNE 1, 2023 PRICE HOLD                                                          | 1                                     | LS          | \$65,000           |                                                          | -\$80,000                                                |  |
| H20-1                                          | SUPPLY TORAY HFUG-2020AN MODULES                                                                                                   | 1                                     | LS          |                    | -\$364,058                                               | \$65,000                                                 |  |
| H20-2                                          | REMOVE REDUNDANT PLC                                                                                                               | 1                                     | LS          |                    | -\$50,196                                                | -\$364,058                                               |  |
| H20-3                                          | REMOVE REDUNDANCE ON CIP SYSTEM AND OPTIMIZE NEUTRLIZATION FUNCTION                                                                | 1                                     | LS          |                    | -\$418,601                                               | -\$50,196                                                |  |
| H20-4                                          | SUPPLY CIP-NEUTRALIZATION SYSTEMS LOOSE SHIPPED, SUBSET OF VE-3, SAVINGS \$212, 550                                                | 1                                     | LS          |                    | Pending Garney review, can be added at next Work Package | -\$418,601                                               |  |
| H20-5                                          | HDPE TANKAGE IN LIEU OF FRP TANKAGE, SUBSET OF VE-3                                                                                | 1                                     | LS          |                    | -\$160,085                                               | Pending Garney review, can be added at next Work Package |  |
| H20-6                                          | SUPPLY IMMERSION HEATERS FOR CIP TANK, SUBSET OF VE-3                                                                              | 1                                     | LS          |                    | -\$48,998                                                | -\$160,085                                               |  |
| H20-7                                          | SUPPLY GRUNDFOS IN-LIEU OF GOULDS PUMPS                                                                                            | 1                                     | LS          |                    | -\$258,034                                               | -\$48,998                                                |  |
| H20-8                                          | REDUCE MECHANICAL AND WORKMANSHIP WARRANTY TO 1-YEAR                                                                               | 1                                     | LS          |                    | -\$67,739                                                | -\$258,034                                               |  |
|                                                |                                                                                                                                    |                                       |             |                    |                                                          | -\$67,739                                                |  |
|                                                | <b>TOTAL AMOUNT</b>                                                                                                                |                                       |             | \$1,436,892        | \$6,587,762                                              | \$8,024,654                                              |  |
|                                                | <b>PHASE 1 - SUBMITTALS</b>                                                                                                        | <b>5.0%</b>                           | <b>PCT</b>  | <b>\$71,845</b>    | <b>\$329,388</b>                                         | <b>\$401,233</b>                                         |  |
|                                                | PHASE 2 - BALANCE OF SCOPE                                                                                                         | 95.0%                                 | PCT         | \$1,365,048        | \$6,258,374                                              | \$7,623,421                                              |  |

#### **Exhibit D: Project Schedule**

The dates below are for Submittals only. Fabrication and delivery of this equipment will be included later and will be part of the overall project schedule in a subsequent Work Package.

Start Date: February 15, 2023  
 Submittals provided for review by: September 1, 2023

#### **Exhibit E: Labor Rates**

Labor Rates below are used for this Submittals Work Package. The General Conditions estimate is based on 160 hours of work by the Project Manager Classification [160 hours x \$137.25/hour equals \$21,960.00]. The other rates are listed in the event they assist with the work.

- Senior Project Manager \$166.25
- Project Manager \$137.25
- Project Engineer \$87.25

**City Council Regular**

**Date:** 02/27/2023  
**Title:** W.O. 22-07 Mullowney Lane Improvements, HDR Contract Amendment No. 2  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends Council approve contract Amendment No. 2 with HDR Engineering, Inc. in the amount of \$279,855.

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

W.O. 22-07 Mullowney Lane Improvements consists of reconstructing and improving Mullowney Lane from the Midland Road/South Frontage Road intersection south to Elysian Road. Mullowney Lane will be constructed to a 3-lane street including a two-way-left-turn-lane, sidewalk on the west side, 10-foot multi-use trail on the east side, curb and gutter, storm drain, irrigation, streetlights, and a signalized intersection at the Elysian Road intersection. A landscaped, traffic-calming median island is included at the Holiday Avenue/Mullowney Lane intersection, located mid-way between the South Frontage Road and Elysian Road.

Council is asked to consider executing Amendment No. 2 to the Contract for Professional Services with HDR Engineering to complete construction engineering services for W.O. 22-07 Mullowney Lane Improvements. The initial contract and Amendment No. 1 included engineering design and bidding services. The scope of work in Amendment No. 2 includes construction contract administration, construction staking, construction observation, materials testing, and preparation of record drawings. Amendment No. 2 will bring the total not-to-exceed contract amount to \$623,968.

**ALTERNATIVES**

City Council may:

- Approve Amendment No. 2 to the Contract for Professional Services with HDR Engineering, Inc.; or,
- Not approve Amendment No. 2 to the Contract for Professional Services with HDR Engineering, Inc. If the amendment to the contract is not approved, construction contract administrative services cannot be completed.

**FISCAL EFFECTS**

Funding for this amendment was budgeted in FY23 with Gas Tax Funds, Street Maintenance District Funds, Assessments, and Developer Contributions. Sufficient budget is available to award the contract amendment.

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**Attachments**

Contract Amendment 2

**AMENDMENT NO. 2**  
**TO**  
**CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES**  
**W.O. 22-07 MULLOWNEY LANE**

THIS AGREEMENT, made and entered into on October 11, 2021, by and between the following:

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

and

HDR Engineering, Inc.  
970 S. 29<sup>th</sup> Street W  
Billings, Montana 59102  
Hereinafter designated the Contractor

WITNESSETH:

WHEREAS, the City and Contractor have entered into a contract dated October 11, 2021 for Contractor to provide engineering services to the City for Work Order 22-07 Mallowney Lane, and;

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

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

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

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

Part I, Section 4. is amended as follows:

Increase the amount of compensation by Two-Hundred Seventy-Nine Thousand Eight-Hundred Eighty-Five and no/100 DOLLARS (\$279,885.00) to Six-Hundred Twenty-Three Thousand Nine-Hundred Sixty-Eight and no/100 DOLLARS (\$623,968.00).

Appendix A, Section 3. Modify the following to the Scope of Work:

- Add Task 600 – Construction Services to include:
  - **601 – Construction Initiation Services:**  
The Consultant shall prepare construction contracts, conduct a preconstruction conference and prepare minutes summarizing the conference. The Consultant will provide the owner with three sets and the contractor one pdf of “Issue for Construction” plans and specifications.
  - **602 – Construction Administrative Assistance:**  
During the construction phase of the project, the Consultant will provide office assistance to the City on the administration of the project. This effort will include review and preparation of change orders, shop drawing review, interpretation of drawings and specifications including answering requests for information (RFI), responding to contractor submittals, monitoring of compliance with procedure requirements on the project, coordinating with the contractor, evaluation of pay estimates, and conducting weekly (or as needed) construction meetings.

Develop health and safety plan for HDR during construction. Review contractor schedule progress. Review Contractor’s applications for payment and provide recommendations or comments to the City.

- **603 – Field Services**  
The Consultant will provide on-site construction observation services to perform observations, documentation, and various tasks from mobilization through substantial completion. The consultant will provide weekly inspection reports and provide immediate notifications if issues arise during construction.

The consultant will provide material testing to complete City of Billings Quality Assurance testing. Material and density testing will be in conformance with City of Billings testing specifications and Standard Mods for street and storm utility construction and in conformance with the approved plans and specifications. Pavement subgrade observations will be made, especially in those areas where soft subgrades are encountered. This work includes 45 trips for compaction testing, 6 trips for concrete testing and 2 trips for asphalt testing.

Construction administration and inspection assumes a 120 calendar day construction schedule plus 30 calendar days for irrigation ditch work outside of contract time. Full-time on-site inspection will be provided for 60 calendar

days, part-time inspection (20-30 hours/week) will be provided for 60 calendar days, and less than part-time inspection (less than 20 hours/week) for 30 days. The 30 days of less than part-time inspection is for inspections related to the suburban and songbird irrigation ditch work anticipated to occur outside of contract time. Services include project documentation including daily diaries, photographs, coordination of materials testing, check materials and work meet project specifications, identify non-compliant work in a timely manner for correction, document, and track project quantities, verify quality and content of work complies with contract documents, review project documents to be accurate and current, document and report field conditions to the City, and coordination with the City.

Also provided is construction staking to establish reference/control points and stake major design features including alignment at key stations, curb/gutter, driveways, sidewalk/path, inlets, manholes, new water/sewer services, pull boxes, luminaire poles and signal poles.

- **604 – Construction Wrap-Up and Acceptance**  
Upon completion of the construction of the improvements, the Consultant will schedule and hold a final project walk-through and assist the City in the final wrap-up of the project, including preparing record drawings, preparation of a punch list, preparation of Certificate of Substantial Completion, information review and recommendation of final acceptance. Also Perform 2-year warranty walk-through.
- **605 – Reports, Record Drawings, and Closeout**  
Prepare conformed record drawings including modifications during construction and mark-ups from contractor.

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

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

CONSULTANT – HDR Engineering, Inc.

NAME: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

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

CITY OF BILLINGS, MONTANA

BY: \_\_\_\_\_

City Council or Designee

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

**City Council Regular**

**Date:** 02/27/2023  
**Title:** Memorandum of Understanding between the City and the Yellowstone Conservation District  
**Presented by:** Pigg Michael, Superintendent  
**Department:** Parks/Rec/Public Lands  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends approval of the Memorandum of Understanding between the City and the Yellowstone Conservation District.

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

The Memorandum of Understanding between the City and the Yellowstone Conservation District is to outline the partnership between the Parties to fund, construct and maintain public conservation and recreation amenities at the West End Reservoir. This MOU is the first step in securing potential funding from the State Legislature.

**STAKEHOLDERS**

The stakeholders in this agreement are the City and the Yellowstone Conservation District.

**ALTERNATIVES**

City Council may:

- Approve; or,
- Not Approve

**FISCAL EFFECTS**

With this agreement, there is a possible funding source for the design, construction, and maintenance of the recreation area at the West End Reservoir.

**SUMMARY**

This MOU will begin a partnership that would benefit the City with the development and maintenance of the West End Reservoir recreation areas. This MOU is the first step in securing potential funding to construct and maintain the recreation areas at the West End Reservoir.

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**Attachments**

Yellowstone Conservation Agreement

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE YELLOWSTONE CONSERVATION DISTRICT AND CITY OF BILLINGS  
FOR FUNDING, CONSTRUCTION AND MAINTENANCE OF  
WEST END RESERVOIR CONSERVATION AND RECREATION AMENITIES**

This MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the Yellowstone Conservation District, a governmental subdivision and public body of the State of Montana (the “District”), and the City of Billings, a municipal corporation of the State of Montana (the “City”), both, hereinafter, also referred to as “the Parties”.

The Parties share mutual benefits and interests in providing public conservation and recreation amenities on real property owned by the City, known as the West End Reservoir and located within the District, as an auxiliary function to the primary function of the West End Reservoir in storing, conserving, and providing clean and safe water to the City of Billings.

A conservation district may execute a project for the conservation, development, storage, distribution, and utilization of water, including projects for recreation pursuant to §Sec. 76-15-403 (10)(e) MCA.

The purpose of this MOU is to outline the partnership between the Parties to fund, construct and maintain public conservation and recreation amenities at the West End Reservoir (the “Project”).

Both the District and City agree to the following:

- To have open lines of communication and work collaboratively to achieve and fulfill the purposes of the Project.
- To form upon funding, a Volunteer Liaison Board including City, District and other interested community members to achieve and fulfill the purpose of this MOU.
- To ensure that the primary function of the West End Reservoir is to store, conserve, and provide clean and safe water to the City of Billings.
- To fund the Project’s construction, operation and management, and maintenance to the extent the City and/or the District is appropriated monies from the Montana Legislature and/or other funding sources for the Project.
- To work together to design and develop the Project to promote and provide public conservation and recreation amenities as an auxiliary function to the primary function of the West End Reservoir.
- To facilitate the development of a master plan for the West End Reservoir addressing conservation and recreation amenities for the benefit of the community.
- To cooperate on details and operating agreements to ensure the goals and objectives of the District and the City will be developed as the master plan is finalized and funding is identified.
- To encourage and promote safe and appropriate conservation and recreation amenities for public use at the West End Reservoir.

- To develop and provide a consistent message to the public for conservation and recreation use of the Project, including education, rules and regulations, event and programming opportunities, notification of season closures, and to provide a positive public visitor experience.
- To provide a consistent message to potential donors, grantors, sponsors, and others contributing financially for conservation and recreation use and maintenance for the Project.
- To mutually agree upon a conceptual design of the Project.
- To mutually agree upon naming or naming rights sponsorship for the Project area to fund future operation, management and maintenance of the Project, once completed.
- To mutually agree upon estimated costs, time, and completion of construction and maintenance of the Project.
- Due to construction, maintenance and liability considerations, both Parties agree that the City will have final say on all Project decisions.

The District agrees:

- Pursuant to the Project, to strive to promote the District's mission of soil conservation, water conservation, and conservation education.
- To continue efforts to help identify and acquire funding for the Project.
- The City will have all final design, construction, and maintenance responsibilities for the Project.
- To attend meetings related to the Project.

The City agrees:

- Pursuant to the Project, to honor the District's mission of soil conservation, water conservation, and conservation education.
- To provide the real property site for the Project.
- To accept Legislative or other funding if appropriated for the Project and to assume all construction, operation, management and maintenance responsibilities for the Project.
- To earmark and use all Legislative or other funding received for construction, operation, management, and maintenance of the Project solely for the conservation and recreation amenities layer at the West End Reservoir.
- To satisfy all City, State and federal applicable plan review, permit, and inspection requirements for the Project
- To manage and insure the Project.
- To attend meetings related to the Project.

Indemnification: The City agrees to indemnify and hold harmless the District, its officers, employees, agents and volunteers from and against all liability, loss, damage, expense, and cost (including, without limitation, reasonable attorney's fees, and all other costs and fees of litigation) of every nature arising out of or in connection with the City's negligence, recklessness, or willful misconduct in the performance of construction and maintenance of the

Project and resultant West End Reservoir Recreational Area, except such loss or damage caused by the active negligence or sole negligence or willful misconduct of the District.

Entire Agreement: This MOU contains the entire understanding of the Parties, and there are no other promises or conditions, whether oral or written, concerning the subject matter of this MOU. The Parties agree that this MOU is not intended to be a binding agreement but merely an expression of intent regarding the contemplated purpose and objective stated herein unless and until the Montana Legislature approves funding to the City and/or the District for the Project. This MOU shall be governed by and construed in accordance with the laws of the State of Montana.

Term: This MOU is in effect for ten (10) years on the date adopted and signed. The Parties contemplate a long-term relationship and to that end, no later than 180 days prior to the end of the term, the Parties agree to commence discussions regarding extension of this MOU.

Amendment: This MOU may only be amended in writing with mutual consent and signatures of the Parties.

Notice: Any notice or communication required or permitted under this MOU shall be sufficiently given if delivered in person or by mail, email, to the contacts below or to such address as one party may have furnished to the other in writing.

Contacts:

Chris A. Kukulski  
City Administrator  
City Hall  
P.O. Box 1178  
Billings, MT 59103  
(406) 657-8222  
[kukulskic@billingsmt.gov](mailto:kukulskic@billingsmt.gov)

LaVerne Ivie  
Yellowstone Conservation District Administrator  
1371 Rimtop Drive  
Billings, MT 59105  
(406) 690-9326  
livie@mt.gov

**IN WITNESS WHEREOF**, the Parties hereto have caused this MOU to be executed by their duly authorized representatives as the date first above written.

**SIGNED:**

By:

---

William A. Cole, Mayor of the City of Billings

By:

---

Chad Sedgwick, Chairman of the Yellowstone Conservation District

By:

---

Clint Peck, Vice-Chairman of the Yellowstone Conservation District

**City Council Regular**

**Date:** 02/27/2023  
**Title:** Lease Agreement with American Towers for the cell tower located at Stewart Park  
**Presented by:** Pigg Michael, Superintendent  
**Department:** Parks/Rec/Public Lands  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends the lease extension be approved for another 10-year period.

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

American Tower has leased the cell tower location in Stewart Park for the past 10 years. The lease is expiring and this is a lease extension for another 5 years.

**STAKEHOLDERS**

American Tower and the City of Billings

**ALTERNATIVES**

City Council may:

- Approve; or,
- Not Approve

**FISCAL EFFECTS**

The lease extension comes with a signing bonus of \$40,000 along with revenue share from T-Mobile and \$3,000/yr for all new customers added to the site (increasing 3% yearly).

**SUMMARY**

The cell tower at Stewart Park has been a good revenue stream for the last 10 years. American Towers has added users every year which increases the lease payments.

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**Attachments**

Stewart Tower Lease

**THE SECOND AMENDMENT TO COMMERCIAL GROUND LEASE FOR USE AS A COMMUNICATIONS  
EQUIPMENT SITE**

This Second Amendment to Commercial Ground Lease For Use as a Communications Equipment Site (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between **City of Billings, Montana**, a municipal corporation ("**Landlord**") and **GTP Acquisition Partners II, LLC**, a Delaware limited liability company ("**Tenant**") (Landlord and Tenant being collectively referred to herein as the "**Parties**").

**RECITALS**

**WHEREAS**, Landlord owns the real property described on **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

**WHEREAS**, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Commercial Ground Lease For Use as a Communications Equipment Site dated February 23, 1998 as amended by that certain Renewal of and First Amendment to Commercial Ground Lease For Use as a Communications Equipment Site dated December 12, 2017 (the "**First Amendment**") (as the same may have been amended, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such leasehold and easement rights and interests, collectively, the "**Leased Premises**"), which Leased Premises are also described on **Exhibit A**; and

**WHEREAS**, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

**NOW THEREFORE**, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **One-Time Payment.** Tenant shall pay to Landlord a one-time payment in the amount of **Forty Thousand and No/100 Dollars (\$40,000.00)**, payable within thirty (30) days of the Effective Date and subject to the following conditions precedent: (a) Tenant's receipt of this Amendment executed by Landlord, on or before May 31, 2023; (b) Tenant's confirmation that Landlord's statements as further set forth in this Amendment are true, accurate, and complete, including verification of Landlord's ownership; (c) Tenant's receipt of any documents and other items reasonably requested by Tenant in order to effectuate the transaction and payment contemplated herein; and (d) receipt by Tenant of an original Memorandum of Lease executed by Landlord.
2. **Lease Term Extended.** Notwithstanding anything to the contrary contained in the Lease, the Parties agree that the Lease, without giving effect to this Amendment and assuming the exercise by Tenant of all remaining renewal terms in the Lease, has a final expiration date of February 22, 2023 (the "**Current Expiration Date**"). Tenant shall have the option to extend the Lease for each of Six (6) additional Five (5) year renewal terms (each a "**New Renewal Term**" and, collectively, the "**New Renewal Terms**"). Notwithstanding anything to the contrary contained in the Lease, (a) all Existing Renewal Terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease, as amended herein, at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below) and (b) Landlord shall be able to terminate the Lease, as amended herein, only in the event of a material default by Tenant, which default is not cured within sixty (60) days of Tenant's receipt of written notice thereof, provided, however, in the event that Tenant has diligently commenced to cure a material default within sixty (60) days of Tenant's actual receipt of notice thereof and reasonably

requires additional time beyond the sixty (60) day cure period described herein to effect such cure, Tenant shall have such additional time as is necessary (beyond the sixty [60] day cure period) to effect the cure.

3. **Rent and Escalation.** The Parties hereby acknowledge and agree that all applicable increases and escalations to the rental payments under the Lease (the "**Rent**") shall continue in full force and effect through the New Renewal Term(s). In the event of any overpayment of Rent prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid to Landlord under the Lease shall be paid to **City of Billings** by Tenant. Provided, however, in the event that any current sublessee, licensee or any other collocator of Tenant is paying said Rent or any other payments to **City of Billings** directly as of the Effective Date of the Amendment, Tenant shall not be obligated to make such payments to **City of Billings**.
  
4. **Landlord and Tenant Acknowledgments.** Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. In the event there is a conflict between the Lease and this Amendment, this Amendment shall control. The Parties hereby agree that no defaults exist under the Lease. To the extent Tenant needed consent and/or approval from Landlord for any of Tenant's activities at and uses of the site prior to the Effective Date, Landlord's execution of this Amendment is and shall be considered consent to and approval of all such activities and uses. Landlord hereby acknowledges and agrees that Tenant shall not need consent or approval from, or to provide notice to, Landlord for any future activities at or uses of the Leased Premises, including, without limitation, subleasing and licensing to additional customers, installing, modifying, repairing, or replacing improvements within the Leased Premises, and/or assigning all or any portion of Tenant's interest in this Lease, as modified by this Amendment. Tenant and Tenant's sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Leased Premises from a public right of way on a 24 hours per day, 7 days per week basis, together with utilities services to the Leased Premises from a public right of way. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.
  
5. **Notices.** The Parties acknowledge and agree that Article VIII, Section F of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the notice address and requirements of the Lease, as modified by this Amendment, shall be controlled by this Section of this Amendment. All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: City of Billings, 390 N 23<sup>rd</sup> Street, Billings, MT 59101; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
  
6. **Limited Right of First Refusal.** The Parties acknowledge and agree that Article II, Section B of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the obligations of the Parties with respect to Tenant's right of first refusal shall be controlled by this Section of this Amendment. Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing,

investing in or leasing wireless telecommunications infrastructure (any such person or entity, a “**Third Party Competitor**”). If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part to a Third Party Competitor or (ii) assign all or any portion of Landlord’s interest in the Lease, as modified by this Amendment, to a Third Party Competitor (any such offer, the “**Offer**”), Tenant shall have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than forty-five (45) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant’s right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.

7. **Conflict/Capitalized Terms.** The Parties hereby acknowledge and agree that in the event of a conflict between the terms and provisions of this Amendment and those contained in the Lease, the terms and provisions of this Amendment shall control. Except as otherwise defined or expressly provided in this Amendment, all capitalized terms used in this Amendment shall have the meanings or definitions ascribed to them in the Lease. To the extent of any inconsistency in or conflict between the meaning, definition, or usage of any capitalized terms in this Amendment and the meaning, definition, or usage of any such capitalized terms or similar or analogous terms in the Lease, the meaning, definition, or usage of any such capitalized terms in this Amendment shall control.
  
8. **Counterparts.** This Amendment may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

[SIGNATURES FOLLOW ON NEXT PAGE]

**LANDLORD:**

**City of Billings, Montana**  
a municipal corporation

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

[SIGNATURES CONTINUE ON NEXT PAGE]

**TENANT:**

**GTP Acquisition Partners II, LLC**  
a Delaware limited liability company

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT A**

*This Exhibit A may be replaced at Tenant's option as described below*

**PARENT PARCEL**

*Tenant shall have the right to replace this description with a description obtained from the vesting deed (or deeds) to the fee owner of the Parent Parcel that includes the land area encompassed by the Lease and Tenant's improvements thereon*

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

Being situated in the County of Yellowstone, State of Montana, and being known as  
Yellowstone County APN: 03-0926-12-1-04-05-4001.

**LEASED PREMISES**

*Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Landlord.*

The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

**A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 1 SOUTH, RANGE 25 EAST OF THE P.M.M., SAID PARCEL BEING A PART OF TRACT 1-A, CERTIFICATE OF SURVEY NO. 1293, COUNTY OF YELLOWSTONE, STATE OF MONTANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT 1-A, A FOUND IRON PIN AND PLASTIC CAP STAMPED "ENG INC"; THENCE N65°39'02"W, 1110.04 FEET TO THE POINT OF BEGINNING, A FOUND #5 REBAR; THENCE S89°55'48"W, 41.00 FEET TO A SET #5 REBAR AND CAP STAMPED P.L.S. # 5062 ES; THENCE N00°12'23"E, 50.00 FEET TO A SET CUT CROSS IN CONCRETE; THENCE N89°55'48"E, 41.00 FEET; THENCE S00°12'23"W, 50.00 FEET TO THE POINT OF BEGINNING.**

**CONTAINING A COMPUTED AREA OF 2,050.0 SQUARE FEET MORE OR LESS.**

**EXHIBIT A (continued)**

**ACCESS AND UTILITIES**

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

**A 20 FOOT WIDE ACCESS AND UTILITY EASEMENT LOCATED IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 1 SOUTH, RANGE 25 EAST OF THE P.M.M., SAID PARCEL BEING A PART OF TRACT 1-A, CERTIFICATE OF SURVEY NO. 1293, COUNTY OF YELLOWSTONE, STATE OF MONTANA, BEING 10 FEET ON EACH SIDE OF THE FOLLOWING CENTERLINE:**

**COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT 1-A, A FOUND IRON PIN AND PLASTIC CAP STAMPED "ENG INC"; THENCE N65°33'58"W, 1166.70 FEET TO THE POINT OF BEGINNING; THENCE ON SAID CENTERLINE THE FOLLOWING ELEVEN COURSES:**

**N00°12'23"E, 194.28 FEET; THENCE**

**N86°29'09"E, 126.27 FEET; THENCE**

**N72°40'50"E, 31.51 FEET; THENCE**

**N60°11'39"E, 29.19 FEET; THENCE**

**N54°05'50"E, 83.90 FEET; THENCE**

**N62°16'24"E, 81.40 FEET; THENCE**

**N82°18'54"E, 113.59 FEET; THENCE**

**S80°11'35"E, 102.21 FEET; THENCE**

**S65°30'27"E, 207.37 FEET; THENCE**

**S89°37'48"E, 302.05 FEET; THENCE**

**N00°24'53"W, 1224.83 FEET TO THE POINT OF TERMINUS AT THE SOUTH RIGHT-OF-WAY LINE OF CENTRAL AVENUE**

**CONTAINING A COMPUTED AREA OF 49,932 SQUARE FEET OR 1.15 ACRES MORE OR LESS.**

**Prepared by and Return to:**

American Tower  
10 Presidential Way  
Woburn, MA 01801  
Attn: Land Management/Dylan Woods, Esq.  
ATC Site No: 372805  
ATC Site Name: Stewart Park  
Assessor's Parcel No(s): 03-0926-12-1-04-05-4001

**Prior Recorded Lease Reference:**

Document No.: 3374780  
State of Montana  
County of Yellowstone

**MEMORANDUM OF LEASE**

This Memorandum of Lease (the "**Memorandum**") is entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_ by and between **City of Billings, Montana**, a municipal corporation, ("**Landlord**") and **GTP Acquisition Partners II, LLC**, a Delaware limited liability company ("**Tenant**").

**NOTICE** is hereby given of the Lease (as defined and described below) for the purpose of recording and giving notice of the existence of said Lease. To the extent that notice of such Lease has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1. **Parent Parcel and Lease.** Landlord is the owner of certain real property being described in **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"). Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Commercial Ground Lease For Use as a Communications Equipment Site dated February 23, 1998, as amended by that certain Renewal of and First Amendment to Commercial Ground Lease For Use as a Communications Equipment Site dated December 12, 2017 (the "**First Amendment**") (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises is also described on **Exhibit A**.
2. **Expiration Date.** Subject to the terms, provisions, and conditions of the Lease, and assuming the exercise by Tenant of all renewal options contained in the Lease, the final expiration date of the Lease would be February 22, 2053. Notwithstanding the foregoing, in no event shall Tenant be required to exercise any option to renew the term of the Lease.
3. **Right of First Refusal.** There is a right of first refusal in the Lease.
4. **Effect/Miscellaneous.** This Memorandum is not a complete summary of the terms, provisions and conditions contained in the Lease. In the event of a conflict between this Memorandum and the Lease, the Lease shall control. Landlord hereby grants the right to Tenant to complete and execute on behalf of

Landlord any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.

5. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: City of Billings, 390 N 23<sup>rd</sup> Street, Billings, MT 59101; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the parties hereto, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
6. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

*[SIGNATURES COMMENCE ON FOLLOWING PAGE]*

**IN WITNESS WHEREOF**, Landlord and Tenant have each executed this Memorandum as of the day and year set forth below.

**LANDLORD**

**2 WITNESSES**

**City of Billings, Montana,**  
a municipal corporation,

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**WITNESS AND ACKNOWLEDGEMENT**

State/Commonwealth of \_\_\_\_\_

County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[SEAL]

*[SIGNATURES CONTINUE ON FOLLOWING PAGE]*

**TENANT**

**WITNESS**

**GTP Acquisition Partners II, LLC**  
a Delaware limited liability company

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**WITNESS AND ACKNOWLEDGEMENT**

Commonwealth of Massachusetts

County of Middlesex

On this \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, before me, \_\_\_\_\_  
the undersigned Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed  
to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity  
upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[SEAL]

**EXHIBIT A**

*This Exhibit A may be replaced at Tenant's option as described below.*

**PARENT PARCEL**

*Tenant shall have the right to replace this description with a description obtained from the vesting deed (or deeds) to the fee owner of the Parent Parcel that includes the land area encompassed by the Lease and Tenant's improvements thereon*

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below:

Being situated in the County of Yellowstone, State of Montana, and being known as  
Yellowstone County APN: 03-0926-12-1-04-05-4001.

**LEASED PREMISES**

*Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Landlord.*

The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

**A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 1 SOUTH, RANGE 25 EAST OF THE P.M.M., SAID PARCEL BEING A PART OF TRACT 1-A, CERTIFICATE OF SURVEY NO. 1293, COUNTY OF YELLOWSTONE, STATE OF MONTANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

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**CONTAINING A COMPUTED AREA OF 2,050.0 SQUARE FEET MORE OR LESS.**

**EXHIBIT A (continued)**

**ACCESS AND UTILITIES**

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**A 20 FOOT WIDE ACCESS AND UTILITY EASEMENT LOCATED IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 1 SOUTH, RANGE 25 EAST OF THE P.M.M., SAID PARCEL BEING A PART OF TRACT 1-A, CERTIFICATE OF SURVEY NO. 1293, COUNTY OF YELLOWSTONE, STATE OF MONTANA, BEING 10 FEET ON EACH SIDE OF THE FOLLOWING CENTERLINE:**

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N82°18'54"E, 113.59 FEET; THENCE  
S80°11'35"E, 102.21 FEET; THENCE  
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RIGHT-OF-WAY LINE OF CENTRAL AVENUE**

**CONTAINING A COMPUTED AREA OF 49,932 SQUARE FEET OR 1.15 ACRES MORE OR LESS.**

**City Council Regular**

**Date:** 02/27/2023  
**Title:** Public Transit Agency Safety Plan 2023 Update  
**Presented by:** Rusty Logan  
**Department:** Transit  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends City Council approve and adopt the updated MET Transit Agency Safety Plan as required by the Federal Transit Administration (FTA) under the final rule covered by 49 CFR Part 673.

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

The FTA developed and published a final rule for Public Transportation Agency Safety Plans as originally authorized by the Moving Ahead for Progress in the 21st Century Act (MAP--21) and modified by the Infrastructure Investment and Jobs Act (IIJA), requiring operators of public transportation systems who receive Federal financial assistance under 49 U.S.C. Chapter 53 to develop Public Transportation Agency Safety Plans based on the Safety Management System approach. The development and implementation of these safety plans helps to ensure that public transportation systems are safe nationwide. In order to meet this requirement, MET staff has developed and maintains the MET Transit Agency Safety Plan in accordance with and guidance from the FTA. The overall structure and practices outlined by the Plan will continue to be implemented with both the body and related appendices reviewed annually and updated as needed. As MET recently completed its annual review of the Plan, it has updated language in the body primarily regarding required additions under the IIJA, including infectious disease related items and updated agency responsibilities within MET's personnel structure. This Plan covers all areas of the City of Billings MET Transit operation in regard to safety, including vehicle operation, passenger service, fleet and facility maintenance, and administration. As outlined by the final rule in 49 CFR Part 673, this Plan requires review and approval of the Plan by the transit agency's governing board, the Billings City Council, upon creation of the Plan and when updates to the body of the Plan occur. Specific updates to the Plan are outlined on page 3 of the document, with items listed under the most recent version number.

**ALTERNATIVES**

City Council may:

- Approve the MET Transit Agency Safety Plan, ensuring compliance with FTA regulations; or
- Not Approve the MET Transit Agency Safety Plan. This action would put the receipt of Federal funding in jeopardy, placing a significant financial strain on both the capital and operational needs of the MET Transit Division and impair the City's ability to provide transit services to the population of Billings.

**FISCAL EFFECTS**

At this time, there will be no additional financial impact as the MET Transit Division intends to continue utilizing existing personnel and resources to fulfill the requirements of the MET Transit Agency Safety Plan. However, as the Plan continues to develop, additional capital and or operational resources may be necessary and will be evaluated as the issues arise.

**Attachments**

22/23 PTASP

City of Billings  
Aviation and Transit Dept.



MET TRANSIT DIVISION  
Public Transit Agency Safety Plan  
01/2023

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## **TRANSIT AGENCY INFORMATION**

Accountable Executive: Rusty Logan; Transit Manager

Chief Safety Officer: Lindsay Gran; Transit Supervisor

MET Transit operates under FTA funding sources: 5303, 5307, 5339, 5310.

The Metropolitan (MET) Transit System is a division of the Aviation and Transit Department within the City of Billings located in Billings, MT. The system provides public transportation service within city limits, which includes both fixed-route bus services and ADA paratransit services (referred to as MET Plus). MET Transit has served the city with fixed-route service for over 40 years; ADA paratransit services were incorporated in 1997. The City of Billings has the largest population in the state of Montana at approximately 110,000 people and covers a geographic area of over 41 square miles. Roughly two-thirds of the city are located within the Yellowstone River Valley, with the remainder of the city located north of a sandstone cliff formation above the valley; Billings is also a significant rail hub for the region, which presents a number of challenges regarding planning, development and daily operations of routes where rail and motor vehicle traffic interact.

MET Transit utilizes a fleet of twenty-five (25) buses to provide service on nineteen (19) fixed-routes, as well as fifteen (15) body-on-chassis small buses providing service across ten (10) paratransit demand-response routes. These vehicles operate from approximately 6:00 AM to 7:00 PM on weekdays and 8:00 AM to 5:30 PM on Saturdays. Further, MET Transit has three (3) separate property locations with three (3) separate facilities, consisting of the main operations facility and two transfer centers placed strategically in the city. The METroplex, located at 1705 Monad Rd is the main operations facility and consists of a large building combining the administrative offices, bus storage and fueling bays, fleet maintenance bays, and general inventory storage; this facility also has a smaller secondary building which houses the MET Transit bus wash bay. All rolling stock, equipment, and parts inventories are housed at the METroplex. The Stewart Park Transfer Center, located on Stewart Park Rd, consists of a large bus parking area with passenger shelters for transferring passengers between buses, as well as a small outbuilding which serves as a driver break area. The Downtown Transfer Center, located at 220 N. 25th St, consists of a large parking area with passenger shelters and a facility containing driver break areas, as well as offices for periodic administrative use.

## **ANNUAL REVIEW & UPDATE PROCESS**

The annual review and update of this Public Transit Agency Safety Plan (PTASP) plan will take place on the calendar year. Any and all updates will be finalized and in place by



February 1<sup>st</sup> of each the following year. The review will be led by the Accountable Executive, Transit Manager Rusty Logan, with support from Chief Safety Officer, Transit Supervisor Lindsay Gran, as well as the remaining management team with input from the safety committee. Updates will be administered based on operational needs, updated regulations, safety goals, and employee and public feedback, as well as informed by any safety findings or issues that arise throughout the previous year.

**PLAN DEVELOPMENT, APPROVAL, AND UPDATES**

| <b>DRAFTED BY</b>                         |                                                                                                                                                                                                                                                            | City of Billings- MET Transit         |                    |
|-------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|--------------------|
| <b>SIGNATURE OF ACCOUNTABLE EXECUTIVE</b> |                                                                                                                                                                                                                                                            | _____<br>Rusty Logan- Transit Manager |                    |
| <b>CITY COUNCIL APPROVAL</b>              |                                                                                                                                                                                                                                                            | Meeting Minutes Attached              |                    |
| <b>MAYOR SIGNATURE</b>                    |                                                                                                                                                                                                                                                            | _____<br>Bill Cole - Mayor            | _____<br>DATE      |
| <b>VERSION NUMBER AND UPDATES</b>         |                                                                                                                                                                                                                                                            |                                       |                    |
| <b>VERSION NUMBER</b>                     | <b>SECTION/PAGES AFFECTED</b>                                                                                                                                                                                                                              | <b>REASON FOR CHANGE</b>              | <b>DATE ISSUED</b> |
| 0001                                      | All                                                                                                                                                                                                                                                        | New Document                          | December 31, 2020  |
| 0002                                      | Page 2 Annual Review & Update<br>Page 11 Discipline Thresholds<br>Page 15 Safety Recognition<br>Page 22 Safety Risk Register<br>Page 23 & 24 Appendix G - Safety Assurance<br>Page 25 Appendix H - Self Reporting<br>Page 26 Appendix I – Self Report Form | Annual Review                         | January 10, 2022   |
| 0003                                      | Page 8 Agency Leadership - Road Supervisor<br>Page 32 Appendix J – Infectious Disease Cleaning<br>Page 33 – Appendix K – Organizational Structure                                                                                                          | Annual Review                         | January 16, 2023   |



### **SAFETY PERFORMANCE TARGET COORDINATION**

MET Transit’s Accountable Executive shares our Public Transit Agency Safety Plan, including safety performance targets, with the Technical Advisory Committee (TAC). The TAC is comprised of both State of Montana representatives and the Billings-Yellowstone County Metropolitan Planning Organization. MET personnel are available to coordinate with both the State of Montana and the MPO at any time regarding Safety Performance Target Coordination.

| <b>Targets Transmitted to the State</b> | <b>State Entity Name</b>        | <b>Date Targets Transmitted</b> |
|-----------------------------------------|---------------------------------|---------------------------------|
|                                         | State of Montana                |                                 |
| <b>Targets Transmitted to the MPO</b>   | <b>City of Billings MPO</b>     | <b>Date Targets Transmitted</b> |
|                                         | Billings-Yellowstone County MPO |                                 |

## ANNUAL SAFETY PERFORMANCE TARGETS

Current targets are based on the previous calendar year operating information; for 2022, MET recorded one (1) safety event for Fixed Route and zero (0) for paratransit. No fatalities or injuries occurred for either mode of service.

System reliability will reflect significantly fewer failures in 2022 than reported in 2021. In 2021 MET erroneously recorded all failures and in 2022 MET is reporting only major failures that resulted in a loss of service. In addition to the change in failure recording, MET has adjusted the reporting period to a calendar year, instead of the previously recorded federal fiscal year. The safety targets reflect data from October 2021 through December 2022.

| <b>MODE OF TRANSIT SERVICE</b> | <b>FATALITIES (TOTAL)</b> | <b>FATALITIES (per 100k VRM)</b> | <b>INJURIES (TOTAL)</b> | <b>INJURIES (per 100k VRM)</b> | <b>SAFETY EVENTS (TOTAL)</b> | <b>SAFETY EVENTS (per 100k VRM)</b> | <b>SYSTEM RELIABILITY (VRM/Failures)</b> |
|--------------------------------|---------------------------|----------------------------------|-------------------------|--------------------------------|------------------------------|-------------------------------------|------------------------------------------|
| Fixed-Route                    | 0                         | 0                                | 0                       | 0                              | 1                            | < 1                                 | 10,718                                   |
| Paratransit                    | 0                         | 0                                | 0                       | 0                              | 0                            | 0                                   | 26,213                                   |

## **SAFETY MANAGEMENT POLICY**

### **Safety Management Policy Statement**

MET Transit is dedicated to maintaining a safe operation while providing the City of Billings with a cost-effective and efficient public transportation system. MET has developed the following policies to facilitate a safe working environment for employees, customers, and the general public.

The purpose of this plan is to provide a structured safety management approach that effectively controls operational safety risks and continuously improves the division's safety performance:

- Document a top-down commitment from management and a commitment from employees, contractors, and the general public to achieve safety goals
- Establish a chain of control to document the implementation of the PTASP through guidelines, policies, and provisions
- Identify safety management roles and responsibilities that outline ownership at every level
- Establish the Agency's safety goals and objectives while ensuring MET is following industry safety practices and federal recommendations
- Set safety performance targets to ensure MET achieves its safety objectives.
- Define acceptable levels of safety performance for provided services
- Provide a framework and guidance to implement, evaluate, and continuously improve safety policies, the safety risk management processes, and the achievement of related goals and objectives
- Establish safety programs that document MET Transit's commitment to safety
- Maintain SMS records according to reporting year and type of record. All records will be maintained for a minimum of three (3) years.

This PTASP applies to all MET Transit operations and related activities. All MET facilities fall under the same requirements that equipment, supplies, practices, and procedures meet or exceed applicable federal, state, and local standards, as well as the MET Transit Safety Management Systems (SMS) standards.

**Safety Management Policy Communications**

Rusty Logan, MET’s Transit Manager, and Accountable Executive informed our staff of the implementation of our PTASP plan in August of 2020. MET Transit distributes a hard copy of the Safety Management Policy to each employee, as well as posts the policy on the MET Transit website. MET Transit utilizes a safety bulletin board in the breakroom where the policy and all supporting documents will be displayed. MET has formed a safety committee comprised of management, operators, maintenance staff and administrative personnel to carry out and continually evaluate various aspects of the safety plan. Further, the safety committee will provide a platform for employees to communicate safety concerns and allow management to communicate mitigation updates. All new hires will be given a one-on-one introduction to MET’s Safety Management Policy.

**Authorities, Accountabilities, and Responsibilities**

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Accountable Executive</b></p> | <p>The Transit Manager’s responsibilities for the SMS Plan include:</p> <ul style="list-style-type: none"> <li>• Acts as the division’s safety advocate</li> <li>• Maintains authority for major financial issues</li> <li>• Directs responsibility for the conduct of the division’s affairs</li> <li>• Has final authority over division operations</li> <li>• Establishes and promotes safety policy</li> <li>• Collaborates with Management Staff to establish the division’s safety objectives and targets</li> <li>• Has final responsibility for the resolution of all safety issues</li> </ul> |
| <p><b>Chief Safety Officer</b></p>  | <p>A designated Transit Supervisor will serve as the Agency’s Chief Safety Officer (CSO) and has the oversight authority and responsibility for implementing the division’s Safety Management System (SMS). The CSO reports directly to the Transit Manager. The CSO is responsible for providing resources and executive-level safety advocacy and direction to Transit Supervisors who manage day-to-day implementation and operation of the Division’s SMS.</p>                                                                                                                                     |

|                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Agency Leadership</b></p>        | <p>The role of the Transit and Road Supervisor is to assist the CSO in maintaining safe operations. The duties of the Supervisors include taking a lead role in:</p> <ul style="list-style-type: none"> <li>• Developing/maintaining safety policies, plans, procedures, and processes, along with developing and maintaining a proactive SMS Plan/program</li> <li>• Providing advice for developing realistic and data-driven safety performance indicators and targets</li> <li>• Providing advice, interpretation, and recommendations over technical matters such as safety design and systems in new bus purchases, facility renovations, decommissioning of old equipment, and other areas including but not limited to: standards for safe working, job hazard analyses, and assisting with the development of Standard Operating Procedures (SOPs)</li> <li>• Leading the development of safety training, competency and awareness programs, and providing advice, input, and final review in the development of training activities</li> <li>• Tailor safety management plans for conduct of operations based upon risk</li> <li>• Engaging in Risk Management in safety audit activities, including verifying compliance with the SMS Plan with relevant guidelines and standards</li> <li>• Allocate safety resources based on work, associated hazards and the importance of facilities/operations</li> <li>• Provide training and education programs that maintain competency in safety-critical areas</li> <li>• Measure and report program effectiveness in a form that is useful and relevant</li> <li>• Road supervision and addressing of customer complaints</li> <li>• Administration of daily safety messages before operators begin their shift</li> </ul> |
| <p><b>Key Staff and Activities</b></p> | <p>MET Transit has an internal safety committee and quarterly staff meetings to support its SMS and safety programs:</p> <ul style="list-style-type: none"> <li>• Quarterly Staff Meetings: Hazard reports and mitigations will be shared; safety topics will be brought up and discussed. Any safety concerns or further information will be documented.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

|  |                                                                                                                                                                                                                                                                                                              |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <ul style="list-style-type: none"> <li>• Safety Committee: The internal safety committee will meet monthly to discuss hazards, mitigations, and any further safety issues that may arise. The safety committee will be used as a vehicle for further employee safety reporting and communication.</li> </ul> |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Employee Safety Reporting Program**

At MET Transit, the objective is to cultivate and foster a proactive safety culture in which employees are comfortable and encouraged to bring safety concerns to the attention of MET Management. MET recognizes that employees are most familiar with the details of their respective jobs and work environment, which makes their input crucial to maintaining safety in the workplace. Therefore, when witnessing an unsafe act or noticing an unsafe condition, near miss, or unsafe act, employees must promptly report the unsafe condition or act to a Supervisor, Chief Safety Officer, or Transit Manager. Employees should receive a clear answer with a plan for correcting the issue.

No person will be penalized or retaliated against for bringing safety issues to the attention of management. This statement does not apply to information received from a source other than the employee, or which involves an illegal act, or a deliberate or willful disregard of policy, regulations, or procedures.

There are several ways employees can report their safety concerns to management:

- 1) Report directly to a Supervisor
- 2) Report directly to the Chief Safety Officer
- 3) Report directly to the Transit Manager
- 4) Submit a safety concern anonymously via the safety suggestion box, located in the employee METroplex break area
- 5) Report minor safety concerns to transit dispatch

All safety concerns and comments are reviewed with follow-up by the direct supervisors in a timely manner.

Examples of information typically reported include:

- Safety concerns in the operating environment (potholes, water main break, etc.)
- Policies and procedures that are not working as intended
- Information regarding safety events (perhaps lack of radio communication or failure of equipment)

The Chief Safety Officer will review and document all safety items as needed. Forms can be submitted to the safety suggestion box or directly turned in to supervisors. All safety reporting forms are as follows:

- All near misses, safety events, or hazards will be reported on the Safety Reporting Form, which can be found in Appendix A.

- Vehicle breakdowns will be logged on a spreadsheet by transit dispatchers daily. The vehicle breakdown sheet can be found in Appendix B.
- City of Billings Harassment Report Form can be found in Appendix C.
- City of Billings Workplace Violence Report form can be found in Appendix D.
- MET Transit Safety Risk Register can be found in Appendix E.
- City of Billings Incident Report Form can be found in Appendix F.
- Self Reporting/Near Miss Form can be found in Appendix I.

## **SAFETY RISK MANAGEMENT**

### **Safety Risk Management Process**

A Hazard is defined as “a condition with the potential to cause harm.” Risk management is a systematic approach to managing workplace hazards. It is essential that management identifies, evaluates, and determines the means to reduce risks to an acceptable level to protect employees, visitors, third-party contractors, and others who are physically present in the workplace. Risk management also protects assets and considers how to avoid losses.

After hazards and their potential impact have been identified, MET’s Supervisors conduct a Safety Risk Assessment to determine the seriousness of the risk. Factors considered include the likelihood of occurrence, the severity of the consequences should there be an occurrence and the level of exposure to the hazard.

The evaluation consists of:

- Existing controls –Existing processes, devices, practices, or controls that act to minimize threats or enhance opportunities, including an indication of how they might be of influence
- Consequence – A description and rating of the consequence of a risk, in terms of the loss or gain that may be experienced if the risk event occurs
- Likelihood – A description and rating of the likelihood of the risk for the full range of risk event consequences (for opportunities, it is the likelihood of the stated gain being realized if the opportunity is pursued).

MET Transit supervisory staff will assess safety risks utilizing the Safety Risk Matrix. Results of the risk evaluation process will help prioritize the risk and determine whether it is being appropriately managed or controlled. If the risks are acceptable, the hazard will need further monitoring. If the risks are unacceptable, MET will take necessary steps to lower the risk to an acceptable or tolerable level, or to remove or avoid the hazard.

When contractors work on transit property, it is expected that they wear necessary personal protective equipment and follow all safety protocols put in place by MET. This is essential for the safety of passengers, transit employees, contractors, and protection of transit property. MET Transit has a duty to inform contractors when knowledge of hazards exists. Any unsafe

act observed by the contracting agency must be addressed, up to and including, work stoppage. All unsafe contractor behaviors will be recorded on MET's Safety Reporting Form, which can be found in Appendix A.

### **Safety Hazard Identification**

Hazard identification and hazard analysis are tools the division uses to identify and address hazards before they escalate into incidents or accidents. At MET Transit, hazards are identified through the following activities:

- Employee safety reporting
- Customer service reporting
- Observations of operations
- Safety inspections
- Incident reporting and investigation
- Incident, injuries, and accident history
- Items discussed at the MET Transit Staff Meetings
- Legislation and industry standards
- Data trending reports made available through incident, injury and accident history, insurance carriers and pools, and local authorities
- Review and audit of safety policies and procedures, and safety instructions for equipment and materials
- Random camera footage review, ride-along with operators, or direct field observation performed by a-Supervisor

When hazards are identified, they are addressed by:

- Immediate resolution
- Reporting to a higher level within the organization
- Reporting the hazard to the representative-Supervisor
- Inputting the risk into the Safety Risk Register, which can be found in Appendix G, so that all mitigations are available for employee viewing
- Utilizing MET's lock-out tag-out policy when deemed necessary

### **Safety Risk Assessment**

All identified and system-accepted hazards, near-miss situations, and safety events that occur shall be risk assessed. Safety risk assessment will be conducted for the "as reported" hazardous condition and again conducted for the "mitigated" condition.

Additionally, and separated to individual proactive reports, system-wide annual risk assessments will be conducted. The risk assessment and risk control process shall be reviewed and revised:

- As a part of MET Transit's safety meetings
- As applicable due to new or revised activities or procedures

- Annually by management

A safety risk assessment has two elements: hazard severity and hazard probability. Hazard severity is a qualitative determination of the worst likely case that could be anticipated because of human error, poor design, failure or malfunction of component(s). Hazard severity ratings are as follows:

- Catastrophic – Operating conditions are such that human error, poor design, failure, or malfunction of components may commonly cause multiple deaths, numerous casualties or major system loss. Catastrophic hazards require the immediate cessation of the unsafe activity or operation.
- Significant – Operating conditions are such that human error, poor design, failure, or malfunction of components may commonly cause death, limited casualties or significant system loss that will require immediate termination of the unsafe activity or operation.
- Moderate – Operating conditions are such that human error, environment, poor design, failure or malfunction of components or procedural deficiencies may commonly cause severe injury, or major subsystem damage requiring immediate corrective action.
- Low – Operating conditions are such that they commonly cause minor injury, minor occupational illness, or minor system damage. Human error or component failures can be controlled or counteracted.
- Negligible – Operating conditions are such that human error, poor design, failure or malfunction of components may commonly cause no, or less than minor injury, occupational illness, or system damage. Hazard probability is a subjective measure of the likelihood that a specific hazard will occur during the useful life of the asset.

Hazard probability is categorized as follows:

- Frequent – Likely to occur frequently
- Probable – Likely to occur several times
- Occasional – Likely to occur sometimes
- Remote – Unlikely but possible to occur
- Improbable – So unlikely that it can be rejected from consideration

Hazard severity and probability can be considered using a Risk Assessment Matrix. A Risk Assessment Matrix helps to assess the level of risk (risk rating) for each identified hazard and subsequent control measures to apply through hazard resolution or mitigation, to rank the prioritization of limited resources in the event that more hazards are identified than budget allocation allows for the implementation of hazard elimination or mitigation measures.

## RISK RATING = LIKELIHOOD x SEVERITY

|                                      |                     |          |                   |               |                   |                 |                 |
|--------------------------------------|---------------------|----------|-------------------|---------------|-------------------|-----------------|-----------------|
| S<br>E<br>V<br>E<br>R<br>I<br>T<br>Y | <b>Catastrophic</b> | <b>5</b> | 5                 | 10            | 15                | 20              | 25              |
|                                      | <b>Significant</b>  | <b>4</b> | 4                 | 8             | 12                | 16              | 20              |
|                                      | <b>Moderate</b>     | <b>3</b> | 3                 | 6             | 9                 | 12              | 15              |
|                                      | <b>Low</b>          | <b>2</b> | 2                 | 4             | 6                 | 8               | 10              |
|                                      | <b>Negligible</b>   | <b>1</b> | 1                 | 2             | 3                 | 4               | 5               |
|                                      |                     |          | 1                 | 2             | 3                 | 4               | 5               |
|                                      |                     |          | <b>Improbable</b> | <b>Remote</b> | <b>Occasional</b> | <b>Probable</b> | <b>Frequent</b> |
|                                      |                     |          | <b>LIKELIHOOD</b> |               |                   |                 |                 |

|              |  |               |
|--------------|--|---------------|
| Catastrophic |  | STOP          |
| Unacceptable |  | URGENT ACTION |
| Undesirable  |  | ACTION        |
| Acceptable   |  | MONITOR       |
| Desirable    |  | NO ACTION     |

### Safety Risk Mitigation

If a risk is deemed unacceptable, risk controls are developed that will either eliminate the risk or mitigate the risk to an acceptable level. After mitigations are developed, the Chief Safety Officer will reassess the new controls to ensure they do not produce an alternative risk. A second assessment of the new control will be conducted following the same procedure. Once satisfied that residual risk has been mitigated to an acceptable level, the new process/solution will be implemented and documented.

Many different means are employed to resolve identified hazards. These include, but are not limited to design changes, the installation of controls and warning devices, and the implementation of special procedures. The methods for resolving hazards are as follows:

- *Design for Minimum Risk* – From the initial design, eliminate hazards through design selection.
- *Safety Devices* - Hazards that cannot be eliminated or controlled through design selection shall be controlled using fixed, automatic, or other protective safety design features or devices. The division will perform periodic checks of safety devices.
- *Warning Devices* - When neither design nor safety devices can effectively eliminate or control an identified hazard, devices may be used to detect and generate an adequate warning signal to correct the hazard or evacuate employees. Warning signals shall be

designed to minimize the probability of employees responding incorrectly to signals and shall be standardized within similar systems.

- *Procedures and Instruction* - Where it is impossible to eliminate or adequately control a hazard through design selection, engineering or use of safety and warning devices, the agency will use procedures and training to control the hazard. Procedures may include the use of personal protective equipment. Precautionary notations shall be standardized as specified by management; safety critical tasks and activities may require employees to be certified.

Other sources of information:

- *Risk Management or Safety Guidelines* – Provide requirements across MET Transit based on policy, legislation or regulation (e.g., Operator’s Manual City of Billings Human Resources Employee Manual).
- *Safe Work Instructions* – MET Transit-specific procedures and instructions developed and used by management to manage health and safety and implement the SMS within the team.

When to use Safety Risk Mitigation:

- *Daily Operational Systems Assessment* - Methods that provide real-time feedback of safety compliance, adherence to established safety norms, or identified job hazards.
- *Design* – Steps taken to ensure safety requirements are considered in the planning, operation, and disposal of all items including shops, facilities, and equipment.
- Performance of asset condition assessments and SMS hazard analysis to ensure compliance with State of Good Repair standards.

Safety Risk Matrix Discipline Thresholds

- *Score of 15 or Above: Stop or Urgent Action* - Any risk that has been given a score of 15 or higher will result in corrective action. Per the Risk Matrix these scores would require urgent action or cessation of action.
- *Score of 12 or below: Action* - Risks that have been given a score of 14 or below may result in corrective action. MET Transit’s goal is to provide training and guidance to prevent incidents and risky behavior. Risks given a score of 14 below will be addressed with additional training and coaching letters; however, operators that are found to have repetitive risk behavior may be subject to disciplinary action.

## **SAFETY ASSURANCE**

The purpose of Safety Assurance is to evaluate the overall effectiveness of safety risk controls established under Safety Risk Management and MET Transit PTASP. MET Transit is responsible for monitoring and evaluating the operations system to ensure that: 1) emerging risks are identified, 2) MET is in compliance with regulatory requirements applicable to the

SMS plan, and 3) the organization meets or exceeds its safety objectives through the collection, analysis and assessment of data regarding the organization's performance. MET Transit's safety assurance activities for supporting oversight and performance evaluation includes, but is not limited to:

- Quarterly Safety Meetings
- Monthly Safety Committee Meetings
- Safety Inspections
- Risk Assessment
- Internal Audits
- Employee Reporting
- Regular review of onboard and facility camera footage to assess employees and specific incidents
- Regular in field and on the job observation of employees
- Regular vehicle inspections and preventative maintenance
- Annual employee evaluations
- Regular mitigation review to determine identified mitigations that may be ineffective, inappropriate, or not implemented as they were intended.

MET's Chief Safety Officer and supervisory team will document all activities listed above. Upon review, the MET team will make appropriate changes to safety practices to ensure that all mitigations are deemed effective.

### **Safety Event Investigation**

Documented procedures are maintained for conducting safety investigations of events (accidents, incidents, and occurrences, as defined by FTA) to find causal and contributing factors and review the existing mitigations in place at the time of the event.

The Chief Safety Officer maintains all documentation of investigation policies, processes, forms, checklists, activities, and results. Safety event investigations are chaired by the Chief Safety Officer and will include Transit and Road Supervisors and the Accountable Executive. The following determinations will need to be made:

- The accident was preventable or non-preventable;
- Personnel require discipline or retraining;
- The causal factor(s) indicate(s) that a safety hazard contributed to or was present during the event; and
- The accident appears to involve underlying organizational causal factors beyond just individual employee behavior

Employees violating mitigations of and policies to prevent catastrophic and unacceptable risks will result in disciplinary action, while undesirable and lower risks will require further

investigation on a case by case basis. All risk violations will be addressed directly with an employee by a Supervisor. Refresher training will be provided to the identified employee as appropriate.

### **Monitoring of Safety Reporting**

MET Transit's Chief Safety Officer and Safety Committee routinely review safety data captured in employee safety reports, safety meeting minutes, customer complaints, and other safety communication channels. When necessary, the Chief Safety Officer or Safety Committee may make recommendations to ensure concerns are investigated through the Safety Risk Management Process.

The Chief Safety Officer and Safety Committee also review internal and external audits to ensure compliance with all MET Transit safety regulations.

## **SAFETY PROMOTION**

### **Training**

The comprehensive safety training program applies to all employees directly responsible for safety, including:

- Transit operators,
- Dispatchers,
- Mechanics and Fleet/Facility Techs,
- Road Supervisors,
- Transit Supervisors,
- Chief Safety Officer, and
- Accountable Executive.

Resources are dedicated to conduct a comprehensive safety training program, as well as training on SMS roles and responsibilities. The scope of the safety training, including annual refresher training, is appropriate to each employee's individual safety-related job responsibilities and their role in the SMS.

Operations safety-related skill training includes the following:

- New-hire transit operator classroom and hands-on skill training,
- Transit Operator refresher training,
- Classroom and on-the-job training for dispatchers,
- Classroom and on-the-job training for Transit Supervisors,
- Classroom and on-the-job training for Road Supervisors,
- Accident investigation training for the Chief Safety Officer, Supervisors and Accountable Executive.

Vehicle maintenance safety-related skill training includes the following:

- Ongoing vehicle maintenance technician skill training,
- Ongoing skill training for vehicle maintenance Transit Supervisor,
- Ongoing hazardous material training for mechanics, fleet services technicians, and
- Training provided by vendors.

The Accountable Executive, Chief Safety Officer, and Supervisors must complete FTA'S SMS Awareness online training.

### **Safety Communication**

The Chief Safety Officer and Supervisors, coordinate safety communication activities for the SMS. Activities focus on the three categories of communication activity established in 49 CFR Part 673 (Part 673):

- **Communicating safety and safety performance information throughout the agency:** Information is communicated on safety and safety performance through the MET Transit Safety Bulletin Board and with a permanent agenda item in all quarterly Drivers' Meetings dedicated to safety. Information typically conveyed during these meetings includes safety performance statistics, lessons learned from recent occurrences, upcoming events that may impact service or safety performance, and updates regarding SMS implementation, policy, and procedures. Requests for information from drivers during these meetings is also recorded in meeting minutes.
- **Communicating information on hazards and safety risks relevant to employees' roles and responsibilities throughout the agency:**  
As part of new-hire training, safety policies and procedures are distributed, included in the Employee Handbook, to all employees. Training is provided on these policies and procedures and discussed during safety talks between Supervisors and bus operators and vehicle technicians. For newly emerging issues or safety events at MET, the Chief Safety Officer issues bulletins or messages to employees that are reinforced by Supervisors in one-on-one or group discussions with employees.
- **Informing employees of safety actions taken in response to reports submitted through the Employee Safety Reporting Program:**  
Targeted communication to inform employees of safety actions taken in response to reports submitted through the Employee Safety Reporting Program is provided, including handouts and flyers, safety talks, updates to bulletin boards, and one-on-one discussions between employees and supervisors.

### **Safety Recognition**

MET Transit would like to recognize employees that exemplify workplace safety.

### **Policy**

- Annually
  - On their anniversary date, each employee will be eligible to receive a pin recognizing their dedication to safety. Pins will be awarded during each employee's annual evaluation.
    - To receive a pin an employee must be in good safety standing. During the annual evaluation, a supervisor will review supervisor notes, corrective actions, and any other information in an employee's personnel file to determine pin eligibility.
- Milestone Years
  - Beginning at 5 years of safe service an employee will receive a MET Transit coat with years of safe service embroidered on it.
  - Coats will be distributed on employee anniversaries in increments of 5 years.
    - MET Transit will be responsible for the initial cost of each coat; however, if during the 5 years the coat needs replacement, the employee can utilize their uniform budget to have it replaced.

\*MET Transit will be starting the coat program retroactively, meaning that we will comb through each employee's record from their start date and award safety items accordingly.

## COMMONLY USED ACRONYMS

| Acronym | Word or Phrase                     |
|---------|------------------------------------|
| PTASP   | Public Transit Agency Safety Plan  |
| CSO     | Chief Safety Officer               |
| ESRP    | Employee Safety Reporting Program  |
| FTA     | Federal Transit Administration     |
| MPO     | Metropolitan Planning Organization |
| SMS     | Safety Management System           |
| SRM     | Safety Risk Management             |



**APPENDIX A – NEAR MISS/ HAZARD IDENTIFICATION FORM**

**City of Billings MET Transit  
Near Miss/Hazard Identification Report**

|                                                                   |                                  |                                                  |
|-------------------------------------------------------------------|----------------------------------|--------------------------------------------------|
| <b>A. Near Miss/ Hazard Description (Complete all that apply)</b> |                                  |                                                  |
| <input type="checkbox"/> <b>Near Miss</b>                         |                                  | <input type="checkbox"/> <b>Workplace Hazard</b> |
| <b>Date:</b>                                                      | <b>Employee:</b>                 | <b>Reported to Supervisor:</b>                   |
| <b>Time:</b>                                                      | <b>Location and Unit Number:</b> | <b>Date:</b>                                     |
|                                                                   |                                  | <b>Time:</b>                                     |

|                                                                                                                                                                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Describe the near miss/ hazard: (Provide any contributing events and circumstances; work activity; procedures or work instructions that may apply. Attach worksheets, drawings, photographs for clarification, if applicable.)</b></p><br><br><br><br><br><br><br><br><br><br> |
| <p><b>Root Cause(s)/Contributing Factor(s):</b></p><br><br><br><br>                                                                                                                                                                                                                  |
| <p><b>Mitigation Action Taken (If necessary):</b></p>                                                                                                                                                                                                                                |
| <p><b>Immediate:</b></p><br><br><br>                                                                                                                                                                                                                                                 |
| <p><b>Long Term:</b></p><br><br><br>                                                                                                                                                                                                                                                 |

|                                                                   |
|-------------------------------------------------------------------|
| <p><b>B. Environmental (Check or complete all that apply)</b></p> |
|-------------------------------------------------------------------|

| Potential Release (gas, liquid, solid) | Estimated Amount | Unit of Measure |
|----------------------------------------|------------------|-----------------|
|                                        |                  |                 |

|                                                                                                                               |       |
|-------------------------------------------------------------------------------------------------------------------------------|-------|
| <b>C. Mitigation Action Complete</b>                                                                                          |       |
| Supervisor Signature:                                                                                                         | Date: |
| Employee Signature:                                                                                                           | Date: |
| <b>D. Corrective Action (If applicable)</b><br><input type="checkbox"/> Oral Warning <input type="checkbox"/> Written Warning |       |
| Employee Signature:                                                                                                           | Date: |
| Supervisor Signature:                                                                                                         | Date: |





**APPENDIX C – HARRASMENT REPORT FORM**

**CITY OF BILLINGS  
HARRASMENT REPORT**  
(Submit to Human Resources)

Name: \_\_\_\_\_ Job Title: \_\_\_\_\_  
Department/Divison: \_\_\_\_\_ Supervisor: \_\_\_\_\_

**STATEMENT:**

Name(s) of Witnesses:  
\_\_\_\_\_

Description of Incident: (Describe in your own words the actions of all involved - attach additional pages if necessary)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that Human Resources will conduct an investigation of my report. A report of harassment, its investigation, the outcome of the investigation and any action taken relating to a specific employee is confidential. Dissemination of confidential information shall be limited to persons with a need to know in order to conduct an investigation and take appropriate corrective action.

I hereby authorize dissemination of information regarding this report to other persons with a need to know.

I acknowledge that I have read and understand the above statements and certify that all information I have provided is true to the best of my knowledge.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Submitted to: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

**March 2004**



**APPENDIX D – WORKPLACE VIOLENCE REPORT FORM**

**CITY OF BILLINGS  
REPORT OF WORKPLACE VIOLENCE  
(Submit to Human Resources)**

Name: \_\_\_\_\_ Job Title: \_\_\_\_\_  
Department/Division: \_\_\_\_\_ Supervisor: \_\_\_\_\_

**STATEMENT:**

Name(s) of Witnesses:  
\_\_\_\_\_  
\_\_\_\_\_

Description of Incident: (Describe in your own words the actions of all involved -  
attach additional pages if necessary)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that Human Resources will conduct an investigation of my report.  
A report of workplace violence, its investigation, the outcome of the investigation  
and any action taken relating to a specific employee is confidential.

Dissemination of confidential information shall be limited to persons with a need  
to know in order to conduct an investigation and take appropriate corrective  
action.

I hereby authorize dissemination of information regarding this report to other  
persons with a need to know.

I acknowledge that I have read and understand the above statements and certify  
that all information I have provided is true to the best of my knowledge.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Submitted to: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

**March 2004**

**APPENDIX E- SAFETY RISK REGISTER**

|  <b>SAFETY RISK REGISTER</b> |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |
|---------------------------------------------------------------------------------------------------------------|---------------------------------------|---------------------------|----------------------------------------------------------|-------------------------------------|------------------------------------------------------|-----------------------------------------------------------------------------------|--------------------------------------|----------------------------------|----------------|
| Risk ID #                                                                                                     | Risk Identification/ Description/Date | Risk Evaluation (1 to 25) | Risk Impact/Time Horizon (short term or long term/phase) | Risk Control (Internal or external) | Area of Impact (time, cost, quality, other projects) | Response Strategy (Eliminate, reduce likelihood, reduce impact, accept, transfer) | Assigned Staff Member to Handle Risk | Risk Evaluation After Mitigation | Date Completed |
| 1                                                                                                             |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |
| 2                                                                                                             |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |
| 3                                                                                                             |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |
| 4                                                                                                             |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |
| 5                                                                                                             |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |
| 6                                                                                                             |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |
| 7                                                                                                             |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |
| 8                                                                                                             |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |
| 9                                                                                                             |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |
| 10                                                                                                            |                                       |                           |                                                          |                                     |                                                      |                                                                                   |                                      |                                  |                |

**APPENDIX F – CITY ACCIDENT/INJURY REPORT**



(Revised May '07)

**CITY of BILLINGS ACCIDENT/INJURY FORM**

- REPORT OF:**  Employee on-the-job injury\*  
**(Check all that apply)**  Occupational illness\*  
 Damage to City property  
 Damage to citizen's property or person

**THIS FORM MUST BE COMPLETED AND SUBMITTED TO THE SAFETY OFFICER. EMAIL TO [vergerj@ci.billings.mt.us](mailto:vergerj@ci.billings.mt.us) or FAX TO 657-8390, or SEND VIA COURIER. A DRAFT COPY IS REQUESTED AS SOON AS POSSIBLE, EVEN IF/WHILE YOU ARE ATTEMPTING TO ROUTE FOR REVIEW AND SIGNATURES.**

**EMPLOYEE**

Employee: \_\_\_\_\_ Dept & Position: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Supervisor Phone: \_\_\_\_\_

**INCIDENT**

Date & Time of Incident: \_\_\_\_\_ Address/Location of Incident: \_\_\_\_\_

Describe what occurred: \_\_\_\_\_

Investigating Police Officer: \_\_\_\_\_ Report No.: \_\_\_\_\_

**CDL Holders:** Was employee drug/alcohol tested?  Yes  No If no, why not \_\_\_\_\_  
*(Employee must be immediately tested if any of the following occurs: 1) Fatality; 2) Medical Treatment away from scene & City driver cited; 3) Disabling damage to any vehicle & City driver cited).*

**EMPLOYEE INJURY**

Type of Injury and Part(s) of Body \* \_\_\_\_\_  
 (\*Be specific. e.g., sprained R ankle, bruised L wrist, etc.)

Did or will the employee seek medical treatment?  Yes  No Name of Dr./Hospital: \_\_\_\_\_

Type of medical treatment: \_\_\_\_\_  
 (Must submit doctor's statement/restrictions/release)

Did a doctor remove the employee from work?  Yes  No Date(s) of absence: \_\_\_\_\_

Did a doctor impose restrictions or limitations due to this injury?  Yes  No

If yes, explain: \_\_\_\_\_

*(This is my claims for workers' compensation benefits due to an on-the-job injury, occupational disease or death of the above named worker . I understand that signing this claim for compensation authorizes the release of rehabilitation records, Social Security records and health care information (medical records) relevant to this claim to the workers' compensation insurer and insurer's agents. I also understand that if I obtain or exert unauthorized control over workers' compensation benefits, I may be fined and/or imprisoned.)*

**CITY VEHICLE AND/OR OTHER CITY PROPERTY**

Description of Property \_\_\_\_\_

Vehicle Year, Make & Model \_\_\_\_\_ Vehicle No.: \_\_\_\_\_

Description of Damage (Attach/Enclose photos): \_\_\_\_\_



**CITIZEN/OTHER PARTY INFORMATION**

Name: \_\_\_\_\_ Address: \_\_\_\_\_ Phone(s): \_\_\_\_\_  
City/ST/Zip \_\_\_\_\_ Phone(s): \_\_\_\_\_  
Driver Name (if different than above): \_\_\_\_\_ Phone(s): \_\_\_\_\_  
Owner Name (if different than above): \_\_\_\_\_ Phone(s): \_\_\_\_\_  
Description of Damage (Attach/Enclose photos): \_\_\_\_\_  
Vehicle Year/Make/Model: \_\_\_\_\_ License Plate No.: \_\_\_\_\_ VIN: \_\_\_\_\_  
Insurance Company: \_\_\_\_\_ Policy No: \_\_\_\_\_  
Agent: \_\_\_\_\_ Agent Phone: \_\_\_\_\_  
Citizen injuries and treatment: \_\_\_\_\_  
Doctor or Hospital: \_\_\_\_\_

**WITNESSES: (Attach signed witness statements as appropriate)**

Witness Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Address: \_\_\_\_\_  
Witness Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Address: \_\_\_\_\_  
Witness Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Address: \_\_\_\_\_

**SUPERVISOR'S SECTION**

Date/time employee reported incident to you: \_\_\_\_\_  
Based on your investigation, what was the cause of this accident ?

- |                                                           |                                                         |
|-----------------------------------------------------------|---------------------------------------------------------|
| <u>UNSAFE ACT</u>                                         | <u>UNSAFE CONDITION</u>                                 |
| <input type="checkbox"/> FAILURE TO FOLLOW RULES          | <input type="checkbox"/> UNSAFE LAYOUT                  |
| <input type="checkbox"/> IMPROPER PROCEDURE               | <input type="checkbox"/> UNSAFE EQUIPMENT/FACILITIES    |
| <input type="checkbox"/> HASTE                            | <input type="checkbox"/> INSUFFICIENT EMPLOYEE TRAINING |
| <input type="checkbox"/> FAILURE TO OBTAIN HELP           | <input type="checkbox"/> ACTION OF ANOTHER PERSON       |
| <input type="checkbox"/> IMPROPER USE OF TOOLS/ EQUIPMENT | <input type="checkbox"/> PERSONAL PHYSICAL CONDITION    |
| <input type="checkbox"/> INATTENTION OR DISTRACTION       | <input type="checkbox"/> OTHER (EXPLAIN) _____          |
| <input type="checkbox"/> FAILURE TO USE PPE               |                                                         |

Supervisor's comments – Including what specific corrective actions have been/will be implemented to prevent similar injuries? \_\_\_\_\_

**SIGNATURES: (Please print and sign form before submitting to HR)**

Employee: \_\_\_\_\_ Date: \_\_\_\_\_  
Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_  
Dept/Division Head: \_\_\_\_\_ Date: \_\_\_\_\_

**FAX completed form HR: 657-8390.**

## APPENDIX G -SAFETY ASSURANCE POLICY

**Purpose:** The purpose of this policy is to provide the framework for a Safety Assurance program to ensure the delivery of quality public transportation for the citizens of Billings.

**Policy:** It is the policy of this department to have a Quality Assurance program using random reviews of camera footage, supervisor ride-a-longs, and ride checks quarterly. All on-call Transit Operators and Transit operators of this department will participate in this program.

### Definitions:

- **Ride check:** A supervisor will follow an operator in a service vehicle while the operator is on a route. For up to 20 minutes and may include spot checks.
- **Ride-a-longs:** A supervisor will ride with an operator. For up to one hour of time.
- **Camera footage reviews:** A supervisor will review camera footage. For up to 20 minutes.
- **Superior:** Performance is consistently and significantly beyond established standards. Achieves performance objectives at a fully outstanding level and demonstrates exceptional skill levels.
- **Exceeds Expectations:** Performance is consistently above adequate skill levels. Achieves performance objectives, often beyond expectations.
- **Meets Expectations:** Performance consistently meets job requirements. Achieves performance objectives as stated.
- **Needs Improvement:** Performance in one or more skills is less than expected and needs improvement. Direction, supervision, and learning are required if performance objectives are to be achieved.
- **Unsatisfactory:** Performance in several skills is substantially weak. Performance objectives are not met even with close supervision. Substantial improvement by the employee is required.

**Procedure:** Supervisors will review route video footage, ride check an operator, or ride-a-long with up to 25 percent of the operators quarterly. Driver selection and review type will be random. Supervisors will be looking for but not limited to the following.

Problem-solving/Decision-making

Performance in non-stress conditions

Performance in stress conditions

Rules of the road

Driving proficiency.

Interactions with others

Any Safety Risks that arise from the review.

Each Quarterly review will be handled individually with the operator meeting with members of the supervisory team as soon as possible.

Each witnessed violation will be handled on a case-by-case basis.

- a. The evaluator will consider the risk of the violation.
- b. The evaluator will identify if the violation could be handled with coaching or training.
- c. The evaluator will use corrective action when the violation is 15 or above in the risk matrix. (See page 10 of the PTASP for the matrix.)
- d. The evaluator may use correct action for repeat offenses.
- e. Examples: The operator failed to call out the published time-point stops during the evaluation. The violation would be noted on the form and discussed with the operator. Example 2, the operator did not check a crosswalk for pedestrians and nearly hits a pedestrian while driving across the crosswalk at excessive speeds. The result of this violation would most likely result in corrective action.

## APPENDIX H- SELF REPORTING AND NEAR MISS POLICY

### PURPOSE

The purpose of this policy is to cultivate and foster a proactive safety culture in which employees are comfortable and encouraged to bring safety concerns and reports of close calls to the attention of MET Management. MET recognizes that employees are most familiar with the details of their respective jobs and work environment, which makes their input crucial to maintaining safety in the workplace.

### POLICY

When witnessing an unsafe act, noticing an unsafe condition or near miss, or being involved in a near miss, employees must promptly report the unsafe condition or act to a Transit Supervisor, Chief Safety Officer, or Transit Manager.

No person will be penalized or retaliated against for bringing safety issues to the attention of management, including their involvement in near miss incidents. This statement does not apply to information received from a source other than the employee, or which involves an illegal act, or a deliberate or willful disregard of policy, regulations, or procedures. Repetitive risk behaviors displayed by an employee may also be subject to disciplinary action.

A near miss is defined as a safety event in which no property was damaged, and no personal injury was sustained, but given a slight shift in time or position, damage or injury easily could have occurred.

There are several ways employees can report their safety concerns to management:

- 4 Any safety concern may be reported directly to a Transit Supervisor or the Chief Safety Officer; **near misses** must be directly reported to a Transit Supervisor or the Chief Safety Officer.
- 5 Minor safety concerns, not including near misses, may be reported to Transit Dispatch.
- 6 Safety concerns, not including near misses, may be reported anonymously via the safety suggestion box, located in the employee METroplex break area.

All safety concerns and comments are reviewed with follow-up by the direct supervisors in a timely manner.

Examples of information typically reported include, but is not limited to:

- Safety concerns in the operating environment.
- Policies and procedures that are not working as intended.
- Information regarding safety events.
- Near misses.

**APPENDIX I – SELF REPORT FORM**

**SELF REPORTING/NEAR MISS FORM**

|                                              |  |
|----------------------------------------------|--|
| <b>REPORTING<br/>EMPLOYEE<br/>(REQUIRED)</b> |  |
| <b>DATE/TIME</b>                             |  |
| <b>LOCATION/VEHICLE:</b>                     |  |
| <b>EVENT DESCRIPTION:</b>                    |  |
| <b>MITIGATION SUGGESTION:</b>                |  |

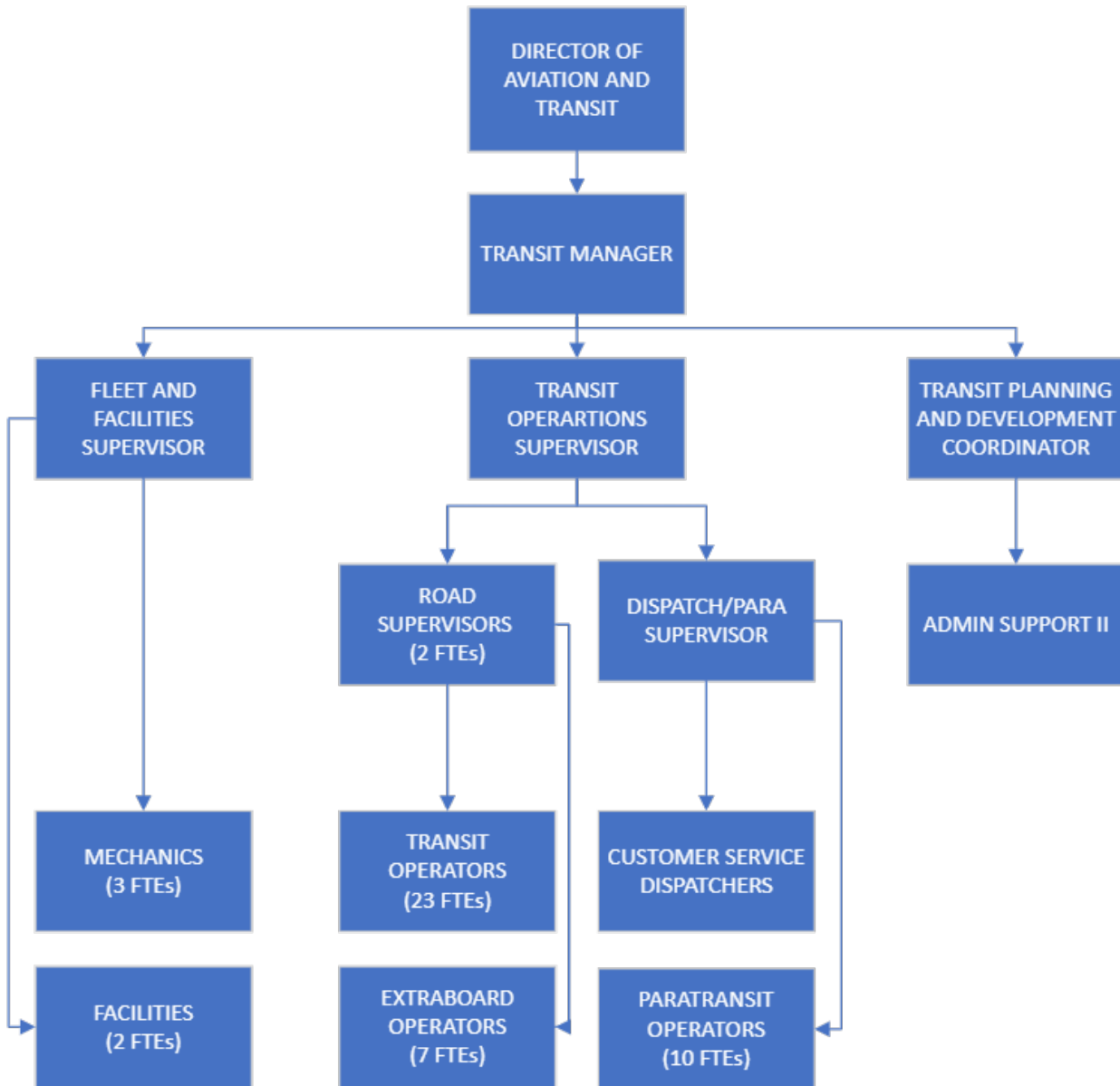
## APPENDIX J – INFECTIOUS DISEASE CLEANING PROTOCOL

1. Program Scope
  - a. MET Transit’s Infectious Disease Cleaning Protocol focuses on the maintenance, cleaning, and disinfecting of transit vehicles and facilities during a pandemic. The protocol was developed in response to COVID – 19 but will be utilized for any future viral outbreaks.
2. Program Schedule
  - a. The Centers for Disease Control and Prevention (CDC) has developed procedures for cleaning and disinfecting facilities and vehicles, which includes recommendations on minimum requirements for the frequency of cleaning activities. These are summarized in the table below.

| ACTIVITY                                                                              | FREQUENCY                                   |
|---------------------------------------------------------------------------------------|---------------------------------------------|
| Facility and vehicle routine cleaning                                                 | Daily                                       |
| Partial facility and vehicle cleaning (high-touch areas ie- time clock, door handles) | During shift changes                        |
| Deep facility and vehicle cleaning (all surfaces cleaned)                             | Weekly                                      |
| HVAC filter change                                                                    | Monthly or by manufacturer’s recommendation |
| Full facility and pesticide vehicle disinfecting                                      | Daily                                       |

3. Cleaning Products
  - a. In addition to the CDC-recommended use of soap and water, MET Transit utilizes disinfectant chemicals for surface cleaning. The disinfectant dispensers are on the columns in the fixed route bays. Each disinfectant station dispensers chemicals for mopping and spray bottle applications. MET Transit also provides foggers cleaning vehicle interiors and surfaces in office areas. SDS sheets for all cleaning chemicals are in the City of Billings database.
4. Personal Protective Equipment
  - a. MET Transit provides all employees with masks, disposable gloves, and eye protection for use while completing all cleaning activities.
5. Records & Quality Assurance
  - a. MET Transit’s supervisory team will perform quality assurance checks daily to ensure that the facility and vehicles are being cleaned properly.
  - b. Cleaning logs for MET Transit vehicles and facilities are kept to ensure that all areas are being cleaned according to the timeline listed in the above table. In the event that a vehicle has been out of service for repair; it will be thoroughly cleaned before being put back into service.

## APPENDIX K – ORGANIZATIONAL STRUCTURE




## MET TRANSIT SAFETY ASSURANCE REVIEW FORM

| Date, Route, & Employee Name: |          | Proficiency <span style="float: right;">(5 is highest)</span> |                          |                          |                          |                          |                          |
|-------------------------------|----------|---------------------------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| SAFETY ELEMENT                | COMMENTS | 1                                                             | 2                        | 3                        | 4                        | 5                        | NA                       |
| Public Interactions           |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Left Turns                    |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Right Turns                   |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Stopping                      |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Reversing                     |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Accelerating                  |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Blinker/Hazard Use            |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Railroad Crossing             |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Intersection Safety           |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Service Stop                  |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Radio Etiquette               |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Parking Lot Safety            |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2 Hands on the wheel          |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Crosswalks                    |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Checking Mirrors              |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lift/Ramp Use                 |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mobility Device Securement    |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Defensive Driving             |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Pre/Post Trip                 |          | <input type="checkbox"/>                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

*Comments or Hazards Identified:*

| SPEED CHECK | LOCATION | Time | Posted | Actual |
|-------------|----------|------|--------|--------|
| Check 1     |          |      |        |        |
| Check 2     |          |      |        |        |
| Check 3     |          |      |        |        |

|                                                                                     |                                  |
|-------------------------------------------------------------------------------------|----------------------------------|
|  | Supervisor Signature: _____      |
|                                                                                     | Employee Signature: _____        |
|                                                                                     | Transit Manager Signature: _____ |

**City Council Regular**

**Date:** 02/27/2023  
**Title:** Donation from Billings TrailNet for WO 23-09 5th Avenue Corridor Phase I Preliminary Design  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Staff recommends that the City Council accept a \$10,000 donation from Billings TrailNet for WO 23-09 5th Avenue Corridor Phase I Preliminary Design.

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

The City of Billings has received a \$10,000 donation from Billings TrailNet for the 5th Avenue Corridor project. The project will complete the preliminary design of a multi-modal trail within the 5th Avenue corridor from the YMCA to the Yellowstone Art Museum. The corridor does not contain any roadway improvements. Council previously approved the professional services agreement for design in December 2022 in the amount of \$104,427.

**ALTERNATIVES**

City Council may:

- Approve the donation; or,
- Not approve the donation. If the donation is not accepted, other funds will be necessary to fund the full scope of design work.

**FISCAL EFFECTS**

This donation will be used to fund a portion of the WO 23-09, 5th Avenue Corridor Phase I (YMCA to Yellowstone Art Museum) engineering design which is budgeted in FY23 to use Tax Increment Financing funds. The total contract is \$104,427.

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**City Council Regular**

**Date:** 02/27/2023  
**Title:** Acceptance of Donation of Rifle Rated Body Armor to the Billings Police Department  
**Presented by:** Rich St. John, Police Chief  
**Department:** Police  
**Presentation:** No  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Staff recommends that City Council accept the donation of Body Armor from Shield 616, Scheels, The Brosovich Family Foundation and The Buchanan Family Foundation.

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

Shield 616, Scheels, The Brosovich Family Foundation and The Buchanan Family Foundation wish to donate body armor to the Billings Police Department. The Goal is to donate a ballistically rated for Rifle Rounds Vest to every officer. Each vest costs \$2,400. Thus far 41 vests have been donated and Shield 616 plans to keep donating until all Billings Police Department officers have a vest. Council policy requires that any donation greater than \$500 must be approved by the City Council.

**ALTERNATIVES**

City Council may:

- Approve the donation to the Billings Police Department for the Rifle Rated Body Armor or;
- Disapprove the donation to the Billings Police Department for the Rifle Rated body Armor and give further direction to staff.

**FISCAL EFFECTS**

There is no impact to the General Fund.

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**City Council Regular**

**Date:** 02/27/2023  
**Title:** Mullowney Lane, Sidewalk Easement from Josephine Corner Apartments, LLC. and Traffic Signal Fixtures and Sidewalk Easement from Roman Catholic Bishop  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends that the City Council accept the Sidewalk Easement with Josephine Corner Apartments, LLC. and the Traffic Signal Fixtures and Sidewalk Easement with the Roman Catholic Bishop of Great Falls.

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

W.O. 22-07 Mullowney Lane Improvements will be constructed in 2023 pending Council approval of the bid award. During the design process, Staff pursued two easements needed to place sidewalk, traffic signal fixtures, and ADA improvements. The first sidewalk easement with Josephine Corner Apartments, LLC. was intended to be recorded in 2017 for the Josephine Corner Townhomes Phase 2 Site Plan, and never was completed. The sidewalk improvements are in-place and 7.5 feet of the sidewalk path is on the private side of the right-of-way. The sidewalk easement will allow the public use of the 7.5 feet of the concrete sidewalk path on Mullowney Lane along the frontage of Josephine Corner Apartments as intended.

The second easement from the Roman Catholic Bishop of Great Falls provides space at the southeast corner of the intersection of Mullowney Lane/Elysian Road Intersection to install traffic signal fixtures and construct a corner curb radius with ADA ramps.

**ALTERNATIVES**

City Council may:

- Accept the sidewalk easement with Josephine Corner Apartments and the traffic fixtures and sidewalk easement with the Roman Catholic Church; or,
- Do not accept the sidewalk easement with Josephine Corner Apartments and traffic fixtures and sidewalk easement with the Roman Catholic Church. If the sidewalk easement is not accepted, part of the multi-use path in front of the Josephine Corner Apartments will be on private property. If the traffic fixtures and sidewalk easement is not accepted, the improvements at the southeast corner of the intersection of Mullowney Lane/Elysian Road cannot be completed to ADA standards.

**FISCAL EFFECTS**

There are no fiscal impacts. The property owners provided the easements at no cost to the City.

---

**Attachments**

Josephine Corner Apartments Sidewalk Easement  
Roman Catholic Church Traffic Fixtures and Sidewalk Easement

RETURN TO  
City Clerk  
City of Billings  
P.O. Box 1178  
Billings, MT 59103

## **SIDEWALK EASEMENT**

**THIS INDENTURE**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the following:

**GREG McCALL As: MANAGING MEMBER  
of JOSEPHINE CORNER APARTMENTS LLC.,**  
1560, 1562, 1566 River Edge Road  
Billings, Montana 59101,  
hereinafter referred to as **GRANTOR**

and

**CITY OF BILLINGS**, a Municipal Corporation  
City Hall – 210 North 27th Street  
PO Box 1178  
Billings, Montana 59103-1178,  
hereinafter referred to as **GRANTEE**

**FOR VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged;

**WITNESSETH THAT GRANTOR** does hereby grant, sell, and convey unto the **GRANTEE**, perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve necessary and for sidewalk over, across, under, and through the real property more particularly described as follows:

### EASEMENT LAND DESCRIPTION

Tract of land situated in the SW1/4 of Section 17, T. 1 S., R. 26 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said easement being a portion of Lot 26A, Block 10 of the Amended Plat Lots 25 and 26, Block 10, Riverfront Pointe Subdivision, on file and of record in the office of the Yellowstone County Clerk and Records Office, recorded July 7th, 2016 under document No. 3782047 more particularly described as follows;

### EASEMENT

Being the west 7.50 feet of said Lot 26A, Block 10 of the Amended Plat Lots 25 and 26, Block 10, Riverfront Pointe Subdivision, said easement containing an area of 2,306 square feet more or less.

See also Exhibit A attached and incorporated herein, showing said easement area.

**TO HAVE AND TO HOLD** unto **GRANTEE** and to its successors and assigns forever.

**IN WITNESS WHEREOF**, the **GRANTOR** warrants that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.

**By:** \_\_\_\_\_  
**GREG McCALL**

**As:** **MANAGING MEMBER**  
\_\_\_\_\_ of **JOSEPHINE CORNER APARTMENTS LLC.**

STATE OF MONTANA        )  
                                      :SS  
County of Yellowstone    )

This instrument was signed or acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by Greg McCall as Managing Member of Josephine Corner Apartments LLC as **GRANTOR**.

\_\_\_\_\_  
(Notary Signature)

(Notarial Seal)

**ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE**

The Mayor and City Council of the City of Billings, a Montana municipal corporation, acknowledges receipt of this permanent easement and hereby accepts the property interest conveyed through this instrument.

**By:** \_\_\_\_\_  
**WILLIAM A. COLE, MAYOR**  
**CITY OF BILLINGS**

**ATTEST:**

**By:** \_\_\_\_\_  
**DENISE R. BOHLMAN, CITY CLERK**  
**CITY OF BILLINGS**

STATE OF MONTANA        )  
                                      :SS  
County of Yellowstone    )

This instrument was signed or acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by **WILLIAM A. COLE, MAYOR** and **DENISE R. BOHLMAN, CITY CLERK**, on behalf of the **CITY OF BILLINGS, a Montana municipal corporation**, as **GRANTEE**.

\_\_\_\_\_  
(Notary Signature)

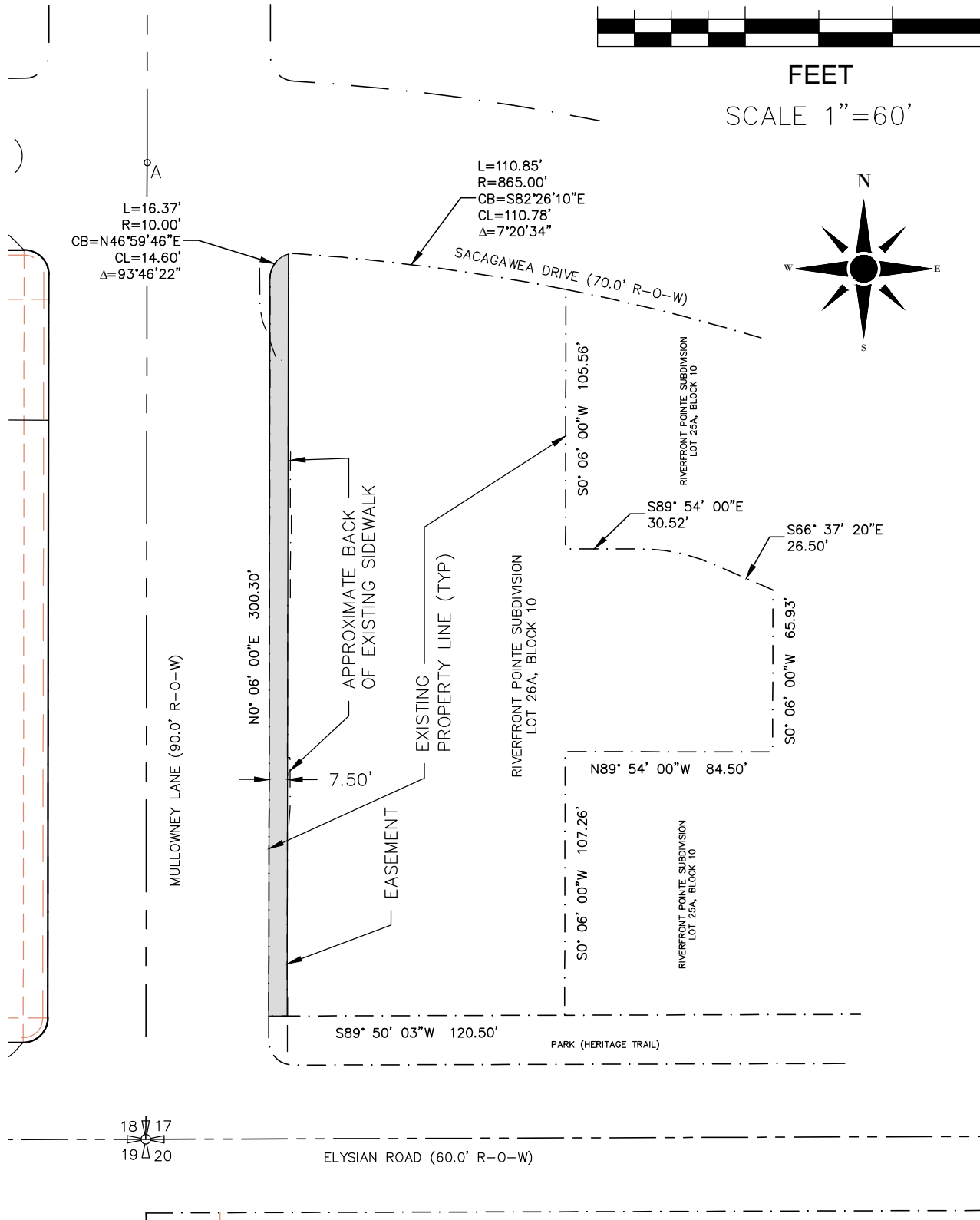
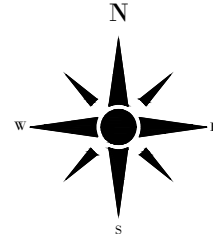
(Notarial Seal)

# EXHIBIT "A"

SIDEWALK EASEMENT WITHIN A PORTION OF LOT 26A OF THE AMENDED PLAT OF LOTS 25 AND 26, BLOCK 10, RIVERFRONT POINTE SUBDIVISION, ON FILE AND OF RECORD UNDER IN THE OFFICE OF THE YELLOWSTONE COUNTY CLERK AND RECORDERS OFFICE, RECORDED JULY 7TH, 2016 UNDER DOCUMENT NO. 3782047 CITY OF BILLINGS, MONTANA



FEET  
SCALE 1"=60'



## EASEMENT LAND DESCRIPTION

Tract of land situated in the SW1/4 of Section 17, T. 1 S., R. 26 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said easement being a portion of Lot 26A, Block 10 of the Amended Plat Lots 25 and 26, Block 10, Riverfront Pointe Subdivision, on file and of record in the office of the Yellowstone County Clerk and Records Office, recorded July 7th, 2016 under document No. 3782047 more particularly described as follows;

## EASEMENT

Being the west 7.50 feet of said Lot 26A, Block 10 of the Amended Plat Lots 25 and 26, Block 10, Riverfront Points Subdivision, said easement containing an area of 2,306 square feet more or less.

|                                                              |
|--------------------------------------------------------------|
| CITY OF BILLINGS, MONTANA<br>SIDEWALK EASEMENT EXHIBIT       |
| W.O. 22-07, MULLOWNEY LANE                                   |
| EXHIBIT IS PREPARED FOR AND BY THE CITY OF BILLINGS, MONTANA |

RETURN TO  
City Clerk  
City of Billings  
P.O. Box 1178  
Billings, MT 59103

## TRAFFIC SIGNAL FIXTURES AND SIDEWALK EASEMENT

THIS INDENTURE, made and entered into this 13<sup>th</sup> day of Jan, 2023, by and between the following:

**THE ROMAN CATHOLIC BISHOP OF  
GREAT FALLS, MONTANA, a corporation sole**  
of 121 23rd Street S  
Great Falls, Montana 59401,  
hereinafter referred to as **GRANTOR**

and

**CITY OF BILLINGS, a Municipal Corporation**  
City Hall – 210 North 27th Street  
PO Box 1178  
Billings, Montana 59103-1178,  
hereinafter referred to as **GRANTEE**

**FOR VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged;

**WITNESSETH THAT GRANTOR** does hereby grant, sell, and convey unto the **GRANTEE**, perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve necessary Traffic signal fixtures and appurtenances and for sidewalk over, across, under, and through the real property more particularly described as follows:

### EASEMENT LAND DESCRIPTION

Tract of land situated in the NW1/4 of Section 20, T. 1 S., R. 26 E., P.M.M., in, Yellowstone County, Montana, said easement being a portion of Tract 1A-1 of Amended Tract 1A of Corrected Certificate of Survey No. 3223 Tract 1 Amended, on file and of record in the office of the Yellowstone County Clerk and Records Office, recorded November 3rd, 2014 under document No. 3722832, Basis of Bearing being said Tract 1A-1, more particularly described as follows;

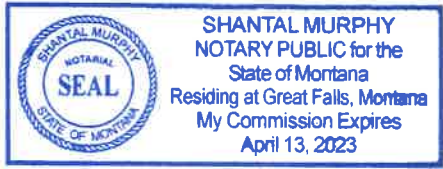
### EASEMENT

Commencing at the northwest corner of Tract 1A-1 of said Amended Tract 1A of Corrected Certificate of Survey No. 3223 Tract 1 Amended, point also being on the south right-of-way of Elysian Road; Thence N 89°49'46" E and along said south right-of-way for a distance of 30.12 feet to the true Easement Point of Beginning; Thence N 89°49'46" E and continuing along said south right-of-way for a distance of 28.00 feet; Thence S 61°38'53" W and leaving said south right-of-way for a distance of 31.76 feet, point also being on the east line of the existing 30.00 foot wide county road easement, (Road Petition 34); Thence N 00°11'01" W and along said east ling of said county road easement for a distance of 15.00 feet to the Easement Point of Beginning, said easement containing an area of 210 square feet more or less.

See also Exhibit A attached and incorporated herein, showing said easement area.

TO HAVE AND TO HOLD unto GRANTEE and to its successors and assigns forever.

IN WITNESS WHEREOF, the GRANTOR warrants that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.



By: Michael W. Warfel  
MOST REV MICHAEL W WARFEL

As: BISHOP  
of THE ROMAN CATHOLIC BISHOP OF  
GREAT FALLS, MONTANA, a corporation sole

STATE OF MONTANA )  
County of Cascade :ss  
~~Yellowstone~~ )

This instrument was signed or acknowledged before me on this 13 day of January, 2023 by Most Rev Michael Warfel as GRANTOR.

Shantal Murphy  
(Notary Signature)

**ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE**

The Mayor and City Council of the City of Billings, a Montana municipal corporation, acknowledges receipt of this permanent easement and hereby accepts the property interest conveyed through this instrument.

By: \_\_\_\_\_  
WILLIAM A. COLE, MAYOR  
CITY OF BILLINGS

ATTEST:

By: \_\_\_\_\_  
DENISE R. BOHLMAN, CITY CLERK  
CITY OF BILLINGS

STATE OF MONTANA )  
County of Yellowstone ) :ss

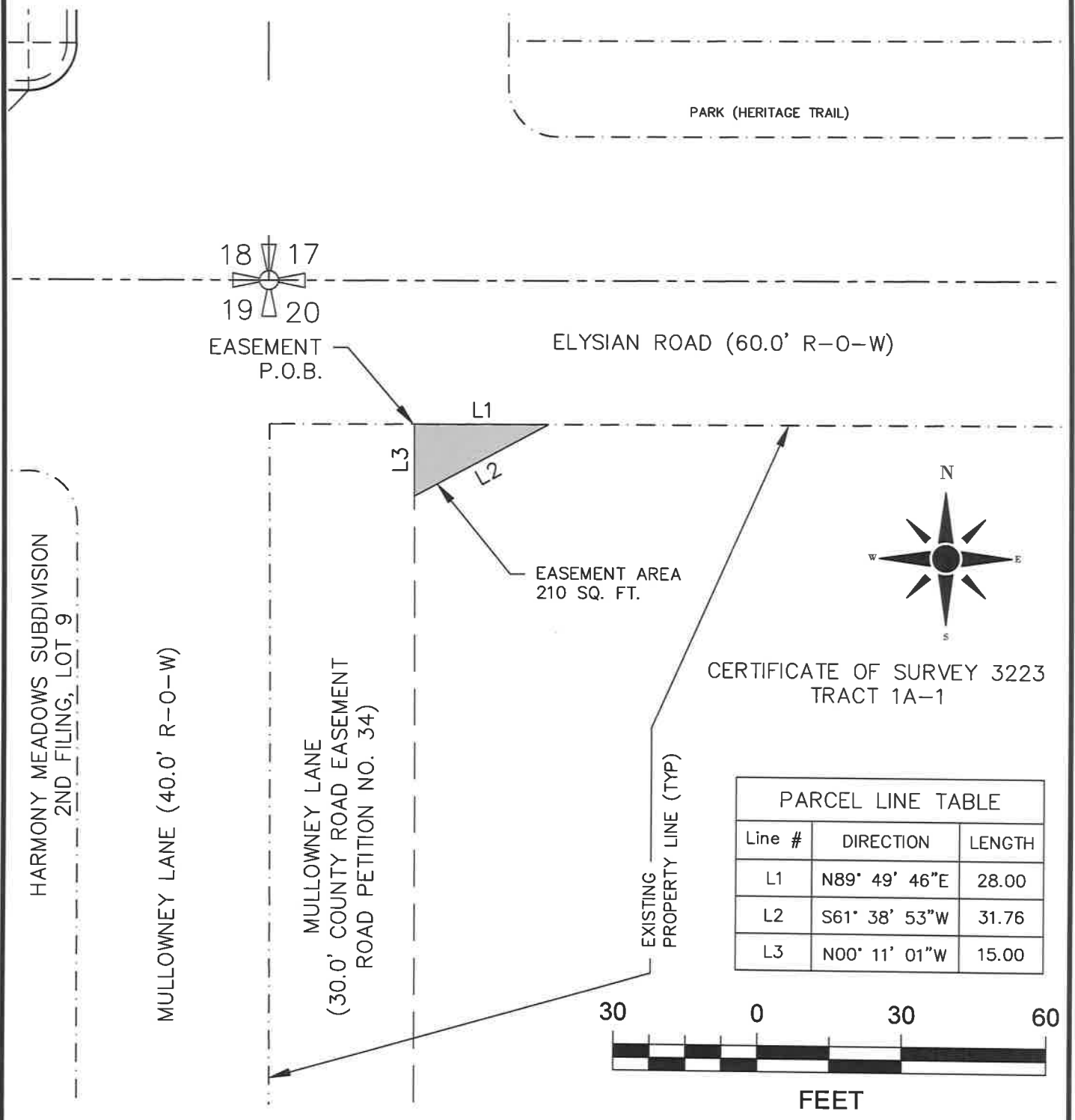
This instrument was signed or acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by WILLIAM A. COLE, MAYOR and DENISE R. BOHLMAN, CITY CLERK, on behalf of the CITY OF BILLINGS, a Montana municipal corporation, as GRANTEE.

\_\_\_\_\_  
(Notary Signature)

(Notarial Seal)

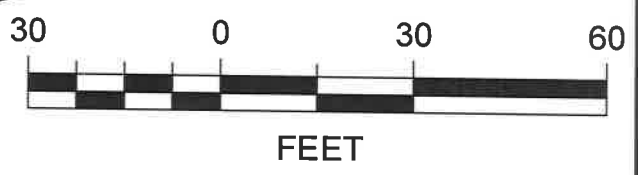
# EXHIBIT "A"

TRAFFIC SIGNAL FIXTURES AND SIDEWALK EASEMENT  
 WITHIN A PORTION OF TRACT 1A-1 OF THE AMENDED TRACT 1A  
 OF CERTIFICATE OF SURVEY NO. 3223 TRACT 1 AMENDED,  
 ON FILE AND OF RECORD UNDER IN THE OFFICE OF THE YELLOWSTONE COUNTY CLERK  
 AND RECORDERS OFFICE, RECORDED NOVEMBER 3RD, 2014 UNDER DOCUMENT NO. 3722832  
 YELLOWSTONE COUNTY, MONTANA



CERTIFICATE OF SURVEY 3223  
 TRACT 1A-1

| PARCEL LINE TABLE |                |        |
|-------------------|----------------|--------|
| Line #            | DIRECTION      | LENGTH |
| L1                | N89° 49' 46" E | 28.00  |
| L2                | S61° 38' 53" W | 31.76  |
| L3                | N00° 11' 01" W | 15.00  |



## EASEMENT LAND DESCRIPTION

Tract of land situated in the NW1/4 of Section 20, T. 1 S., R. 26 E., P.M.M., in, Yellowstone County, Montana, said easement being a portion of Tract 1A-1 of Amended Tract 1A of Corrected Certificate of Survey No. 3223 Tract 1 Amended, on file and of record in the office of the Yellowstone County Clerk and Recorders Office, recorded November 3rd, 2014 under document No. 3722832, Basis of Bearing being said Tract 1A-1, more particularly described as follows;

### EASEMENT

Commencing at the northwest corner of Tract 1A-1 of said Amended Tract 1A of Corrected Certificate of Survey No. 3223 Tract 1 Amended, point also being on the south right-of-way of Elysian Road; Thence N 89°49'46" E and along said south right-of-way for a distance of 30.12 feet to the true Easement Point of Beginning; Thence N 89°49'46" E and continuing along said south right-of-way for a distance of 28.00 feet; Thence S 61°38'53" W and leaving said south right-of-way for a distance of 31.76 feet, point also being on the east line of the existing 30.00 foot wide county road easement, (Road Petition 34); Thence N 00°11'01" W and along said east ling of said county road easement for a distance of 15.00 feet to the Easement Point of Beginning, said easement containing an area of 210 square feet more or less.

CITY OF BILLINGS, MONTANA  
 TRAFFIC SIGNAL FIXTURES AND  
 SIDEWALK EASEMENT EXHIBIT  
 W.O. 22-07, MULLOWNEY LANE  
 EXHIBIT IS PREPARED FOR AND BY THE CITY OF BILLINGS, MONTANA

**City Council Regular**

**Date:** 02/27/2023  
**Title:** Mullowney Lane, Exempt Plat and Warranty Deeds  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends that the City Council accept and authorize the Mayor to sign the exempt plat dedicating public right-of-way and accept warranty deeds for the public right-of-way from McCall Properties, LLC. and Brittany's Dream, LLC.

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

W.O. 22-07 Mullowney Lane Improvements will be constructed in 2023 pending Council approval of the bid award. Staff pursued obtaining additional public right-of-way to construct intersection improvements at the intersection of Elysian Road and Mullowney Lane. On July 11, 2022, Council approved the annexation agreement with McCall Properties, LLC and Brittany's Dream, LLC., that required dedication of necessary right-of-way to complete the Mullowney Lane Improvements. The attached exempt plat provides the necessary public right-of-way to construct the improvements. Dedicating the right-of-way requires executed warranty deeds from both McCall Properties, LLC. and Brittany's Dream, LLC.

**ALTERNATIVES**

City Council may:

- Accept the McCall Properties exempt plat and warranty deeds with McCall Properties and Brittany's Dream; or,
- Do not accept the McCall Properties exempt plat and warranty deeds with McCall Properties and Brittany's Dream; If the exempt plat and warranty deeds are not accepted, the improvements at the intersection of Mullowney Lane/Elysian Rd cannot be completed.

**FISCAL EFFECTS**

There are no fiscal impacts as a result of this action. McCall Properties, LLC. and Brittany's Dream, LLC. are required by the annexation agreement to dedicate public right-of-way for the Mullowney Lane Improvement at no cost to the City.

---

**Attachments**

McCall Properties Exempt Plat  
Warranty Deed McCall Properties  
Warranty Deed Brittany's Dream

# AMENDED PLAT OF LOT 6A, BLOCK 1 OF THE AMENDED PLAT OF LOTS 5 & 6 OF BLOCK 1 OF TITAN SUBDIVISION

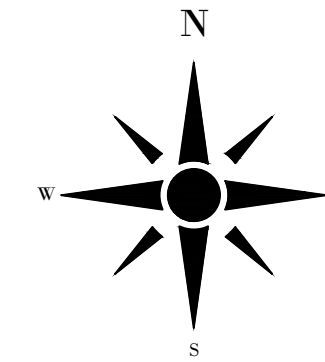
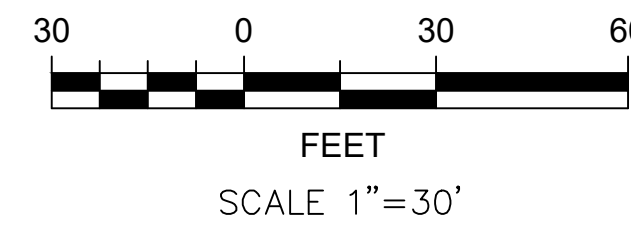
SITUATED IN IN THE SE1/4 SECTION 18, T. 1 S., R. 26 E., P.M.M.,  
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: THE CITY OF BILLINGS  
 PREPARED BY: THE CITY OF BILLINGS  
 SCALE: 1"=30' DATE: SEPTEMBER, 2022

○ = FOUND PROPERTY CORNER AS NOTED  
 ● = SET 5/8" x 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF UNDERSIGNED LAND SURVEYOR

RECORDED DOCUMENT REFERENCE  
 R1 = RIVERFRONT POINTE SUBDIVISION DOCUMENT #3371979)  
 R2 = AMENDED PLAT OF LOTS 5 & 6, BLOCK 1, TITAN SUBDIVISION DOCUMENT #3399260

BASIS OF BEARING IS GPS OBSERVATION USING MONTANA STATE PLANE COORDINATES NAD83 MONTANA 2500, BETWEEN FOUND MONUMENTS ALONG THE WEST LOT LINE OF LOT 5A, BLOCK 1 OF AMENDED PLAT OF LOTS 5 & 6, BLOCK 1, OF TITAN SUBDIVISION, DOCUMENT NO. 3399260. DISTANCES ARE GROUND INTERNATIONAL FEET. GRID TO GROUND SCALE FACTOR 1.0001526596

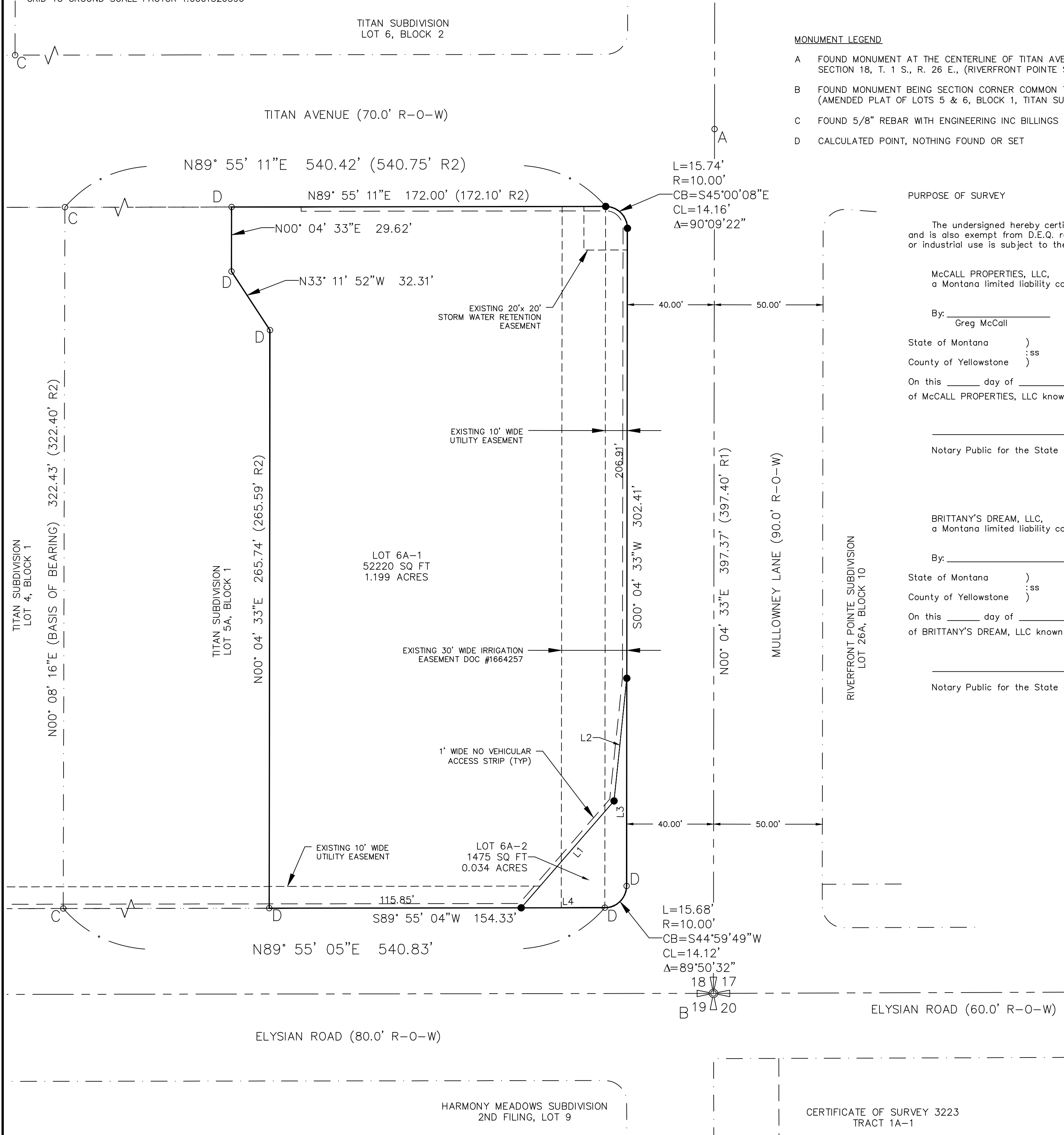


### MONUMENT LEGEND

- A FOUND MONUMENT AT THE CENTERLINE OF TITAN AVENUE AND THE EAST SECTION LINE OF SECTION 18, T. 1 S., R. 26 E., (RIVERFRONT POINTE SUBDIVISION DOCUMENT #3371979)
- B FOUND MONUMENT BEING SECTION CORNER COMMON TO SECTIONS 17, 18, 19 & 20 T. 1 S., R. 26 E., (AMENDED PLAT OF LOTS 5 & 6, BLOCK 1, TITAN SUBDIVISION DOCUMENT #3399260)
- C FOUND 5/8" REBAR WITH ENGINEERING INC BILLINGS MT YPC 9960 LS
- D CALCULATED POINT, NOTHING FOUND OR SET

### PARCEL LINE TABLE

| Line # | DIRECTION     | LENGTH |
|--------|---------------|--------|
| L1     | N40° 58' 42"E | 65.12  |
| L2     | N05° 57' 33"E | 56.69  |
| L3     | S00° 04' 33"W | 95.51  |
| L4     | S89° 55' 05"W | 38.48  |



### PURPOSE OF SURVEY

The undersigned hereby certifies the purpose of this survey is to create a road tract to be dedicated as Right-of-Way for Mallowney Lane to the City of Billings, therefore this survey is exempt per M.C.A.76-3-201(1)(h) and is also exempt from D.E.Q. review per M.C.A. 76-4-125(1)(a), as "the exclusion cited in 76-3-201", "is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of this chapter".

McCALL PROPERTIES, LLC,  
a Montana limited liability company

By: Greg McCall As: Managing Member

State of Montana )  
County of Yellowstone )<sup>ss</sup>

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me the undersigned a notary public for the State of Montana, personally appeared Greg McCall, as Managing Member of McCALL PROPERTIES, LLC known to me to be the persons whose names are subscribed to the written instrument and acknowledged to me that they executed the same.

Notary Public for the State of Montana

BRITTANY'S DREAM, LLC,  
a Montana limited liability company

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

State of Montana )  
County of Yellowstone )<sup>ss</sup>

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me the undersigned a notary public for the State of Montana, personally appeared \_\_\_\_\_ as \_\_\_\_\_ of BRITTANY'S DREAM, LLC known to me to be the persons whose names are subscribed to the written instrument and acknowledged to me that they executed the same.

Notary Public for the State of Montana

### CERTIFICATE OF SURVEYOR

STATE OF MONTANA )  
County of Yellowstone )<sup>ss</sup>

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of September, 2022, a survey was performed under my supervision of a tract of land to be known as "AMENDED PLAT OF LOT 6A, BLOCK 1 OF TITAN SUBDIVISION" situated in the SE1/4 of Section 18, T. 1 S., R. 26 E., P.M.M., City of Billings, Yellowstone County, Montana, said tract being more particularly described as follows:

LOT 6A OF AMENDED PLAT OF LOTS 5 & 6, BLOCK 1, TITAN SUBDIVISION, on file and of record in the office of the Yellowstone County Clerk & Recorders office Recorded November 2, 2006, under Document No. 3399260 Subject to all easements of record or apparent on the ground.

In conformance with Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with and as shown on this amended plat, that the monuments found and set are of the character and occupy the positions shown thereon and that the tract of land contains gross area of 53,695 square feet and a net area of 52,220 square feet, more or less.

### CITY OF BILLINGS

By: Timothy A Grant

Montana Registration No. 17513 LS

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

### CERTIFICATE OF COUNTY TREASURER

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

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

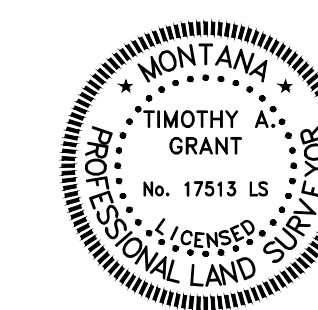
Yellowstone County Treasurer

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

### CERTIFICATE OF APPROVAL FOR ERRORS AND OMISSIONS

I hereby certify that I have examined the annexed and foregoing CERTIFICATE OF SURVEY, for errors and omissions in computations and drafting.

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



### CERTIFICATE OF CITY ATTORNEY

STATE OF MONTANA )  
County of Yellowstone )<sup>ss</sup>

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

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

### RELATED DOCUMENTS

WARRANTY DEED \_\_\_\_\_  
 WARRANTY DEED \_\_\_\_\_



**VICINITY MAP**  
**NOT TO SCALE**

CERTIFICATE OF SURVEY 3223  
TRACT 1A-1

Return to:  
City Clerk  
City of Billings  
PO Box 1178  
Billings MT 59101

## WARRANTY DEED

**THIS INDENTURE**, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

McCALL PROPERTIES, LLC  
1536 Muldowney Lane,  
Suites 100 and 200  
Billings, MT 59101

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

A tract of land situated in the SE1/4 of Section 18, T. 1 S., R. 26 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as: Lot 6A-2 of the Amended Plat of Lot 6A, Block 1 of Titan Subdivision, as recorded in the office of the Clerk and Recorder of said County, under Document No. \_\_\_\_\_.

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

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

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

**TO HAVE AND TO HOLD** the above described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS**, and to its successors and assigns forever.

**IN WITNESSETH WHEREOF**, the undersigned have executed these premises the day and year first above written.

By: \_\_\_\_\_  
Greg McCall  
As: Managing Member  
Of: McCALL PROPERTIES, LLC  
1536 MULLOWNEY LANE,  
SUITES 100 AND 200  
BILLINGS, MT 59101

State of Montana )  
 :ss  
County of Yellowstone)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me the undersigned a notary public for the State of Montana, personally appeared Greg McCall, as Managing Member of McCALL PROPERTIES, LLC known to me to be the persons whose names are subscribed to the written instrument and acknowledged to me that they executed the same.

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

**ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE**

The Mayor and City Council of the City of Billings acknowledges receipt of this Warranty Deed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and hereby accepts the property interest conveyed through this instrument.

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

**ATTEST:**

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

State of Montana  
County of \_\_\_\_\_  
This instrument was signed and sworn to before me.  
on \_\_\_\_\_ by \_\_\_\_\_  
(Name of signer)

\_\_\_\_\_  
(Notary Signature)  
[Affix seal/stamp to the left or below]

Return to:  
City Clerk  
City of Billings  
PO Box 1178  
Billings MT 59101

## WARRANTY DEED

**THIS INDENTURE**, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

BRITTANY'S DREAM, LLC  
1536 Mullooney Lane,  
Suites 300  
Billings, MT 59101

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

A tract of land situated in the SE1/4 of Section 18, T. 1 S., R. 26 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as: Lot 6A-2 of the Amended Plat of Lot 6A, Block 1 of Titan Subdivision, as recorded in the office of the Clerk and Recorder of said County, under Document No. \_\_\_\_\_.

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

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

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

**TO HAVE AND TO HOLD** the above described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS**, and to its successors and assigns forever.



**City Council Regular**

**Date:** 02/27/2023  
**Title:** Zimmerman Home Place Subdivision, 3rd Filing - City Subsequent Minor Final Plat  
**Presented by:** Monica Plecker  
**Department:** Planning & Community Services  
**Presentation:** No  
**Legal Review** Not Applicable

---

**RECOMMENDATION**

Staff recommends the City Council approve the final plat of Zimmerman Home Place Subdivision, 3rd Filing.

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

On February 7, 2023, Performance Engineering applied for final plat approval for Zimmerman Home Place Subdivision, 3rd Filing. The proposed subdivision creates 5 lots for development. The subject property is generally located north of Avenue E, south of Colton Blvd and west of Zimmerman Trail. The property is zoned NO (Neighborhood Office-Residential). The land is currently vacant. Staff has reviewed the application and determined that the proposed plat has met all the conditions of approval and is forwarding a recommendation of final approval to the City Council. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

It should be noted, the SIA attached to this staff report does not contain signatures as is customary. However, the physical signed version, which is consistent with the attached, is in routing and will be provided to the City Clerk's office.

**STAKEHOLDERS**

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

**ALTERNATIVES**

The City Council may approve or disapprove the final plat of Zimmerman Home Place Subdivision, 3rd Filing. If the City Council chooses to deny the final plat, the denial must be because the criteria in Section 76-3-611, MCA are not met. The criteria are as follows:76-3-611. Review of final plat.

- (1) The governing body or the agent or agency designated by the governing body shall examine each final plat, and the governing body shall approve the plat only if:
  - (a) it conforms to the conditions of approval set forth on the preliminary plat and to the terms of this chapter and (local) regulations adopted pursuant to this chapter; and
  - (b) the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid. Staff finds the final plat meets the criteria outlined in 76-3-611 above.

Staff found that the final plat is in compliance with the regulations.

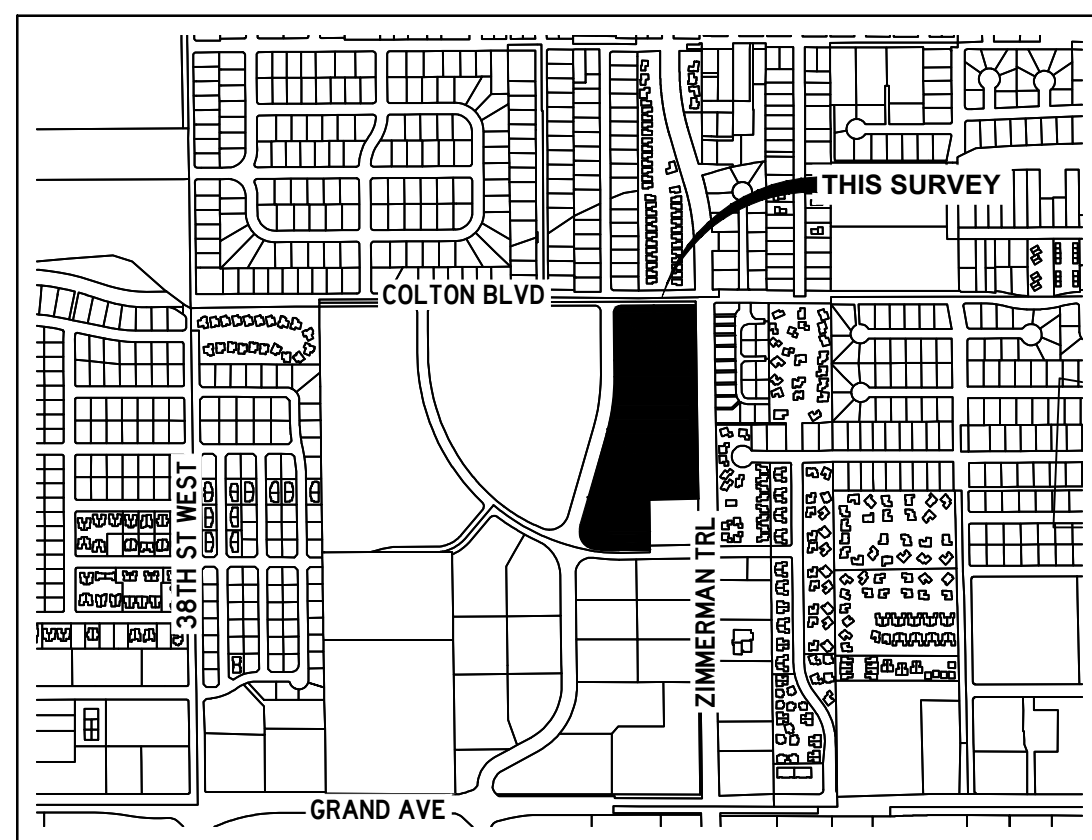
**FISCAL EFFECTS**

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

---

**Attachments**

- Final Plat
- Final SIA
- Conditions of Approval



VICINITY MAP  
NOT TO SCALE

# PLAT OF ZIMMERMAN HOME PLACE SUBDIVISION, 3RD FILING

BEING LOT 1 OF BLOCK 3 OF ZIMMERMAN HOME PLACE SUBDIVISION, FIRST FILING LOCATED IN THE SW 1/4 OF SECTION 34, TOWNSHIP 01 NORTH, RANGE 25 EAST, P.M.M., CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : HIGHLANDS ZHP SUBDIVISION, LLC  
L & L ZHP SUBDIVISION, LLC  
LUDWIG CONSULTING, LLC



PREPARED BY : PERFORMANCE ENGINEERING, LLC

TOTAL AREA OF SUBDIVISION : ± 12.125 ACRES

JANUARY 2023

**LEGAL DESCRIPTION AND OWNER CERTIFICATION AND DEDICATION**

We, the undersigned owners, do hereby certify that we have cause to be surveyed, aggregated, and platted in to lots, blocks, roads and other divisions and dedications, as shown on this plat hereunto included, said tract of land being situated in the SW 1/4 of Section 34, Township 01 North, Range 25 East, P.M.M., City of Billings, Yellowstone County, Montana, said tract being more particularly described as Lot 1 of Block 3 of Zimmerman Home Place Subdivision, 1st Filing (Document No. 3811344).

Said tract contains 12.125 acres, more or less, in gross and net.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Highlands ZHP Subdivision, LLC, a Montana Limited Liability Company

Title \_\_\_\_\_  
STATE OF MONTANA )  
:ss  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of Highlands ZHP Subdivision, LLC, a Montana Limited Liability Company who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

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

L & L ZHP Subdivision, LLC, a Montana Limited Liability Company

Title \_\_\_\_\_  
STATE OF MONTANA )  
:ss  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of L & L ZHP Subdivision, LLC, a Montana Limited Liability Company who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

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

Ludwig Consulting, LLC, a Montana Limited Liability Company

Title \_\_\_\_\_  
STATE OF MONTANA )  
:ss  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of Ludwig Consulting, LLC, a Montana Limited Liability Company who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

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

**CERTIFICATE OF SURVEYOR**

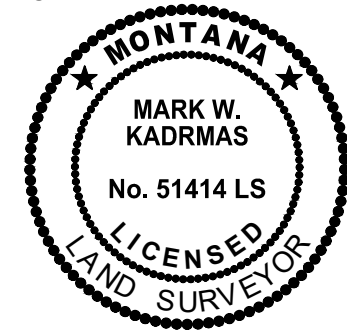
I, the undersigned Mark W. Kadmas, Registered Land Surveyor, do hereby certify that this survey was done under my direct supervision of a tract of land located in the SW 1/4 of Section 34, Township 01 North, Range 25 East, P.M.M., City of Billings, Yellowstone County, Montana, said tract being more particularly described as Lot 1 of Block 3 of the Zimmerman Home Place Subdivision, 1st Filing (Document No. 3811344).

Said tract containing a net and gross area of 12.125 acres, more or less.

Said tract subject to all easements and right-of-ways of record or apparent on the ground.

This survey was conducted in accordance with the provisions of the Montana Subdivision and Platting Act, Sections 76-3-101 through 76-3-625, MCA.

Mark W. Kadmas, PLS 51414LS  
Registered Land Surveyor  
State of Montana



**CERTIFICATE OF APPROVAL**

STATE OF MONTANA )  
:ss  
County of Yellowstone )

We hereby certify that we have examined the plat of Zimmerman Home Place, 3rd Filing and find that the said plat conforms with the requirements of the laws of the State of Montana, and the requirements of the Yellowstone County Board of Planning. It is therefore approved and the dedication to public use of any and all lands shown on this plat as being dedicated to such use are accepted.

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

CITY OF BILLINGS, MONTANA

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

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

**NOTICE OF APPROVAL**

STATE OF MONTANA )  
:ss  
County of Yellowstone )

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

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

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

**ERRORS AND OMISSIONS REVIEW**

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

**CERTIFICATE OF CITY ENGINEER'S OFFICE**

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

Dated \_\_\_\_\_ City Engineer's Office \_\_\_\_\_

**CERTIFICATE OF COUNTY TREASURER**

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

Date \_\_\_\_\_ Yellowstone County Treasurer  
Deputy \_\_\_\_\_

**CERTIFICATE OF CITY ATTORNEY**

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

Date \_\_\_\_\_ Reviewed By \_\_\_\_\_

| LEGEND       |                                            |
|--------------|--------------------------------------------|
| ●            | FOUND PROPERTY CORNER, AS DESCRIBED        |
| ○            | SET PROPERTY CORNER, 5/8" REBAR W/ PEC CAP |
| ---          | EXISTING PROPERTY LINE                     |
| - - - -      | EXISTING RIGHT-OF-WAY                      |
| ---          | PROPOSED PROPERTY LINE                     |
| - - - -      | EASEMENT LINE                              |
| ---          | SURVEY BOUNDARY                            |
| (R = XX.XX') | RECORD DISTANCE                            |

**CLERK AND RECORDER FILING INFORMATION**

SUBDIVISION IMPROVEMENTS AGREEMENT  
DOCUMENT NO. \_\_\_\_\_

ACCESS AND UTILITY EASEMENTS  
DOCUMENT NO. \_\_\_\_\_

RECIPROCAL ACCESS EASEMENT  
DOCUMENT NO. \_\_\_\_\_

**BASIS OF BEARINGS**

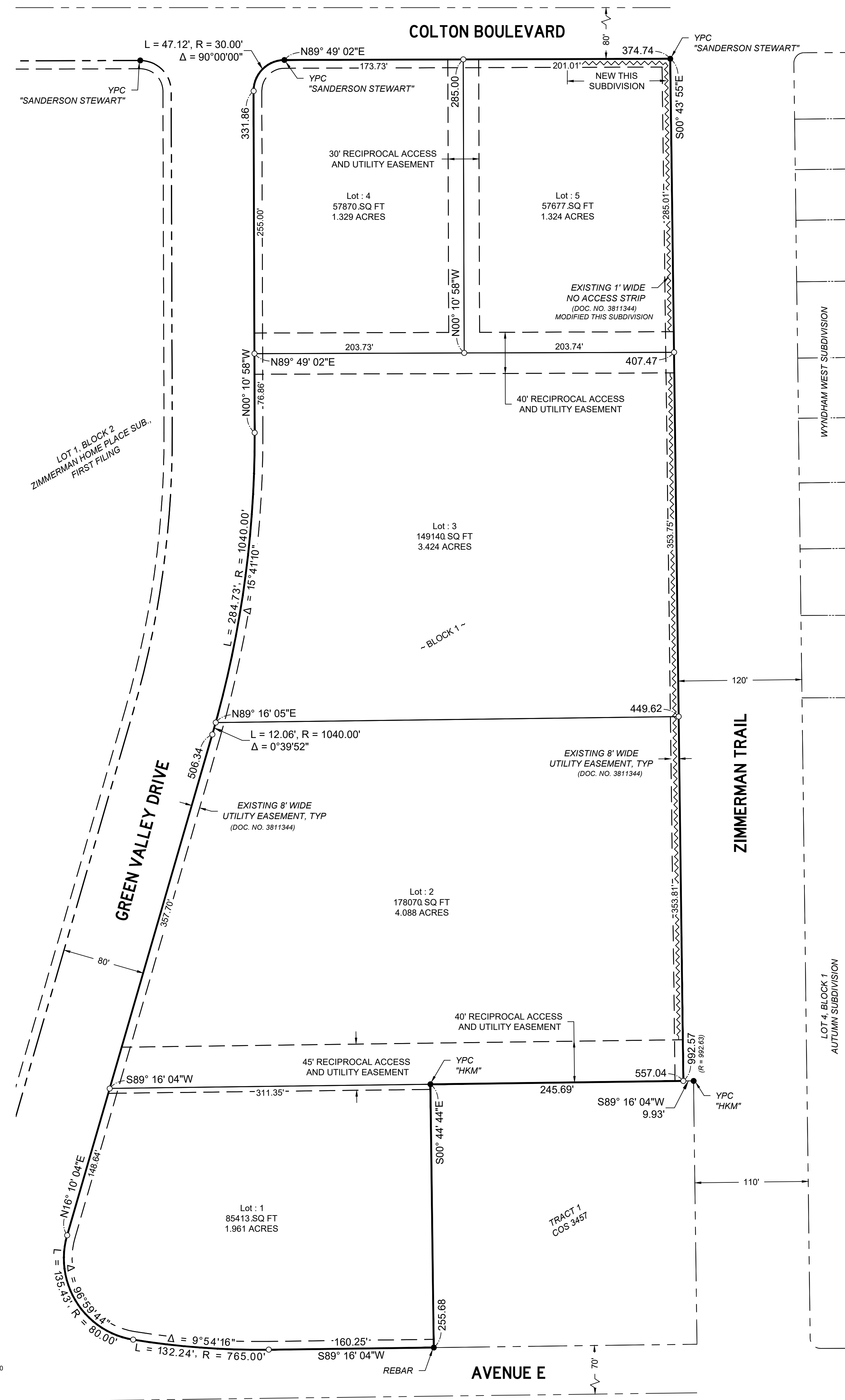
Bearings shown on this survey are derived from a low distortion Lambert Conformal Conic single parallel projection with parameters as follows:

Latitude of Origin : 45° 47' 00"N  
Longitude of Origin : 108° 25' 00"W  
Mapping Scale Factor : 1.0001515

Grid distances shown hereon are, for practical purposes, equal to ground distances.

**SURVEYOR'S NOTE**

Unless otherwise noted, record distances between found monuments are within local accepted practice.



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

**Zimmerman Home Place Subdivision, 3<sup>rd</sup> Filing**

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(City of Billings)

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

**Zimmerman Home Place Subdivision, 3<sup>rd</sup> Filing**

**This agreement** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between *Highlands ZHP Subdivision, LLC, a Montana Limited Liability Company, L & L ZHP Subdivision, LLC, a Montana Limited Liability Company, and Ludwig Consulting, LLC, a Montana Limited Liability Company*, whose address for the purpose of this agreement is **2116 Broadwater Ave, Suite 101, Billings, MT 59102**, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

**WITNESSETH:**

**WHEREAS**, the plat of *Zimmerman Home Place Subdivision, 3<sup>rd</sup> Filing*, located in Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the City Council conditionally approved a preliminary plat of *Zimmerman Home Place Subdivision, 3<sup>rd</sup> Filing*; and

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

**WHEREAS**, the provisions of this agreement shall be effective and applicable to *Zimmerman Home Place Subdivision, 3<sup>rd</sup> Filing* upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

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

**I. VARIANCES**

Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City’s Subdivision Regulations (Section 23.1101, BMCC):

1. No variances are requested.

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

- A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.
- B.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- C.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.
- D.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- E.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- F.** The subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the city and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- G.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best

Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

### **III. TRANSPORTATION**

#### **A. Streets**

- All public roadways adjacent to the Subdivision have been completed as part of previous projects. No additional public street improvements are required by the Subdivider.
- All public right-of-way for surrounding streets has been dedicated. No additional right-of-way dedication is required.

#### **B. Sidewalks**

- Individual lot owners will be responsible for the construction of the sidewalks within public right-of-way or easements adjacent to or through their lot at the time of lot construction and shall be included in each building permit.
- Sidewalks shall be 5-foot wide with a 5-foot boulevard planting strip between the sidewalk and the curb at corner intersection handicap ramps and aprons.
- The 10-foot multi-use path located along Colton Boulevard has been constructed as part of a previous private contract project.

#### **C. Street Lighting**

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

#### **D. Traffic Control Devices**

- A Traffic Impact Study (TIS) evaluating the impacts of the entire Zimmerman Home Place project area has previously been completed and submitted to City Engineering. Impact fees associated with the findings of the TIS have been collected by the city and additional contributions are not required.

#### **E. Access**

- The Subdivision will be accessed by way of driveway approaches off Colton Boulevard, Green Valley Drive, and Avenue E.
- Access off Zimmerman Trail will be provided via two 40' shared accesses. These accesses shall be restricted to right-in/right-out and located at the locations identified on the plat.

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

- The subdivision is located within the Bikeway and Trail Master Plan. A 10-foot multi-use trail has been constructed as part of a previous project.
- Adjacent lot owners shall be responsible for the maintenance of the trail.

#### **G. Public Transit**

- MET Transit provides service along Grand Avenue with the closest stop at the intersection of Grand Avenue and Zimmerman Trail, approximately 0.25 miles south of the Subdivision. No improvements are required to ensure public transit service.

### **IV. EMERGENCY SERVICE**

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

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along the approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of twenty (20) feet wide.
- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

### **V. STORM DRAINAGE**

All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development. A complete stormwater management plan for adjacent public infrastructure has been submitted to the Engineering Division for review and approval. Storm facilities for adjacent public streets have been installed as part of a previous private contract.

Individual Lots will be required to manage their own stormwater in accordance with the Stormwater Management Manual in place at the time of development. A

complete stormwater management plan shall be submitted to the Engineering Division for review and approval at the time of Lot development.

## **VI. UTILITIES**

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension/connection of/to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

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

Lot 3 does not have water and sewer service connections stubbed to it. Connection to existing public water and sewer mains for service shall be completed at the time of Lot development.

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

### **A. Water**

The subdivision will be serviced by existing water mains located in Green Valley Drive, Colton Boulevard, and Avenue E.

### **B. Sanitary Sewer**

The subdivision will be serviced by existing sanitary sewer mains located in Green Valley Drive, Colton Boulevard, Avenue E, and Zimmerman Trail.

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

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

**VII. PARKS/OPEN SPACE**

There is no parkland requirement for proposed *Zimmerman Home Place Subdivision, 3<sup>rd</sup> Filing* as this is a minor subdivision [MCA 76-3-621(3)(a)].

**VIII. IRRIGATION**

No water rights have been transferred to the lot owners. There are no irrigation ditches within or adjacent to the Subdivision.

**IX. SOILS/GEOTECHNICAL STUDY**

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

**X. PHASING OF IMPROVEMENTS**

The Subdivision is not proposed to be constructed in phases.

**XI. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a private contract secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

**XII. LEGAL PROVISIONS APPLYING TO SUBDIVIDER**

- A. The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.
- B. The covenants, agreements, and all statements in this Agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.
- C. In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to

give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.

- D.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- E.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

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

“SUBDIVIDER”

*Highlands ZHP Subdivision, LLC  
a Montana Limited Liability Company*

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

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

STATE OF MONTANA     )  
                                          : ss  
County of                     )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of *Highlands ZHP Subdivision, LLC, a Montana Limited Liability Company*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

“SUBDIVIDER”

*L & L ZHP Subdivision, LLC*  
*a Montana Limited Liability Company*

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

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

STATE OF MONTANA     )  
                                          : ss  
County of                             )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of *L & L ZHP Subdivision, LLC, a Montana Limited Liability Company*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

“SUBDIVIDER”

*Ludwig Consulting, LLC*  
*a Montana Limited Liability Company*

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

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

STATE OF MONTANA     )  
                                          : ss  
County of                             )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of *Ludwig Consulting, LLC, a Montana Limited Liability Company*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

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

“CITY”  
CITY OF BILLINGS  
MONTANA

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

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

STATE OF MONTANA     )  
                                          : ss  
County of Yellowstone     )

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

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

# Waiver of Right to Protest

## FUTURE SPECIAL IMPROVEMENT DISTRICTS

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements which the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties and shall run with the land and shall be binding upon the undersigned, their successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

This Waiver is in addition to any other recorded waiver related to the property described herein and is not intended to replace, supersede, or invalidate any such waiver.

The real property hereinabove mentioned is more particularly described as follows:

*Zimmerman Home Place Subdivision, 3<sup>rd</sup> Filing*

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

*Highlands ZHP Subdivision, LLC  
a Montana Limited Liability Company*

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

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

STATE OF MONTANA     )  
                                          : ss  
County of                             )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of *Highlands ZHP Subdivision, LLC, a Montana Limited Liability Company*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

*L & L ZHP Subdivision, LLC*  
*a Montana Limited Liability Company*

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

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

STATE OF MONTANA     )  
                                          : ss  
County of                             )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of *L & L ZHP Subdivision, LLC, a Montana Limited Liability Company*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

*Ludwig Consulting, LLC*  
*a Montana Limited Liability Company*

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

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

STATE OF MONTANA     )  
                                          : ss  
County of                             )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of *Ludwig Consulting, LLC, a Montana Limited Liability Company*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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



August 22, 2022

Preston Lees  
2116 Broadwater Ave. Suite 101  
Billings, MT 59102


Dear Applicant:

On August 22, 2022, the Billings City Council conditionally approved the preliminary plat of Zimmerman Home Place Subdivision, 3<sup>rd</sup> Filing, subject to the following conditions of approval:

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

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

Sincerely,

DocuSigned by:  
  
William A. Cole, Mayor

**City Council Regular**

**Date:** 02/27/2023  
**Title:** Annual Resolution Authorizing the Filing and Acceptance of Transit Grant Funds and Related Documents  
**Presented by:** Rusty Logan  
**Department:** Transit  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends the City Council approve the Resolution authorizing the MET Transit Division to apply for, accept, and execute Federal and State transit related grants and allow the Mayor to execute annual required certifications and assurances, as well as any subsequently awarded grant agreements.

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

Each year, the MET Transit Division applies for various grants with the Federal Transit Administration (FTA) and/or the Transit Division of the State of Montana Department of Transportation (MDT). These grants may be available for planning, capital, training, innovation, or operating assistance. Under the current infrastructure and transportation bill, funding is provided either directly to the City as a recipient or as a pass-through funding mechanism managed by the State; these funds are typically received under Sections 49 USC 5303, 5307, 5310, 5311, and 5339, but may include other sections as funds become available. MET Transit receives annual formula grant funds for planning (5303), operating (5307), and capital (5310,5339), which are apportioned via national funding formulas based upon area population and performance factors of the system. Should competitive grant funds come available, MET Transit staff will also determine if application for available funds would be appropriate to support current and future transit needs. In general, grant funding for operating assistance requires a 50% local, 50% Federal match rate, while most capital projects and planning are funded at a 20% local, 80% Federal match rate. In order to apply for and accept grants with both FTA and MDT, it is necessary to include with the grant application a City Council approved Resolution formally authorizing the City of Billings' MET Transit Division to submit the applications, the annual Certifications and Assurances, and any other documentation required to secure the funding. This Resolution also authorizes the execution of any subsequent grant offers or agreements.

**ALTERNATIVES**

City Council may:

- Approve the Resolution for the MET Transit Division to apply for, accept, and execute grant agreements as well as annual Certifications and Assurances to support both operating, capital, and planning programs; or
- Not Approve the Resolution and direct staff on how to proceed without potentially compromising the receipt of Federal funding to support both ongoing transit operations and capital programs.

**FISCAL EFFECTS**

Typically, MET Transit is eligible to apply for and expend the following estimated formula amounts:

- \$200,000 of 5303 planning funds, requiring \$50,000 of local matching funds; Federal dollars are managed by the MDT and are programmed in the Unified Planning and Work Program annually with surface transportation planning projects.
- \$2,500,000 of 5307 operating funds, requiring \$2,500,000 of local matching funds; Federal dollars are managed by the FTA and projects are programmed annually into the Transportation Improvement Plan.
- \$96,000 of 5310 capital funds for replacement of paratransit vehicles, requiring \$24,000 of local matching funds; Federal dollars are managed by the MDT.
- \$480,000 of 5339A capital funds for replacement of buses and facility projects, requiring \$120,000 of local matching funds; Federal dollars are managed by the FTA.

MET may also apply for competitive capital funds of varying amounts funded at the same capital ratio of 80% Federal, 20% Local through available State and Federal programs, including the Bus and Bus Facilities program (5339B) and the Low/No Emissions Vehicles program (5339C). Without these grant funds, the City of Billings' ability to operate a transit system would be significantly reduced.

## **Attachments**

Resolution  
FTA Annual Certs and Assurances

**RESOLUTION 23-**

**A RESOLUTION AUTHORIZING THE FILING OF ALL APPLICATIONS FOR AND ACCEPTANCE OF AWARD OF FUNDS FROM THE FEDERAL TRANSIT ADMINISTRATION, AN OPERATING AGENCY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION FOR FEDERAL TRANSPORTATION PLANNING, CAPITAL, TRAINING, INNOVATION AND/OR OPERATING ASSISTANCE**

WHEREAS, the City of Billings has the power to enter into agreements with the Federal Transit Administration and the State of Montana; and

WHEREAS, the Federal Transportation Administration and the State of Montana, Department of Transportation, have been delegated authority to award Federal financial assistance for transportation and transit projects; and

WHEREAS, all contracts for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of project costs; and

WHEREAS, the applicant has or will provide all annual Certifications and Assurances to the Federal Transit Administration, as well as other documents required for the project.

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

1. That the City of Billings MET Transit Division is authorized to execute and file all applications on behalf of the City of Billings with the U.S. Department of Transportation, Federal Transit Administration, and the State of Montana, Department of Transportation, to aid in the financing of all planning, capital, training, innovation, and/or operating assistance projects authorized by 49 U.S.C. Chapter 53, Title 23 or other Federal or State statutes authorizing a project administered by the Federal Transit Administration and/or the Montana Department of Transportation.
2. That the City of Billings MET Transit Division is authorized to execute and file with such applications the annual Certifications and Assurances, and any other documents required by the U.S. Department of Transportation, Federal Transit Administration, fulfilling the purpose of the proposed projects, including local share.
3. That the City of Billings Mayor is authorized to execute grant and cooperative agreements with the U.S. Department of Transportation, Federal Transit Administration, and the State of Montana, Department of Transportation, on the behalf of the City of Billings.

4. That the MET Transit Division is designated to furnish such additional information as may be required connection with all applications and grant awards.

ADPOTED AND APPROVED by the City Council of the City of Billings, Montana,  
on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CITY OF BILLINGS

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

ATTEST:

By: \_\_\_\_\_  
Denise R. Bohlman, City Clerk

*Not every provision of every certification will apply to every applicant or award. If a provision of a certification does not apply to the applicant or its award, FTA will not enforce that provision.*

*Text in italic is guidance to the public. It does not have the force and effect of law, and is not meant to bind the public in any way. It is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.*

## **CATEGORY 1. CERTIFICATIONS AND ASSURANCES REQUIRED OF EVERY APPLICANT.**

*All applicants must make the certifications in this category.*

### **1.1. Standard Assurances.**

*The certifications in this subcategory appear as part of the applicant's registration or annual registration renewal in the System for Award Management (SAM.gov) and on the Office of Management and Budget's standard form 424B "Assurances—Non-Construction Programs". This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.*

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
- (b) Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- (c) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- (d) Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- (e) Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

- (f) Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
- (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin, as effectuated by U.S. DOT regulation 49 CFR Part 21;
  - (2) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 CFR Part 25;
  - (3) Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance from FTA because of race, color, religion, national origin, sex, disability, or age.
  - (4) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 CFR Part 27;
  - (5) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;
  - (6) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
  - (7) The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - (8) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
  - (9) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
  - (10) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
  - (11) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- (g) Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“Uniform Act”) (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 CFR Part 24.

- (h) Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- (i) Will comply, as applicable, with the provisions of the Davis–Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.
- (j) Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- (k) Will comply with environmental standards which may be prescribed pursuant to the following:
  - (1) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
  - (2) Notification of violating facilities pursuant to EO 11738;
  - (3) Protection of wetlands pursuant to EO 11990;
  - (4) Evaluation of flood hazards in floodplains in accordance with EO 11988;
  - (5) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
  - (6) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.);
  - (7) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
  - (8) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).
- (l) Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- (m) Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 et seq.).
- (n) Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- (o) Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded

animals held for research, teaching, or other activities supported by this award of assistance.

- (p) Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
- (q) Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Subpart F, “Audit Requirements”, as adopted and implemented by U.S. DOT at 2 CFR Part 1201.
- (r) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.
- (s) Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from:
  - (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect;
  - (2) Procuring a commercial sex act during the period of time that the award is in effect; or
  - (3) Using forced labor in the performance of the award or subawards under the award.

## **1.2. Standard Assurances: Additional Assurances for Construction Projects.**

*This certification appears on the Office of Management and Budget’s standard form 424D “Assurances—Construction Programs” and applies specifically to federally assisted projects for construction. This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.*

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency; will record the Federal awarding agency directives; and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
- (b) Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.
- (c) Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work confirms with the approved plans and specifications, and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

**1.3. Procurement.**

*The Uniform Administrative Requirements, 2 CFR § 200.325, allow a recipient to self-certify that its procurement system complies with Federal requirements, in lieu of submitting to certain pre-procurement reviews.*

The applicant certifies that its procurement system complies with:

- (a) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, particularly 2 CFR §§ 200.317–200.327 “Procurement Standards;
- (b) Federal laws, regulations, and requirements applicable to FTA procurements; and
- (c) The latest edition of FTA Circular 4220.1 and other applicable Federal guidance.

**1.4. Suspension and Debarment.**

*Pursuant to Executive Order 12549, as implemented at 2 CFR Parts 180 and 1200, prior to entering into a covered transaction with an applicant, FTA must determine whether the applicant is excluded from participating in covered non-procurement transactions. For this purpose, FTA is authorized to collect a certification from each applicant regarding the applicant’s exclusion status. 2 CFR § 180.300. Additionally, each applicant must disclose any information required by 2 CFR § 180.335 about the applicant and the applicant’s principals prior to entering into an award agreement with FTA. This certification serves both purposes.*

The applicant certifies, to the best of its knowledge and belief, that the applicant and each of its principals:

- (a) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any Federal department or agency;
- (b) Has not, within the preceding three years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

- (c) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense described in paragraph (b) of this certification;
- (d) Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

**1.5. Coronavirus Response and Relief Supplemental Appropriations Act, 2021, and CARES Act Funding.**

The applicant certifies:

- (a) To the maximum extent possible, funds made available under title IV of division M of the Consolidated Appropriations Act, 2021 (Public Law 116–260), and in title XII of division B of the CARES Act (Public Law 116–136; 134 Stat. 599) shall be directed to payroll and operations of public transit (including payroll and expenses of private providers of public transportation); or
- (b) The applicant certifies that the applicant has not furloughed any employees.

**1.6. American Rescue Plan Act Funding.**

The applicant certifies:

- (a) Funds made available by Section 3401(a)(2)(A) of the American Rescue Plan Act of 2021 (Public Law 117-2) shall be directed to payroll and operations of public transportation (including payroll and expenses of private providers of public transportation); or
- (b) The applicant certifies that the applicant has not furloughed any employees.

**CATEGORY 2. PUBLIC TRANSPORTATION AGENCY SAFETY PLANS**

*This certification is required of each applicant under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), each rail operator that is subject to FTA’s state safety oversight programs, and each State that is required to draft and certify a Public Transportation Agency Safety Plan on behalf of a Small Public Transportation Provider (as that term is defined at 49 CFR § 673.5) pursuant to 49 CFR § 673.11(d).*

*This certification is required by 49 U.S.C. § 5307(c)(1)(L), 49 U.S.C. § 5329(d)(1), and 49 CFR § 673.13. This certification is a condition of receipt of Urbanized Area Formula Grants Program (49 U.S.C. § 5307) funding.*

*This certification does not apply to any applicant that only receives financial assistance from FTA under the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C.*

*§ 5310), the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or combination of these two programs, unless it operates a rail fixed guideway public transportation system.*

If the applicant is an operator, the applicant certifies that it has established a Public Transportation Agency Safety Plan meeting the requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673; including, specifically, that the board of directors (or equivalent entity) of the applicant has approved, or, in the case of an applicant that will apply for assistance under 49 U.S.C. § 5307 that is serving an urbanized area with a population of 200,000 or more, the safety committee of the entity established under 49 U.S.C. § 5329(d)(5), followed by the board of directors (or equivalent entity) of the applicant has approved, the Public Transportation Agency Safety Plan or any updates thereto; and, for each recipient serving an urbanized area with a population of fewer than 200,000, that the Public Transportation Agency Safety Plan has been developed in cooperation with frontline employee representatives.

If the applicant is a State that drafts and certifies a Public Transportation Agency Safety Plan on behalf of a public transportation operator, the applicant certifies that:

- (a) It has drafted and certified a Public Transportation Agency Safety Plan meeting the requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673 for each Small Public Transportation Provider (as that term is defined at 49 CFR § 673.5) in the State, unless the Small Public Transportation Provider provided notification to the State that it was opting out of the State-drafted plan and drafting its own Public Transportation Agency Safety Plan; and
- (b) Each Small Public Transportation Provider within the State that opts to use a State-drafted Public Transportation Agency Safety Plan has a plan that has been approved by the provider's Accountable Executive (as that term is defined at 49 CFR § 673.5), Board of Directors or Equivalent Authority (as that term is defined at 49 CFR § 673.5), and, if the Small Public Transportation Provider serves an urbanized area with a population of 200,000 or more, the safety committee of the Small Public Transportation Provider established under 49 U.S.C. § 5329(d)(5).

### **CATEGORY 3. TAX LIABILITY AND FELONY CONVICTIONS.**

*If the applicant is a business association (regardless of for-profit, not for-profit, or tax exempt status), it must make this certification. Federal appropriations acts since at least 2014 have prohibited FTA from using funds to enter into an agreement with any corporation that has unpaid Federal tax liabilities or recent felony convictions without first considering the corporation for debarment. E.g., Consolidated Appropriations Act, 2023, Pub. L. 117-328, div. E, tit. VII, §§ 744–745. U.S. DOT Order 4200.6 defines a “corporation” as “any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association”, and applies the restriction to all tiers of subawards. As prescribed by U.S. DOT*

*Order 4200.6, FTA requires each business association applicant to certify as to its tax and felony status.*

If the applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the applicant certifies that:

- (a) It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- (b) It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

#### **CATEGORY 4. LOBBYING.**

*If the applicant will apply for a grant or cooperative agreement exceeding \$100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, it must make the following certification and, if applicable, make a disclosure regarding the applicant's lobbying activities. This certification is required by 49 CFR § 20.110 and app. A to that part.*

*This certification does not apply to an applicant that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 CFR Part 20.*

##### **4.1. Certification for Contracts, Grants, Loans, and Cooperative Agreements.**

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

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and

contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

#### **4.2. Statement for Loan Guarantees and Loan Insurance.**

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

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### **CATEGORY 5. PRIVATE SECTOR PROTECTIONS.**

*If the applicant will apply for funds that it will use to acquire or operate public transportation facilities or equipment, the applicant must make the following certification regarding protections for the private sector.*

#### **5.1. Charter Service Agreement.**

*To enforce the provisions of 49 U.S.C. § 5323(d), FTA's charter service regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following Charter Service Agreement. 49 CFR § 604.4.*

The applicant agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR Part 604, the terms and conditions of which are incorporated herein by reference.

**5.2. School Bus Agreement.**

*To enforce the provisions of 49 U.S.C. § 5323(f), FTA's school bus regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following agreement regarding the provision of school bus services. 49 CFR § 605.15.*

- (a) If the applicant is not authorized by the FTA Administrator under 49 CFR § 605.11 to engage in school bus operations, the applicant agrees and certifies as follows:
  - (1) The applicant and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.
  - (2) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
- (b) If the applicant is authorized or obtains authorization from the FTA Administrator to engage in school bus operations under 49 CFR § 605.11, the applicant agrees as follows:
  - (1) The applicant agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.
  - (2) The applicant, or any operator of project equipment, agrees to promptly notify the FTA Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.
  - (3) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
  - (4) The applicant agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

**CATEGORY 6. TRANSIT ASSET MANAGEMENT PLAN.**

*If the applicant owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).*

The applicant certifies that it is in compliance with 49 CFR Part 625.

## **CATEGORY 7. ROLLING STOCK BUY AMERICA REVIEWS AND BUS TESTING.**

### **7.1. Rolling Stock Buy America Reviews.**

*If the applicant will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 CFR § 663.7.*

The applicant certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 CFR Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 CFR Part 663.

### **7.2. Bus Testing.**

*If the applicant will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the applicant must make this certification. This certification is required by 49 CFR § 665.7.*

The applicant certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 CFR Part 665. The applicant has received or will receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

## **CATEGORY 8. URBANIZED AREA FORMULA GRANTS PROGRAM.**

*If the applicant will apply for an award under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), or any other program or award that is subject to the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310); “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)); projects that will receive an award authorized by the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) (23 U.S.C. §§ 601–609) or State Infrastructure Bank Program (23 U.S.C. § 610) (see 49 U.S.C. § 5323(o)); formula awards or competitive awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(a) and (b)); or low or no emission awards to any area under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(c)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5307(c)(1).*

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out the program of projects (developed pursuant 49 U.S.C. § 5307(b)), including safety and security aspects of the program;
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities;

- (c) Will maintain equipment and facilities in accordance with the applicant's transit asset management plan;
- (d) Will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—
  - (1) Senior;
  - (2) Individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and
  - (3) Individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. §§ 401 et seq., and 1395 et seq.);
- (e) In carrying out a procurement under 49 U.S.C. § 5307, will comply with 49 U.S.C. §§ 5323 (general provisions) and 5325 (contract requirements);
- (f) Has complied with 49 U.S.C. § 5307(b) (program of projects requirements);
- (g) Has available and will provide the required amounts as provided by 49 U.S.C. § 5307(d) (cost sharing);
- (h) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning);
- (i) Has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;
- (j) Either—
  - (1) Will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under 49 U.S.C. § 5336; or
  - (2) Has decided that the expenditure for security projects is not necessary;
- (k) In the case of an applicant for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under 49 U.S.C. § 5307 for associated transit improvements as defined in 49 U.S.C. § 5302; and
- (l) Will comply with 49 U.S.C. § 5329(d) (public transportation agency safety plan).

**CATEGORY 9. FORMULA GRANTS FOR RURAL AREAS.**

*If the applicant will apply for funds made available to it under the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), it must make this certification. Paragraph (a) of this certification helps FTA make the determinations required by 49 U.S.C. § 5310(b)(2)(C). Paragraph (b) of this certification is required by 49 U.S.C. § 5311(f)(2). Paragraph (c) of this certification, which applies to funds apportioned for the Appalachian Development Public Transportation Assistance Program, is necessary to enforce the conditions of 49 U.S.C. § 5311(c)(2)(D).*

- (a) The applicant certifies that its State program for public transportation service projects, including agreements with private providers for public transportation service—
  - (1) Provides a fair distribution of amounts in the State, including Indian reservations; and
  - (2) Provides the maximum feasible coordination of public transportation service assisted under 49 U.S.C. § 5311 with transportation service assisted by other Federal sources; and
- (b) If the applicant will in any fiscal year expend less than 15% of the total amount made available to it under 49 U.S.C. § 5311 to carry out a program to develop and support intercity bus transportation, the applicant certifies that it has consulted with affected intercity bus service providers, and the intercity bus service needs of the State are being met adequately.
- (c) If the applicant will use for a highway project amounts that cannot be used for operating expenses authorized under 49 U.S.C. § 5311(c)(2) (Appalachian Development Public Transportation Assistance Program), the applicant certifies that—
  - (1) It has approved the use in writing only after providing appropriate notice and an opportunity for comment and appeal to affected public transportation providers; and
  - (2) It has determined that otherwise eligible local transit needs are being addressed.

**CATEGORY 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS AND THE EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM.**

*If the applicant will apply for an award under any subsection of the Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), including an award made pursuant to the FAST Act's Expedited Project Delivery for Capital Investment Grants Pilot Program (Pub. L. 114-94, div. A, title III, § 3005(b)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5309(c)(2) and Pub. L. 114-94, div. A, title III, § 3005(b)(3)(B).*

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
- (c) Will maintain equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan; and
- (d) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning).

**CATEGORY 11. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS.**

*If the applicant is in an urbanized area and will apply for an award under subsection (a) (formula grants), subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.*

*If the applicant is in a rural area and will apply for an award under subsection (a) (formula grants), subsection (b) (bus and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 9 for Formula Grants for Rural Areas (49 U.S.C. § 5311). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.*

*Making this certification will incorporate by reference the applicable certifications in Category 8 or Category 9.*

*If the applicant will receive a competitive award under subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) related to zero emissions vehicles or related infrastructure, it must make the following certification. This certification is required by 49 U.S.C. § 5339(d).*

The applicant will use 5 percent of grants related to zero emissions vehicles (as defined in subsection (c)(1)) or related infrastructure under subsection (b) or (c) to fund workforce development training as described in section 49 U.S.C. § 5314(b)(2) (including registered apprenticeships and other labor-management training programs) under the recipient's plan to address the impact of the transition to zero emission vehicles on the applicant's current workforce; or the applicant certifies a smaller percentage is necessary to carry out that plan.

**CATEGORY 12. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.**

*If the applicant will apply for an award under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. § 5310), it must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5310(e)(1). Making this certification will incorporate by reference the certification in Category 8, except that FTA has determined that (d), (f), (i), (j), and (k) of Category 8 do not apply to awards made under 49 U.S.C. § 5310 and will not be enforced.*

*In addition to the certification in Category 8, the applicant must make the following certification that is specific to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program. This certification is required by 49 U.S.C. § 5310(e)(2).*

The applicant certifies that:

- (a) The projects selected by the applicant are included in a locally developed, coordinated public transit-human services transportation plan;
- (b) The plan described in clause (a) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public;
- (c) To the maximum extent feasible, the services funded under 49 U.S.C. § 5310 will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services; and
- (d) If the applicant will allocate funds received under 49 U.S.C. § 5310 to subrecipients, it will do so on a fair and equitable basis.

**CATEGORY 13. STATE OF GOOD REPAIR GRANTS.**

*If the applicant will apply for an award under FTA's State of Good Repair Grants Program (49 U.S.C. § 5337), it must make the following certification. Because FTA generally does not review the transit asset management plans of public transportation providers, the asset management certification is necessary to enforce the provisions of 49 U.S.C. § 5337(a)(4). The certification with regard to acquiring restricted rail rolling stock is required by 49 U.S.C. § 5323(u)(4). Note that this certification is not limited to the use of Federal funds.*

The applicant certifies that the projects it will carry out using assistance authorized by the State of Good Repair Grants Program, 49 U.S.C. § 5337, are aligned with the applicant's most recent transit asset management plan and are identified in the investment and prioritization section of such plan, consistent with the requirements of 49 CFR Part 625.

If the applicant operates a rail fixed guideway service, the applicant certifies that, in the fiscal year for which an award is available to the applicant under the State of Good Repair Grants Program, 49 U.S.C. § 5337, the applicant will not award any contract or subcontract for the procurement of rail rolling stock for use in public transportation with a rail rolling stock manufacturer described in 49 U.S.C. § 5323(u)(1).

#### **CATEGORY 14. INFRASTRUCTURE FINANCE PROGRAMS.**

*If the applicant will apply for an award for a project that will include assistance under the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) Program (23 U.S.C. §§ 601–609) or the State Infrastructure Banks (“SIB”) Program (23 U.S.C. § 610), it must make the certifications in Category 8 for the Urbanized Area Formula Grants Program, Category 10 for the Fixed Guideway Capital Investment Grants program, and Category 13 for the State of Good Repair Grants program. These certifications are required by 49 U.S.C. § 5323(o).*

*Making this certification will incorporate the certifications in Categories 8, 10, and 13 by reference.*

#### **CATEGORY 15. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**

*If the applicant will apply for an award under FTA’s Urbanized Area Formula Grants Program (49 U.S.C. § 5307), Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) programs, the applicant must make the following certification. The applicant must make this certification on its own behalf and on behalf of its subrecipients and contractors. This certification is required by 49 CFR § 655.83.*

The applicant certifies that it, its subrecipients, and its contractors are compliant with FTA’s regulation for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, 49 CFR Part 655.

#### **CATEGORY 16. RAIL SAFETY TRAINING AND OVERSIGHT.**

*If the applicant is a State with at least one rail fixed guideway system, or is a State Safety Oversight Agency, or operates a rail fixed guideway system, it must make the following certification. The elements of this certification are required by 49 CFR §§ 672.31 and 674.39.*

The applicant certifies that the rail fixed guideway public transportation system and the State Safety Oversight Agency for the State are:

- (a) Compliant with the requirements of 49 CFR Part 672, “Public Transportation Safety Certification Training Program”; and
- (b) Compliant with the requirements of 49 CFR Part 674, “State Safety Oversight”.

**CATEGORY 17. DEMAND RESPONSIVE SERVICE.**

*If the applicant operates demand responsive service and will apply for an award to purchase a non-rail vehicle that is not accessible within the meaning of 49 CFR Part 37, it must make the following certification. This certification is required by 49 CFR § 37.77.*

The applicant certifies that the service it provides to individuals with disabilities is equivalent to that provided to other persons. A demand responsive system, when viewed in its entirety, is deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (a) Response time;
- (b) Fares;
- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Restrictions or priorities based on trip purpose;
- (f) Availability of information and reservation capability; and
- (g) Any constraints on capacity or service availability.

**CATEGORY 18. INTEREST AND FINANCING COSTS.**

*If the applicant will pay for interest or other financing costs of a project using assistance awarded under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), the Fixed Guideway Capital Investment Grants Program (49 U.S.C. § 5309), or any program that must comply with the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)), or awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the following certification. This certification is required by 49 U.S.C. §§ 5307(e)(3) and 5309(k)(2)(D).*

The applicant certifies that:

- (a) Its application includes the cost of interest earned and payable on bonds issued by the applicant only to the extent proceeds of the bonds were or will be expended in carrying out the project identified in its application; and
- (b) The applicant has shown or will show reasonable diligence in seeking the most favorable financing terms available to the project at the time of borrowing.

**CATEGORY 19. CYBERSECURITY CERTIFICATION FOR RAIL ROLLING STOCK AND OPERATIONS.**

*If the applicant operates a rail fixed guideway public transportation system, it must make this certification. This certification is required by 49 U.S.C. § 5323(v). For information about standards or practices that may apply to a rail fixed guideway public transportation system, visit <https://www.nist.gov/cyberframework> and <https://www.cisa.gov/>.*

The applicant certifies that it has established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks that complies with the requirements of 49 U.S.C. § 5323(v)(2).

**CATEGORY 20. PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS FORMULA AND DISCRETIONARY PROGRAM (TRIBAL TRANSIT PROGRAMS).**

*Before FTA may provide Federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), the applicant must select the Certifications in Category 21, except as FTA determines otherwise in writing. Tribal Transit Program applicants may certify to this Category and Category 1 (Certifications and Assurances Required of Every Applicant) and need not make any other certification, to meet Tribal Transit Program certification requirements. If an applicant will apply for any program in addition to the Tribal Transit Program, additional certifications may be required.*

FTA has established terms and conditions for Tribal Transit Program grants financed with Federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). The applicant certifies that:

- (a) It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
- (b) It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
- (c) It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR Part 625. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
- (d) With respect to its procurement system:
  - (1) It will have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost

- Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, for Awards made on or after December 26, 2014,
- (2) It will have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 49 CFR Part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
  - (3) It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.
- (e) It will comply with the Certifications, Assurances, and Agreements in:
- (1) Category 05.1 and 05.2 (Charter Service Agreement and School Bus Agreement),
  - (2) Category 06 (Transit Asset Management Plan),
  - (3) Category 07.1 and 07.2 (Rolling Stock Buy America Reviews and Bus Testing),
  - (4) Category 09 (Formula Grants for Rural Areas),
  - (5) Category 15 (Alcohol and Controlled Substances Testing), and
  - (6) Category 17 (Demand Responsive Service).

#### **CATEGORY 21. EMERGENCY RELIEF PROGRAM.**

*An applicant to the Public Transportation Emergency Relief Program, 49 U.S.C. § 5324, must make the following certification. The certification is required by 49 U.S.C. § 5324(f) and must be made before the applicant can receive a grant under the Emergency Relief program.*

The applicant certifies that the applicant has insurance required under State law for all structures related to the emergency relief program grant application.

**FEDERAL FISCAL YEAR 2023 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE PROGRAMS**

(Signature pages alternate to providing Certifications and Assurances in TrAMS.)

Name of Applicant: \_\_\_\_\_

The Applicant certifies to the applicable provisions of all categories: (*check here*) \_\_\_\_\_.

*Or,*

The Applicant certifies to the applicable provisions of the categories it has selected:

| <b>Category</b>                                                                                                            | <b>Certification</b> |
|----------------------------------------------------------------------------------------------------------------------------|----------------------|
| 01 Certifications and Assurances Required of Every Applicant                                                               | _____                |
| 02 Public Transportation Agency Safety Plans                                                                               | _____                |
| 03 Tax Liability and Felony Convictions                                                                                    | _____                |
| 04 Lobbying                                                                                                                | _____                |
| 05 Private Sector Protections                                                                                              | _____                |
| 06 Transit Asset Management Plan                                                                                           | _____                |
| 07 Rolling Stock Buy America Reviews and Bus Testing                                                                       | _____                |
| 08 Urbanized Area Formula Grants Program                                                                                   | _____                |
| 09 Formula Grants for Rural Areas                                                                                          | _____                |
| 10 Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program | _____                |
| 11 Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs                            | _____                |

12 Enhanced Mobility of Seniors and Individuals with Disabilities Programs

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13 State of Good Repair Grants

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14 Infrastructure Finance Programs

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15 Alcohol and Controlled Substances Testing

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16 Rail Safety Training and Oversight

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17 Demand Responsive Service

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18 Interest and Financing Costs

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19 Cybersecurity Certification for Rail Rolling Stock and Operations

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20 Tribal Transit Programs

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21 Emergency Relief Program

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**CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE**

**AFFIRMATION OF APPLICANT**

Name of the Applicant: \_\_\_\_\_

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in the federal fiscal year, irrespective of whether the individual that acted on his or her Applicant’s behalf continues to represent it.

The Certifications and Assurances the Applicant selects apply to each Award for which it now seeks, or may later seek federal assistance to be awarded by FTA during the federal fiscal year.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

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

Name \_\_\_\_\_ Authorized Representative of Applicant

**AFFIRMATION OF APPLICANT’S ATTORNEY**

For (Name of Applicant): \_\_\_\_\_

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

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

Name \_\_\_\_\_ Attorney for Applicant

*Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant’s Attorney pertaining to the Applicant’s legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney’s signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.*

**City Council Regular**

**Date:** 02/27/2023  
**Title:** FY24-28 Capital Improvement Plan - Transportation & Parks and Recreation  
**Presented by:** Andy Zoeller, Finance Director  
**Department:** Finance  
**Presentation:** No  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends approval of the FY 2024 - 2028 Capital Improvement Plan for Transportation and Parks and Recreation

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

At the 12/19/2022 regular meeting, City Council adopted the FY2024 - 2028 Capital Improvement Plan except the areas related to Transportation and Parks and Recreation. City Council requested additional information on these specific areas focusing on prioritizing certain projects. At the 02/06/2023 work session, staff presented additional information showing Transportation and Parks of projects with focus in certain areas. At that meeting, City Council directed staff to proceed with the modified Capital Improvement Plan for Parks and Transportation.

**Parks and Recreation**

Additional information was provided on tennis facilities and spray grounds. Significant capital projects have been identified that will require general obligation debt to complete. While specific projects and timelines have yet to be identified, estimated projects and amounts have been included in the Parks CIP. The attached Parks CIP plan reflects the Parks and Recreation projects that are recommended to be funded through existing resources and a list of potential projects that could be funded through future voter approved financing. Total FY 2024 - 2028 CIP for Parks and Recreation is \$225 million. This amount will change as further refinement of debt financed project occurs.

**Transportation**

Three annual programs were added or increased: Safe Routes to School (SRTS) non-sidewalk implementation, PAVER, and traffic-calming. The SRTS sidewalk projects will be prioritized using the existing missing sidewalk budget. The Downtown Two Way Conversion project was split into two different projects, one showing the city funded maintenance project and the other showing improvements related to the conversion project. The timing for several projects were adjusted to ensure FY24 could be funded with existing rates. FY25-FY28 as shown in the modified CIP will require rate increases to fund. Staff will present the rate increases this spring that are necessary to complete the work as shown and if it is decided to adjust rates differently than presented, an adjusted CIP will be presented for approval during the FY25-FY29 CIP process. There were no changes made to the Planning transportation projects.

**ALTERNATIVES**

City Council may:

- Approve; or,
- Not Approve

**FISCAL EFFECTS**

Total Parks and Recreation projects in the FY 2024 - 2028 CIP total \$225,320,170. This amount will be funded through a combination of existing resources (Park District 1, Cemetery Funds, Donations, Parks Projects Funds) and a significant portion funded by debt financing (Tax Increment Bonds and General Obligation Bonds). Further refinement on this amount and timeline will occur as capital projects are prioritized.

Transportation projects in the FY2024 -2028 CIP total \$105,280,000. This amount is planned to be funded through gas tax, street maintenance district fees, TIF funds, Urban funds, and property owner assessments. FY24 can be funded with the existing rate structure. FY25-FY28 will require rate increases that will be presented in the spring.

**Attachments**

FY24-28 Parks CIP  
 CIP Resolution - PRPL & Transportation  
 FY24-28 PW Transportation CIP





# FY 2024 - 2028 CAPITAL IMPROVEMENT PLAN SUMMARIES

## FUNDING BY DEPARTMENT AND PROJECT CATEGORY

### PARKS AND RECREATION DEPARTMENT

#### PARK PROJECTS

| Project Name                                           | FY 2024          | FY 2025          | FY 2026          | FY 2027          | FY 2028          | Total             |
|--------------------------------------------------------|------------------|------------------|------------------|------------------|------------------|-------------------|
| Aquatics Facilities Evaluation                         | 190,000          |                  |                  |                  |                  | 190,000           |
| Amend Park Parking Lot Repairs                         |                  | 200,000          |                  |                  |                  | 200,000           |
| Burg Park Playground Replacement                       |                  |                  |                  |                  | 300,000          | 300,000           |
| Castle Rock Park North Parking Lot & Restroom          | 981,000          |                  |                  |                  |                  | 981,000           |
| Centennial Park Trail Development (Dog Park)           | 65,662           |                  |                  |                  |                  | 65,662            |
| Dehler Park Ball Field Replacement                     |                  | 449,080          |                  |                  |                  | 449,080           |
| Edgerton Park Playground Replacement                   |                  |                  |                  |                  | 350,000          | 350,000           |
| Hawthorne Park Wading Pool Replacement                 |                  |                  | 196,200          | 1,613,592        |                  | 1,809,792         |
| Irrigation Automation Spring Creek and Evergreen Parks |                  |                  | 315,097          |                  |                  | 315,097           |
| Irrigation Automation at Burlington Park               |                  | 305,025          |                  |                  |                  | 305,025           |
| Irrigation Automation at Boulder Park                  |                  |                  | 332,362          |                  |                  | 332,362           |
| North Park Tennis/Basketball Courts Replacement        |                  |                  | 650,000          |                  |                  | 650,000           |
| Parks and Recreation Comprehensive Plan Update         |                  |                  |                  | 163,500          |                  | 163,500           |
| Poly Vista Ball Park Restroom                          |                  |                  | 300,000          |                  |                  | 300,000           |
| Poly Vista Park Parking Lot Completion                 | 220,000          |                  |                  |                  |                  | 220,000           |
| Park Vista Park Playground Development                 | 1,315,097        |                  |                  |                  |                  | 1,315,097         |
| Pioneer Park 6 Tennis Courts Replacements              | 1,200,000        |                  |                  |                  |                  | 1,200,000         |
| Swords Park Road Replacement                           |                  | 250,000          | 250,000          | 250,000          | 250,000          | 1,000,000         |
| Various Trail Repairs                                  |                  | 100,000          | 100,000          | 100,000          | 100,000          | 400,000           |
| Walsh Park Playground Replacement                      |                  |                  |                  |                  | 350,000          | 350,000           |
| <b>Total Park Projects</b>                             | <b>3,971,759</b> | <b>1,304,105</b> | <b>2,143,659</b> | <b>2,127,092</b> | <b>1,350,000</b> | <b>10,896,615</b> |

#### RECREATION PROJECTS

| Project Name                     | FY 2024        | FY 2025  | FY 2026  | FY 2027  | FY 2028  | Total          |
|----------------------------------|----------------|----------|----------|----------|----------|----------------|
| Rose Pool Spray Feature Upgrade  | 147,000        |          |          |          |          | 147,000        |
| <b>Total Recreation Projects</b> | <b>147,000</b> | <b>-</b> | <b>-</b> | <b>-</b> | <b>-</b> | <b>147,000</b> |

#### CEMETERY PROJECTS

| Project Name                              | FY 2024        | FY 2025        | FY 2026  | FY 2027  | FY 2028  | Total          |
|-------------------------------------------|----------------|----------------|----------|----------|----------|----------------|
| Cemetery Area 15 Establishment            |                | 610,000        |          |          |          | 610,000        |
| Cemetery Pump Station Replacement/Upgrade | 270,000        |                |          |          |          | 270,000        |
| <b>Total Cemetery Projects</b>            | <b>270,000</b> | <b>610,000</b> | <b>-</b> | <b>-</b> | <b>-</b> | <b>880,000</b> |

#### DEBT FINANCED PRPL PROJECTS \*

| Project Name                                   | FY 2024          | FY 2025            | FY 2026  | FY 2027  | FY 2028  | Total              |
|------------------------------------------------|------------------|--------------------|----------|----------|----------|--------------------|
| Multi-Generational Community Recreation Center | 6,500,000        | 106,157,000        |          |          |          | 112,657,000        |
| Pioneer Wading Pool Replacement                |                  | 1,000,000          |          |          |          | 1,000,000          |
| South Park Pool Renovation                     |                  | 16,500,000         |          |          |          | 16,500,000         |
| Centennial Park                                |                  | 5,385,200          |          |          |          | 5,385,200          |
| Water - West End Reservoir/City Lakes          |                  | 7,000,000          |          |          |          | 7,000,000          |
| Terry Park Spray Ground Replacement            |                  | 1,000,000          |          |          |          | 1,000,000          |
| Castle Rock Park                               |                  | 17,867,500         |          |          |          | 17,867,500         |
| Poly Vista Park                                |                  | 5,982,200          |          |          |          | 5,982,200          |
| Coulson Park                                   |                  | 25,459,400         |          |          |          | 25,459,400         |
| Cottonwood Park                                |                  | 20,545,255         |          |          |          | 20,545,255         |
| <b>Total Debt Financed PRPL Projects</b>       | <b>6,500,000</b> | <b>206,896,555</b> | <b>-</b> | <b>-</b> | <b>-</b> | <b>213,396,555</b> |

\* The City Council and Parks Department are currently working on establishing a specific prioritized list of capital projects. In order to construct this many significant projects, voter approval of a general obligation bond will be necessary. The list above is not complete and not final at this time. It is estimated that total project financed by debt will be \$100-200 million, with much of this funded through voter approved general obligation bonds. As progress is made on this list of projects, further refinement of cost, priority, and timeline for construction will occur.

|                                        |                   |                    |                  |                  |                  |                    |
|----------------------------------------|-------------------|--------------------|------------------|------------------|------------------|--------------------|
| <b>PARKS AND RECREATION DEPT TOTAL</b> | <b>10,888,759</b> | <b>208,810,660</b> | <b>2,143,659</b> | <b>2,127,092</b> | <b>1,350,000</b> | <b>225,320,170</b> |
|----------------------------------------|-------------------|--------------------|------------------|------------------|------------------|--------------------|

**RESOLUTION 22-\_\_\_\_\_**

**A RESOLUTION ADOPTING THE FY 2024-2028 CAPITAL IMPROVEMENT PLAN**

WHEREAS, the Capital Improvement Plan (CIP), is a financial tool adopted by the City Council as an indication of its priorities for funding projects in future budget years; and

WHEREAS, the City Council of the City of Billings was presented on November 14, 21 and December 5, 2022 with staff recommendations for the Fiscal Year (FY) 2024-2028 CIP; and

WHEREAS, the City Council of the City of Billings adopted the FY 2024-2028 CIP except for Parks and Recreation and Transportation Projects on December 19, 2022; and

WHEREAS, the City Council of the City of Billings was presented with additional information related to the Parks and Recreation and Transportation CIP on February 6, 2023

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

Section 1: The FY 2024-2028 CIP for Parks and Recreation and Transportation is hereby adopted as approved by Council on February 27, 2023.

Section 2: City staff is hereby directed to utilize the adopted plan to prepare the FY 2024 departmental budgets that will be incorporated into the comprehensive FY 2024 City of Billings budget, which will be presented for City Council review and approval at a future City Council meeting.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the 19th day of December, 2022.

CITY OF BILLINGS

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

ATTEST:

By: \_\_\_\_\_  
Denise R. Bohlman, City Clerk

# PUBLIC WORKS FY 2024- 2028 CAPITAL IMPROVEMENT PLAN SUMMARY

## SUMMARY BY CATEGORY

### TRANSPORTATION PROJECTS

| PROJECT NAME                                  | FY 2024                           | FY 2025                           | FY 2026                           | FY 2027                           | FY 2028                           | TOTAL                               |
|-----------------------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-------------------------------------|
| Annual ADA Replacement                        | 250,000                           | 250,000                           | 250,000                           | 250,000                           | 250,000                           | 1,250,000                           |
| Annual Gravel Street Reconstruction           | 2,450,000                         | 2,450,000                         | 2,450,000                         | 2,450,000                         | 2,450,000                         | 12,250,000                          |
| Annual PAVER Program                          | <del>1,025,000</del><br>1,475,000 | <del>2,900,000</del><br>3,350,000 | <del>3,000,000</del><br>3,900,000 | <del>3,100,000</del><br>4,500,000 | <del>3,200,000</del><br>5,250,000 | <del>13,225,000</del><br>18,475,000 |
| Annual Pedestrian Crossings                   | 104,000                           | 107,000                           | 110,000                           | 115,000                           | 120,000                           | 556,000                             |
| Annual SIDs                                   | 1,050,000                         | 1,050,000                         | 1,050,000                         | 1,050,000                         | 1,050,000                         | 5,250,000                           |
| Annual Street Reconstruction                  | 1,580,000                         | 1,580,000                         | 1,580,000                         | 1,580,000                         | 1,580,000                         | 7,900,000                           |
| Annual Travel Corridor Coordination           | 52,000                            | 54,000                            | 56,000                            | 58,000                            | 61,000                            | 281,000                             |
| Intersection Capacity Improvements            | 515,000                           | 535,000                           | 554,000                           | 574,000                           | 600,000                           | 2,778,000                           |
| Misc., Curb, Gutter, and Sidewalk Program     | 975,000                           | 1,000,000                         | 1,030,000                         | 1,050,000                         | 1,100,000                         | 5,155,000                           |
| SRTS (Non-sidewalk)                           | 500,000                           | 500,000                           | 500,000                           | 500,000                           | 500,000                           | 2,500,000                           |
| Traffic Calming                               | 50,000                            | 100,000                           | <del>50,000</del> 150,000         | 200,000                           | 250,000                           | <del>50,000</del> 750,000           |
| 21st Street Underpass Improvements            |                                   |                                   |                                   | 5,000,000                         |                                   | 5,000,000                           |
| <del>36th - Central to Broadwater</del>       |                                   |                                   |                                   | <del>300,000</del>                | <del>2,700,000</del>              | <del>3,000,000</del>                |
| 54th St West (Grand to Rimrock)               |                                   |                                   |                                   | 700,000                           | 5,500,000                         | 6,200,000                           |
| 6th Avenue North Multiuse Trail               |                                   | 500,000                           |                                   |                                   |                                   | 500,000                             |
| Bike Boulevard                                | 240,000                           |                                   |                                   |                                   |                                   | 240,000                             |
| Broadwater - Vermillion to Shiloh             | <del>600,000</del>                | <del>3,000,000</del>              | 600,000                           | 3,000,000                         |                                   | 3,600,000                           |
| Gabel Road                                    | 550,000                           |                                   |                                   |                                   |                                   | 550,000                             |
| Downtown Pavement Maintenance/Signals         | 3,600,000                         |                                   |                                   |                                   |                                   | 3,600,000                           |
| Downtown Street Improvements                  | 3,800,000                         |                                   |                                   |                                   |                                   | 3,800,000                           |
| Monad Road (Daniels to Moore Ln)              |                                   |                                   | 450,000                           | 3,700,000                         |                                   | 4,150,000                           |
| Pedestrian Crossing of Exposition Drive       |                                   |                                   |                                   |                                   | 4,000,000                         | 4,000,000                           |
| Remote Restroom and Breakroom                 | 100,000                           |                                   |                                   |                                   |                                   | 100,000                             |
| Remote Storage Location for Sand and Slicer   | 850,000                           |                                   |                                   |                                   |                                   | 850,000                             |
| Rimrock Rd (54th to 62nd) Reconstruction      |                                   | 600,000                           | 5,800,000                         |                                   |                                   | 6,400,000                           |
| Rimrock Rd (Clearview to 54th) Reconstruction |                                   |                                   | 375,000                           | 3,300,000                         |                                   | 3,675,000                           |
| SBURA Unimproved Street Improvements          | 2,620,000                         |                                   |                                   |                                   |                                   | 2,620,000                           |
| Traffic Signal Controller Upgrade             | 650,000                           |                                   |                                   |                                   |                                   | 650,000                             |
| Wicks Lane - Main to Bitterroot               | 400,000                           | <del>1,800,000</del><br>400,000   | 1,800,000                         |                                   |                                   | 2,200,000                           |
| <b>TOTAL TRANSPORTATION PROJECTS</b>          | <b>21,411,000</b>                 | <b>12,476,000</b>                 | <b>20,655,000</b>                 | <b>28,027,000</b>                 | <b>22,711,000</b>                 | <b>105,280,000</b>                  |

**City Council Regular**

**Date:** 02/27/2023  
**Title:** W.O. 22-07 Mullooney Lane Improvements, Resolution Ordering Improvements  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Yes

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**RECOMMENDATION**

Staff recommends that City Council approve the resolution ordering improvements identified in the W.O. 22-07 Mullooney Lane Improvements reconstruction project.

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

W.O. 22-07 Mullooney Lane Improvements consists of improving Mullooney Lane from the Midland Road/South Frontage Road intersection south to Elysian Road. Mullooney Lane will be constructed to a 3-lane street including a two-way-left-turn-lane, sidewalk on the west side, 10-foot multi-use trail on the east side, curb and gutter, storm drain, irrigation, streetlights, and a signalized intersection at Elysian Road. A landscaped, traffic-calming median island is included for the Holiday Avenue intersection located at the mid-point between Midland Road and Elysian Road. Staff has contacted and visited with property owners individually during project development. Staff held one public meeting, and has contacted property owners via three letters between July 2022 and February 2023.

The resolution was created in accordance with Resolution 18-10719 and State law (MCA 7-14-4109). All properties within the City limits that are currently missing street improvements fronting Mullooney Lane are being assessed for curb and gutter, sidewalk or multi-use path, and other appurtenant miscellaneous improvements such as concrete drive approaches, driveway asphalt, storm drain stubs, and seeding of disturbed areas.

City funds are being used to reconstruct that majority of the street in the project that is consistent with how similar streets are being constructed in other neighborhoods.

**ALTERNATIVES**

City Council may:

- Approve the resolution ordering improvements; or,
- Not approve the resolution ordering improvements. If the City Council does not adopt the resolution, the property owners cannot be assessed and the improvements will not be constructed.

**FISCAL EFFECTS**

This project is funded through direct property assessments of \$608,000, Gas Tax, Street Maintenance District 2 funds, and Developer Contributions. \$60,470 will also be reimbursed from property owners for water/sewer/storm utility stubs to the property line.

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**Attachments**

Resolution Ordering Improvements  
Exhibit A  
Exhibit B

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the City), hereby certify that the attached resolution is a true copy of Resolution No. 23-\_\_\_\_\_, entitled: **A RESOLUTION RELATING TO W.O. 22-07 MULLOWNEY LANE IMPROVEMENTS; ORDERING IN CERTAIN LOCAL IMPROVEMENTS AND DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO FINANCE THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY’S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT REGULATIONS UNDER THE INTERNAL REVENUE CODE** (the “Resolution”) was duly adopted by the City Council of the City at a meeting on February 27, 2023; that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Councilmembers voted in favor thereof: \_\_\_\_\_;  
\_\_\_\_\_;  
voted against the same: \_\_\_\_\_;  
\_\_\_\_\_;  
or were absent: \_\_\_\_\_.

WITNESS my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Denise Bohlman  
City Clerk

RESOLUTION NO. 23 - \_\_\_\_\_

**A RESOLUTION RELATING TO THE W.O. 22-07 MULLOWNEY LANE IMPROVEMENTS; ORDERING IN CERTAIN LOCAL IMPROVEMENTS AND DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO FINANCE THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT REGULATIONS UNDER THE INTERNAL REVENUE CODE.**

BE IT RESOLVED by the City Council of the City of Billings, Montana (the "City"), as follows:

Section 1. Authorization. Certain curbs, gutters, sidewalks, drive approaches, alley approaches and/or appurtenant features or a combination thereof in certain locations in the City have deteriorated, settled and cracked, or none exist, and the safety and convenience of the public require installation, construction, reconstruction, repair and/or replacement thereof. Pursuant to M.C.A. 7-14-4109, the Council is authorized to order the installation, construction, reconstruction and/or replacements of certain curbs, gutters, sidewalks, drive approaches and/or appurtenant features or a combination thereof (the "Improvements") in certain locations in the City and without creation of a special improvement district.

Section 2. Ordering of Improvements. It is hereby ordered that the Improvements, consisting of the construction and installation of curbs, gutters, sidewalks, drive approaches and appurtenant features in the areas shown on Exhibit A hereto and as more particularly described herein, be installed, constructed, reconstructed, repaired and/or replaced.

Section 3. Estimated Costs of the Improvements. The City estimates that the costs of the Improvements are \$3,637,800, with \$608,000 to be financed through the issuance of the Bonds (as hereinafter defined). Costs of the Improvements include costs of the design, engineering, construction and installation of the Improvements, costs of funding a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund"), costs associated with the sale of the Bonds (as hereinafter defined), and all other incidental costs as described below:

|                                       |                     |
|---------------------------------------|---------------------|
| Construction Costs                    | \$429,681.78        |
| Contingency                           | \$21,320.30         |
| Consultant Management Costs           | \$86,008.41         |
| City Engineering (Project Management) | 21,229.51           |
| Finance                               | 1,200.00            |
| Revolving Fund                        | 30,400.00           |
| Bond Discount                         | \$12,160.00         |
| Issuance Costs                        | 6,000.00            |
| <u>Total Assessed Costs</u>           | <u>\$608,000.00</u> |

Section 4. Property to be Assessed. The properties which are adjacent to the Improvements will be assessed for costs of the Improvements as shown on Exhibit B hereto. The cost to be assessed against each property will vary depending upon the actual construction that is required adjacent to each such property.

Section 5. Property Owner Option to Construct Improvements. Notice of passage of this Resolution shall be mailed to all affected property owners. Each such owner will have thirty (30) days from the date of said notice in which to install the Improvements with respect to its property at its own expense. In the event that any owner does not install the Improvements with respect to its property, the City will install such Improvements and will assess the costs of the Improvements against such property.

Section 6. Payment for Improvements. Costs of the Improvements (unless paid directly by the affected property owner) are to be paid from the proceeds of Sidewalk, Curb, and Gutter Improvement Bonds (the "Bonds") in an aggregate principal amount not to exceed \$608,000.00.

Section 7. Bond Financing; Pledge of Revolving Fund; Findings and Determinations. The Bonds will be repaid from the assessments for costs of the Improvements, together with interest thereon calculated pursuant to M.C.A. 7-12-4189, to be levied against the properties to be assessed for the Improvements. Assessments for the costs of the Improvements, together with interest thereon, shall be payable over a term not exceeding 12 years, each in equal semiannual installments as this Council shall prescribe in the resolution authorizing the issuance of the Bonds. Principal of and interest on the Bonds will be paid from such assessments.

After the Bonds are issued, all property owners to be levied for the Improvements shall have the right to prepay assessments as provided by law.

This Council further finds that it is in the public interest, and in the best interest of the City and the properties to be assessed for the Improvements, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect of the Bonds.

In determining to authorize the issuance of the Bonds and the pledge of the Revolving Fund therefor, this Council has taken into consideration the following factors:

(a) Estimated Market Value of Parcels. The estimated market value of the properties to be assessed for the Improvements as of the date of adoption of this resolution, as estimated by the County Assessor, ranges from \$57,018 to \$12,277,607 and is set forth in Exhibit B. The estimated average market value of the properties to be assessed for the Improvements is \$1,785,540 and the median market value of the properties to be assessed for the Improvements is \$916,300. The special assessments to be levied against each property listed on Exhibit B hereto are less than the increase in estimated value of the properties as a result of the construction of the Improvements.

(b) Diversity of Property Ownership. There are a total of 13 properties to be assessed for the Improvements and such properties are owned by 10 separate owners.

Three of the 13 tax codes to be assessed for the Improvements are townhomes located on a single parcel. For such properties, each tax code will be assessed for that portion of the real property that it pertains to, along with its allocable portion of the costs of the common areas.

(c) Comparison of Special Assessments, Property Taxes and Market Value. Based on an analysis of the aggregate amount of the proposed assessments, any outstanding assessments (whether or not delinquent), and any delinquent property taxes (as well as any known industrial development bonds theretofore issued and secured by a mortgage against a property to be assessed for the Improvements) against each property to be assessed for the Improvements in comparison to the estimated market value of such property after the Improvements, the City concludes that, overall, the estimated market value of the properties to be assessed for the Improvements exceeds the sum of the proposed assessments, outstanding assessments and delinquent property taxes, and is set forth in Exhibit B hereto.

(d) Delinquencies. An analysis of the amount of delinquencies in the payment of outstanding assessments or property taxes levied against the properties to be assessed for the Improvements is set forth in Exhibit B hereto, which analysis shows that of 13 properties, 0 properties were delinquent.

(e) Public Benefit of the Improvements. The Improvements are required for the safety and convenience of the public. Pursuant to the City's Subdivision and Site Development Ordinances, and under City Council policies, the cost of installation of new sidewalk, curb, gutter, and drive approaches is to be borne by the adjacent property owners.

8.1 Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior

to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

8.2 Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

8.3 Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$608,000 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

8.4 Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

8.5 Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana,  
this 27<sup>th</sup> of February, 2023.

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Mayor

Attest:

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City Clerk

**WO 22-07 - EXHIBIT A**



A35455

A28393

D01911

D01897

D01898

D01899

D01901

A30784

C09246

C13294

C13283A  
C13283B  
C13283C  
C13283M

S FRONTAGE RD

MIDLAND RD

HOLIDAY CIR

HOLIDAY AVE

INTERSTATE AVE

TITAN AVE

ELYSIAN RD

MULLOWNEY LN

RIVER EDGE RD

FRONTIER DR

CHANEL LOOP

GLACIER PEAK CIR

DENALI DR

SACAGAWEA DR

CHESAPEAKE LN



## Exhibit B

### WO 22-07 Mullowney Lane Improvements

| <b>Tax Code</b> | <b>SID #</b> | <b>SID Pay-off (A)</b> | <b>Delinquent (B)</b> | <b>Assessment (C)</b> | <b>A + B + C</b> | <b>Market Value</b> |
|-----------------|--------------|------------------------|-----------------------|-----------------------|------------------|---------------------|
| C13283A         |              |                        |                       | \$15,904.83           | \$15,904.83      | \$728,100.00        |
| C13283B         |              |                        |                       | \$16,896.18           | \$16,896.18      | \$916,300.00        |
| C13283C         |              |                        |                       | \$27,462.85           | \$27,462.85      | \$927,400.00        |
| C13294          |              |                        |                       | \$16,542.11           | \$16,542.11      | \$1,531,900.00      |
| C09246          |              |                        |                       | \$27,396.48           | \$27,396.48      | \$1,107,900.00      |
| A35455          |              |                        |                       | \$67,066.31           | \$67,066.31      | \$57,018.00         |
| A30784          |              |                        |                       | \$20,553.84           | \$20,553.84      | \$189,193.00        |
| D01911          |              |                        |                       | \$98,553.56           | \$98,553.56      | \$181,437.00        |
| D01901          |              |                        |                       | \$115,154.93          | \$115,154.93     | \$2,815,700.00      |
| D01899          |              |                        |                       | \$79,029.69           | \$79,029.69      | \$12,277,607.00     |
| D01898          |              |                        |                       | \$47,736.85           | \$47,736.85      | \$320,272.00        |
| D01897          |              |                        |                       | \$24,996.78           | \$24,996.78      | \$636,000.00        |
| A28393          |              |                        |                       | \$50,705.60           | \$50,705.60      | \$1,523,200.00      |
| Average         |              |                        |                       | \$46,770.00           | \$46,770.00      | \$1,785,540.00      |
| Median          |              |                        |                       | \$27,462.85           | \$27,462.85      | \$916,300.00        |
| Low             |              |                        |                       | \$15,904.83           | \$15,904.83      | \$57,018.00         |
| High            |              |                        |                       | \$115,154.93          | \$115,154.93     | \$12,277,607.00     |

**Date:** 02/27/2023  
**Title:** W.O. 22-21: Brewington Drive Reconstruction, Resolution Ordering Improvements  
**Presented by:** Jennifer Duray  
**Department:** Public Works  
**Presentation:** No  
**Legal Review** Yes

## RECOMMENDATION

Staff recommends that Council approve a Resolution ordering improvements for WO 22-21, Brewington Drive Reconstruction including street improvements and sidewalk along both sides of Brewington Drive.

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

The City has an annual street reconstruction program aimed at reducing the number of non-maintainable streets within the City. Non-maintainable streets are those streets that have been identified as having existing asphalt concrete pavement surfacing that has deteriorated beyond the capabilities of the City Street Preventative Maintenance Program and require replacement.

Brewington Drive is located in the Billings Heights, situated between Wicks Lane and Kyhl Lane. WO 22-21 Brewington Drive Reconstruction will reconstruct Brewington Drive and three adjacent cul-de-sacs in a manner similar to the previous annual street reconstruction program. This project is in accordance with State law (MCA 7-14-4109) and City Resolution 18-10719 which allow the City Council to order certain improvements such as sidewalks, curbs, gutters, and adjacent pavement to be constructed without the creation of a special improvement district. As such, property owners will be assessed for the construction of sidewalk, curb and gutter, and other items allowed by City Resolution 18-10719 along their addressed side, and drive approaches and driveways on their non-addressed sides. The City is responsible to pay for curb and gutter replacement; and accessible ramps, sidewalk, widening, and curb and gutter installed along the non-addressed side of a residential property. The project also proposes new storm drainage infrastructure and minor sewer and water improvements as necessitated by the design.

The project is located within 1/2 mile of Bitterroot Elementary School and Medicine Crow Middle School, both north and west of the project. Staff solicited bids for sidewalk along Brewington Drive in order to fully understand the cost and the bid cost is \$7/square foot. Resulting assessed costs range from \$1,500 - \$4,600 (\$2,950 average) per property owner, depending on the length of lot frontage. Brewington Drive provides a connection to the walking routes on Kyhl Lane to the north and Wicks Lane to the South (that connects to Kiwanis trail). Kyhl Lane has an 8-foot wide multi-use trail running east-west to Bitterroot School that would be connected to the proposed Brewington Drive sidewalk. Wicks Lane has existing sidewalk recently installed that would also connect to the proposed Brewington sidewalks. A map of the Bitterroot Elementary School "Suggested Walking Routes to School" is attached showing the relation of Brewington Drive to the walking routes shown in the Safe Routes to School Plan. Staff observed Brewington before and after school and observed 17 kids walking to and from school.

City staff contacted property owners via letter four times between October 29, 2021 and November 29th, 2022, and also hosted a public meeting on January 4, 2021. The project was delayed at the beginning of 2022 due to an unfavorable bidding environment. The project was bid on January 17, 2023 and a subsequent letter was provided to the property owners providing an updated preliminary assessment estimate using the actual low-bid unit bid price information. The dollar value of the estimated assessments provided to the property owners are provided in Exhibit B in the Resolution, as attached.

## ALTERNATIVES

City Council may:

- Approve the Resolution ordering improvements including sidewalks along both sides of Brewington Drive; or,
- Approve the Resolution ordering improvements without sidewalks along Brewington Drive; or,
- Approve the Resolution ordering improvements with a mix of sidewalks along Brewington Drive; or,
- Not approve a Resolution ordering improvements. If the Council does not approve a Resolution, the property owners cannot be assessed and the work will not occur, resulting in the streets continuing to deteriorate.

## FISCAL EFFECTS

The project is funded through Gas Tax funds, Storm funds, and property owner assessments budgeted in FY23. The assessments included in the Resolution that includes sidewalk along Brewington Drive are in the amount of \$535,000 (\$400,775 construction and \$134,225 bonds, contingency, and engineering cost). If Council approves a resolution alternative

relative to sidewalk installation, staff will modify assessed sidewalk costs downward.

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### **Attachments**

WO 22-21 Resolution  
Bitterroott Elementary SRTS Map  
Brewington Drive Sidewalk Connection Exhibit  
Brewington Sidewalk Cost

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the City), hereby certify that the attached resolution is a true copy of Resolution No. 23-\_\_\_\_\_, entitled: **A RESOLUTION RELATING TO W.O. 22-21 BREWINGTON DRIVE RECONSTRUCTION; ORDERING IN CERTAIN LOCAL IMPROVEMENTS AND DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO FINANCE THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY’S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT REGULATIONS UNDER THE INTERNAL REVENUE CODE** (the “Resolution”) was duly adopted by the City Council of the City at a meeting on February 27, 2023; that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Councilmembers voted in favor thereof: \_\_\_\_\_;  
voted against the same: \_\_\_\_\_;  
or were absent: \_\_\_\_\_.

WITNESS my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Denise Bohlman  
City Clerk

RESOLUTION NO. 23 - \_\_\_\_\_

**A RESOLUTION RELATING TO THE W.O. 22-21 BREWINGTON DRIVE RECONSTRUCTION; ORDERING IN CERTAIN LOCAL IMPROVEMENTS AND DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO FINANCE THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT REGULATIONS UNDER THE INTERNAL REVENUE CODE.**

BE IT RESOLVED by the City Council of the City of Billings, Montana (the "City"), as follows:

Section 1. Authorization. Certain curbs, gutters, sidewalks, drive approaches, alley approaches and/or appurtenant features or a combination thereof in certain locations in the City have deteriorated, settled and cracked, or none exist, and the safety and convenience of the public require installation, construction, reconstruction, repair and/or replacement thereof. Pursuant to M.C.A. 7-14-4109, the Council is authorized to order the installation, construction, reconstruction and/or replacements of certain curbs, gutters, sidewalks, drive approaches and/or appurtenant features or a combination thereof (the "Improvements") in certain locations in the City and without creation of a special improvement district.

Section 2. Ordering of Improvements. It is hereby ordered that the Improvements, consisting of the construction and installation of curbs, gutters, sidewalks, drive approaches and appurtenant features in the areas shown on Exhibit A be installed, constructed, reconstructed, repaired and/or replaced.

Section 3. Estimated Costs of the Improvements. The City estimates that the costs of the Improvements are \$1,444,850, with \$535,000 to be financed through the issuance of the Bonds (as hereinafter defined). Costs of the Improvements include costs of the design, engineering, construction and installation of the Improvements, costs of funding a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund"), costs associated with the sale of the Bonds (as hereinafter defined), and all other incidental costs as described below:

|                                       |                     |
|---------------------------------------|---------------------|
| Construction Costs                    | \$400,774.06        |
| Contingency                           | \$40,701.94         |
| Consultant Management Costs           | \$16,812.07         |
| City Engineering (Project Management) | \$32,061.93         |
| Finance                               | \$1,200.00          |
| Revolving Fund                        | \$26,750.00         |
| Bond Discount                         | \$10,700.00         |
| Issuance Costs                        | \$6,000.00          |
| <u>Total Assessed Costs</u>           | <u>\$535,000.00</u> |

Section 4. Property to be Assessed. The properties which are adjacent to the Improvements will be assessed for costs of the Improvements as shown on Exhibit B hereto. The cost to be assessed against each property will vary depending upon the actual construction that is required adjacent to each such property.

Section 5. Property Owner Option to Construct Improvements. Notice of passage of this Resolution shall be mailed to all affected property owners. Each such owner will have thirty (30) days from the date of said notice in which to install the Improvements with respect to its property at its own expense. In the event that any owner does not install the Improvements with respect to its property, the City will install such Improvements and will assess the costs of the Improvements against such property.

Section 6. Payment for Improvements. Costs of the Improvements (unless paid directly by the affected property owner) are to be paid from the proceeds of Sidewalk, Curb, and Gutter Improvement Bonds (the "Bonds") in an aggregate principal amount not to exceed \$535,000.00.

Section 7. Bond Financing; Pledge of Revolving Fund; Findings and Determinations. The Bonds will be repaid from the assessments for costs of the Improvements, together with interest thereon calculated pursuant to M.C.A. 7-12-4189, to be levied against the properties to be assessed for the Improvements. Assessments for the costs of the Improvements, together with interest thereon, shall be payable over a term not exceeding 12 years, each in equal semiannual installments as this Council shall prescribe in the resolution authorizing the issuance of the Bonds. Principal of and interest on the Bonds will be paid from such assessments.

After the Bonds are issued, all property owners to be levied for the Improvements shall have the right to prepay assessments as provided by law.

This Council further finds that it is in the public interest, and in the best interest of the City and the properties to be assessed for the Improvements, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect of the Bonds.

In determining to authorize the issuance of the Bonds and the pledge of the Revolving Fund therefor, this Council has taken into consideration the following factors:

(a) Estimated Market Value of Parcels. The estimated market value of the properties to be assessed for the Improvements as of the date of adoption of this resolution, as estimated by the County Assessor, ranges from \$157,100 to \$330,900 and is set forth in Exhibit B. The estimated average market value of the properties to be assessed for the Improvements is \$229,513.16 and the median market value of the properties to be assessed for the Improvements is \$235,950. The special assessments to be levied against each property listed on Exhibit B hereto are less than the increase in estimated value of the properties as a result of the construction of the Improvements.

(b) Diversity of Property Ownership. There are a total of 38 properties to be assessed for the Improvements and such properties are owned by 36 separate owners.

Eight of the 38 tax codes to be assessed for the Improvements are townhomes located on three parcels. For such properties, each tax code will be assessed for that portion of the real property that it pertains to, along with its allocable portion of the costs of the common areas.

(c) Comparison of Special Assessments, Property Taxes and Market Value. Based on an analysis of the aggregate amount of the proposed assessments, any outstanding assessments (whether or not delinquent), and any delinquent property taxes (as well as any known industrial development bonds theretofore issued and secured by a mortgage against a property to be assessed for the Improvements) against each property to be assessed for the Improvements in comparison to the estimated market value of such property after the Improvements, the City concludes that, overall, the estimated market value of the properties to be assessed for the Improvements exceeds the sum of the proposed assessments, outstanding assessments and delinquent property taxes, and is set forth in Exhibit B hereto.

(d) Delinquencies. An analysis of the amount of delinquencies in the payment of outstanding assessments or property taxes levied against the properties to be assessed for the Improvements is set forth in Exhibit B hereto, which analysis shows that of 38 properties, 0 properties were delinquent.

(e) Public Benefit of the Improvements. The Improvements are required for the safety and convenience of the public. Pursuant to the City's Subdivision and Site Development Ordinances, and under City Council policies, the cost of installation of new sidewalk, curb, gutter, drive approaches and appurtenant features is to be borne by the adjacent property owners.

8.1 Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations,

Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

8.2 Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

8.3 Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$535,000 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

8.4 Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

8.5 Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana,  
this 27<sup>th</sup> of February, 2023.

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Mayor

Attest:

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City Clerk

# W.O. 22-21 EXHIBIT A

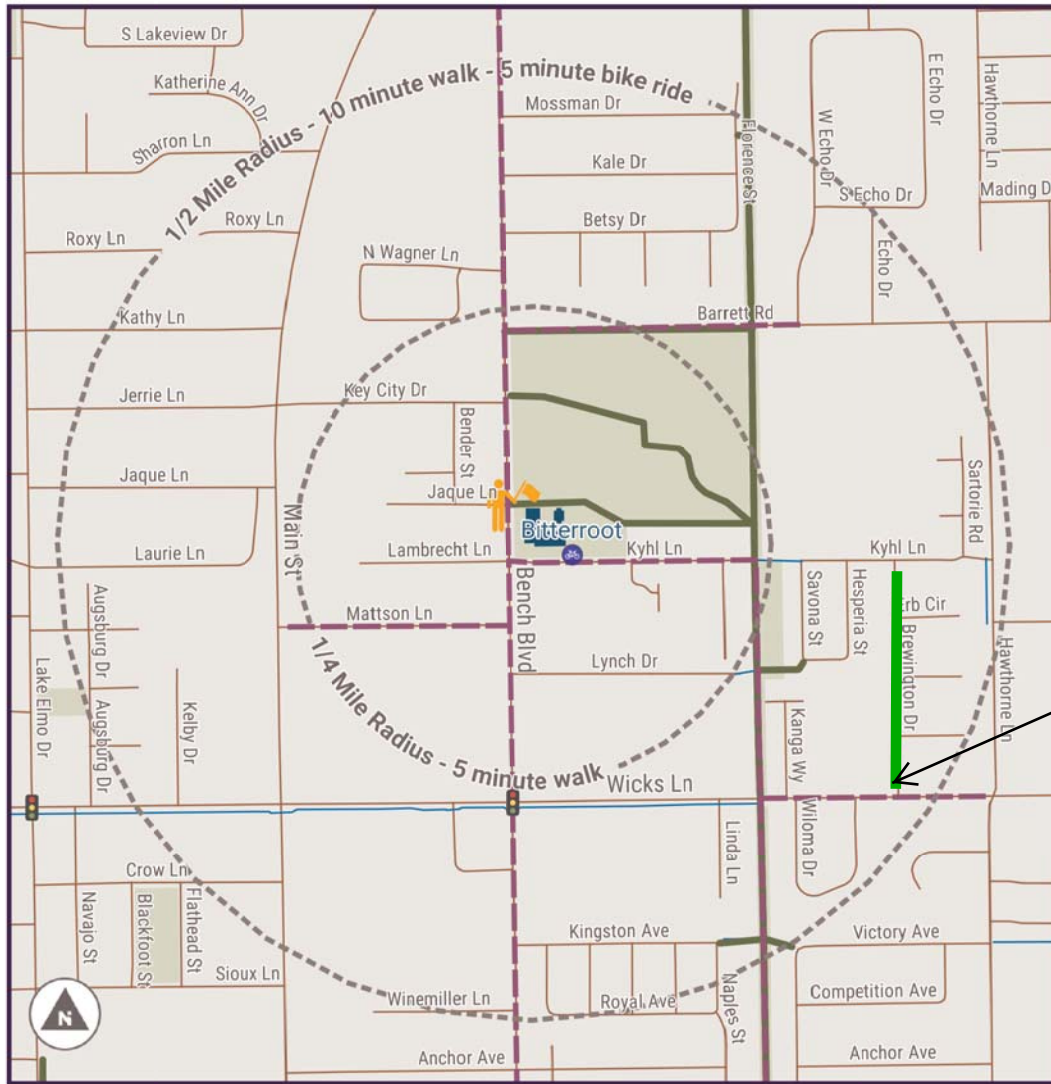


**W.O. 22-21 Brewington Drive Reconstruction**  
**Exhibit B - Property Market Value and Delinquency**  
 Prepared By: City of Billings (Jan 18, 2023)

| TAX I.D.<br>NUMBER | PREVIOUS<br>SID # | PREVIOUS       |               | W.O. 22-21<br>ASSESSMENT | SID PAY-OFF +<br>DELINQUENT +<br>W.O. 22-21<br>ASSESSMENT |                          | ESTIMATED<br>MARKET<br>VALUE | ESTIMATED<br>MARKET VALUE<br>AFTER<br>IMPROVEMENTS |
|--------------------|-------------------|----------------|---------------|--------------------------|-----------------------------------------------------------|--------------------------|------------------------------|----------------------------------------------------|
|                    |                   | SID<br>PAY-OFF | DELINQUENT    |                          | W.O. 22-21<br>ASSESSMENT                                  | W.O. 22-21<br>ASSESSMENT |                              |                                                    |
| A22993             |                   |                |               | \$33,444.87              | \$33,444.87                                               | \$330,900.00             | \$364,344.87                 |                                                    |
| A22994             |                   |                |               | \$23,760.10              | \$23,760.10                                               | \$218,200.00             | \$241,960.10                 |                                                    |
| A22995             |                   |                |               | \$13,095.05              | \$13,095.05                                               | \$246,100.00             | \$259,195.05                 |                                                    |
| A22995A            |                   |                |               | \$12,191.63              | \$12,191.63                                               | \$244,600.00             | \$256,791.63                 |                                                    |
| A22996             |                   |                |               | \$12,948.35              | \$12,948.35                                               | \$200,500.00             | \$213,448.35                 |                                                    |
| A22996A            |                   |                |               | \$12,108.54              | \$12,108.54                                               | \$230,200.00             | \$242,308.54                 |                                                    |
| A22997             |                   |                |               | \$26,673.71              | \$26,673.71                                               | \$239,100.00             | \$265,773.71                 |                                                    |
| A22998             |                   |                |               | \$22,786.24              | \$22,786.24                                               | \$295,700.00             | \$318,486.24                 |                                                    |
| A22999             |                   |                |               | \$14,718.59              | \$14,718.59                                               | \$249,000.00             | \$263,718.59                 |                                                    |
| A22999A            |                   |                |               | \$14,406.67              | \$14,406.67                                               | \$218,900.00             | \$233,306.67                 |                                                    |
| A23000             |                   |                |               | \$23,805.13              | \$23,805.13                                               | \$248,400.00             | \$272,205.13                 |                                                    |
| A23002             |                   |                |               | \$20,070.57              | \$20,070.57                                               | \$244,000.00             | \$264,070.57                 |                                                    |
| A23003             |                   |                |               | \$16,180.93              | \$16,180.93                                               | \$237,600.00             | \$253,780.93                 |                                                    |
| A23004             |                   |                |               | \$10,983.38              | \$10,983.38                                               | \$234,300.00             | \$245,283.38                 |                                                    |
| A23004A            |                   |                |               | \$16,680.38              | \$16,680.38                                               | \$244,700.00             | \$261,380.38                 |                                                    |
| A23005             |                   |                |               | \$11,689.74              | \$11,689.74                                               | \$273,500.00             | \$285,189.74                 |                                                    |
| A23006             |                   |                |               | \$8,136.13               | \$8,136.13                                                | \$224,500.00             | \$232,636.13                 |                                                    |
| A23007             |                   |                |               | \$15,971.51              | \$15,971.51                                               | \$260,600.00             | \$276,571.51                 |                                                    |
| A23008             |                   |                |               | \$21,554.98              | \$21,554.98                                               | \$233,900.00             | \$255,454.98                 |                                                    |
| A23009             |                   |                |               | \$23,147.76              | \$23,147.76                                               | \$260,600.00             | \$283,747.76                 |                                                    |
| A23010             |                   |                |               | \$17,917.76              | \$17,917.76                                               | \$237,600.00             | \$255,517.76                 |                                                    |
| A23011             |                   |                |               | \$8,235.78               | \$8,235.78                                                | \$237,600.00             | \$245,835.78                 |                                                    |
| A23012             |                   |                |               | \$5,227.77               | \$5,227.77                                                | \$233,800.00             | \$239,027.77                 |                                                    |
| A23013             |                   |                |               | \$10,763.03              | \$10,763.03                                               | \$239,100.00             | \$249,863.03                 |                                                    |
| A23014A            |                   |                |               | \$11,622.75              | \$11,622.75                                               | \$167,600.00             | \$179,222.75                 |                                                    |
| A23014B            |                   |                |               | \$11,622.75              | \$11,622.75                                               | \$164,000.00             | \$175,622.75                 |                                                    |
| A23015             |                   |                |               | \$5,484.85               | \$5,484.85                                                | \$243,600.00             | \$249,084.85                 |                                                    |
| A23015A            |                   |                |               | \$5,529.51               | \$5,529.51                                                | \$245,300.00             | \$250,829.51                 |                                                    |
| A23016A            |                   |                |               | \$5,595.38               | \$5,595.38                                                | \$158,400.00             | \$163,995.38                 |                                                    |
| A23016B            |                   |                |               | \$5,691.24               | \$5,691.24                                                | \$157,100.00             | \$162,791.24                 |                                                    |
| A23016C            |                   |                |               | \$6,781.01               | \$6,781.01                                                | \$193,700.00             | \$200,481.01                 |                                                    |
| A23016D            |                   |                |               | \$6,781.01               | \$6,781.01                                                | \$193,800.00             | \$200,581.01                 |                                                    |
| A23017A            |                   |                |               | \$4,060.73               | \$4,060.73                                                | \$199,300.00             | \$203,360.73                 |                                                    |
| A23017B            |                   |                |               | \$4,060.73               | \$4,060.73                                                | \$194,000.00             | \$198,060.73                 |                                                    |
| A23018             |                   |                |               | \$7,855.24               | \$7,855.24                                                | \$214,400.00             | \$222,255.24                 |                                                    |
| A23019             |                   |                |               | \$20,336.81              | \$20,336.81                                               | \$257,200.00             | \$277,536.81                 |                                                    |
| A23020             |                   |                |               | \$23,284.29              | \$23,284.29                                               | \$219,500.00             | \$242,784.29                 |                                                    |
| A23021             |                   |                |               | \$19,795.11              | \$19,795.11                                               | \$230,200.00             | \$249,995.11                 |                                                    |
| <b>AVERAGE</b>     |                   | <b>#DIV/0!</b> | <b>\$0.00</b> | <b>\$14,078.95</b>       | <b>\$14,078.95</b>                                        | <b>\$229,513.16</b>      | <b>\$243,592.11</b>          |                                                    |
| <b>MEDIAN</b>      |                   | <b>#NUM!</b>   | <b>\$0.00</b> | <b>\$12,569.99</b>       | <b>\$12,569.99</b>                                        | <b>\$235,950.00</b>      | <b>\$249,473.94</b>          |                                                    |
| <b>LOW</b>         |                   | <b>\$0.00</b>  | <b>\$0.00</b> | <b>\$4,060.73</b>        | <b>\$4,060.73</b>                                         | <b>\$157,100.00</b>      | <b>\$162,791.24</b>          |                                                    |
| <b>HIGH</b>        |                   | <b>\$0.00</b>  | <b>\$0.00</b> | <b>\$33,444.87</b>       | <b>\$33,444.87</b>                                        | <b>\$330,900.00</b>      | <b>\$364,344.87</b>          |                                                    |

# BITTERROOT ELEMENTARY SCHOOL

## SUGGESTED WALKING ROUTES TO SCHOOL



### LEGEND

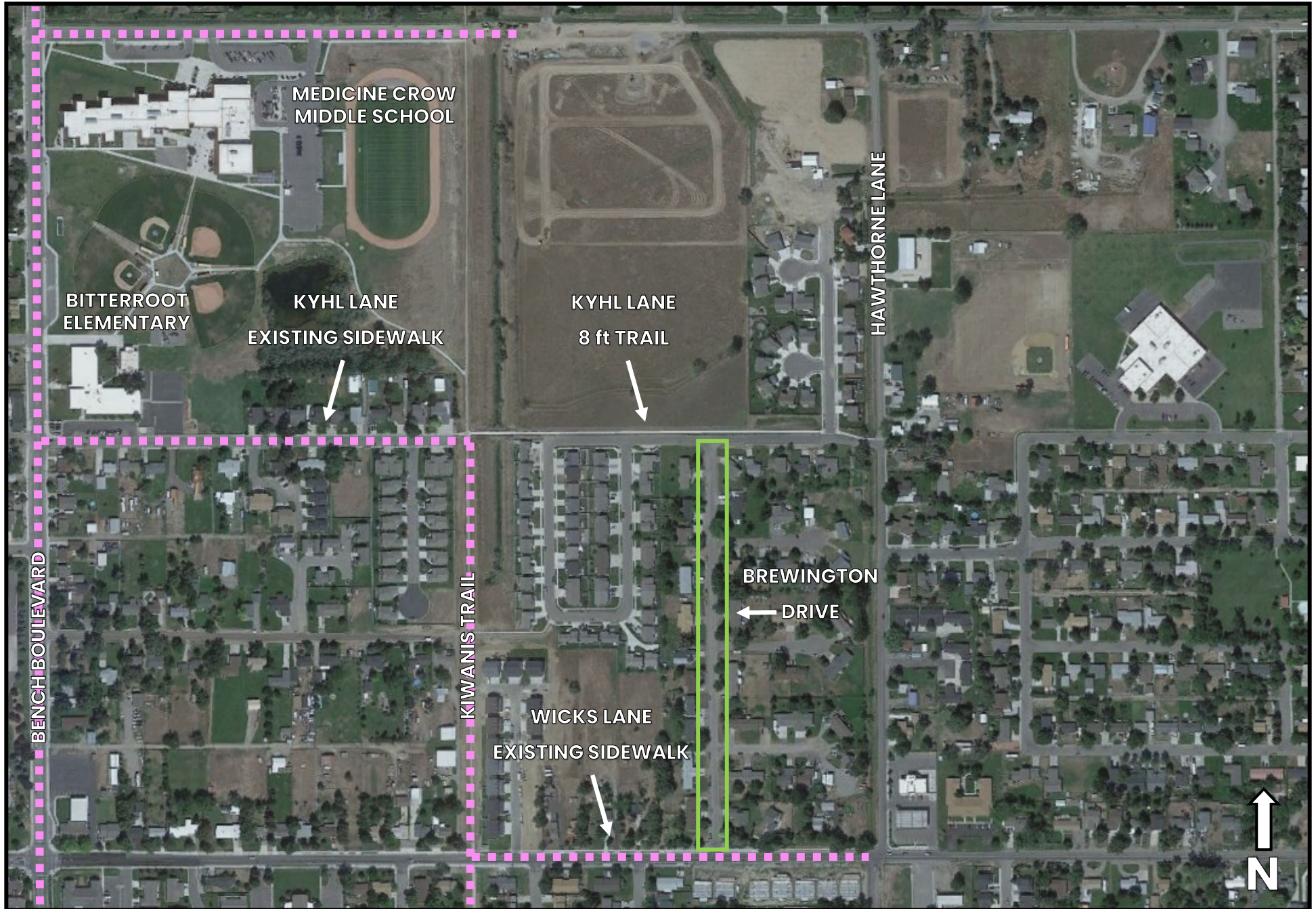
-  Suggested Walking Route
-  Crossing Guard
-  Traffic Signal
-  Bike Rack
-  Shared Use Path

Brewington Drive



This map is intended for informational purposes only. The City of Billings or Billings Public Schools cannot and does not guarantee the safety of these routes, and assumes no responsibility or liability. We encourage families and students to use this map to explore options for going to and from school, but each family is responsible for choosing the most appropriate option based upon their knowledge of route conditions and the specific needs and/or experience level of their student.

# Brewington Drive Sidewalk Connection



■ ■ ■ ■ ■ SUGGESTED WALKING ROUTE PER "SAFE ROUTES TO SCHOOL"

## Brewington Drive Reconstruction Assessments With Sidewalk or Without Sidewalk

|                  | TAX ID       | Assessment<br>With Sidewalk | Sidewalk<br>Cost | Estimated<br>Assessment<br>W/O Sidewalk | Notes                               |
|------------------|--------------|-----------------------------|------------------|-----------------------------------------|-------------------------------------|
| BREWINGTON DRIVE | A23020       | \$ 23,284.29                | \$ 3,290.00      | \$ 19,994.29                            | Additional Owner Added Improvements |
|                  | A22993       | \$ 33,444.87                | \$ 3,878.00      | \$ 29,566.87                            | Additional Owner Added Improvements |
|                  | A22994       | \$ 23,760.10                | \$ 4,158.00      | \$ 19,602.10                            |                                     |
|                  | A22995       | \$ 13,095.05                | \$ 1,666.00      | \$ 11,429.05                            |                                     |
|                  | A22995A      | \$ 12,191.63                | \$ 1,806.00      | \$ 10,385.63                            |                                     |
|                  | A22996       | \$ 12,948.35                | \$ 1,778.00      | \$ 11,170.35                            |                                     |
|                  | A22996A      | \$ 12,108.54                | \$ 2,023.00      | \$ 10,085.54                            |                                     |
|                  | A22997       | \$ 26,673.71                | \$ 4,445.00      | \$ 22,228.71                            |                                     |
|                  | A22998       | \$ 22,786.24                | \$ 4,620.00      | \$ 18,166.24                            |                                     |
|                  | A22999       | \$ 14,718.59                | \$ 1,533.00      | \$ 13,185.59                            |                                     |
|                  | A22999A      | \$ 14,406.67                | \$ 1,778.00      | \$ 12,628.67                            |                                     |
|                  | A23000       | \$ 23,805.13                | \$ 4,585.00      | \$ 19,220.13                            |                                     |
|                  | A23002       | \$ 20,070.57                | \$ 3,500.00      | \$ 16,570.57                            |                                     |
|                  | A23021       | \$ 19,795.11                | \$ 4,130.00      | \$ 15,665.11                            |                                     |
|                  | A23009       | \$ 23,147.76                | \$ 3,171.00      | \$ 19,976.76                            |                                     |
|                  | A23014A      | \$ 11,622.75                | \$ 1,925.00      | \$ 9,697.75                             |                                     |
| A23014B          | \$ 11,622.75 | \$ 1,925.00                 | \$ 9,697.75      |                                         |                                     |

**City Council Regular**

**Date:** 02/27/2023  
**Title:** City Council Ward Boundary Amendments - Second Reading of Ordinance  
**Presented by:** Wyeth Friday  
**Department:** Planning & Community Services  
**Presentation:** No  
**Legal Review** Yes

**RECOMMENDATION**

Staff recommends City Council approve the Ward Boundary Amendment Ordinance on second reading to update the City Council Wards per population changes following the 2020 Census. The City Council conducted a public hearing at its February 13 meeting and approved the ordinance on first reading.

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

Per the Billings City Charter and State Statute, the City Council updates its City Council Ward Boundaries following each Decennial US Census to ensure the population in each City Ward is as equal as possible to ensure equal voting strength and representation. Data from the US Census was made available in 2022 and staff has worked with City Council to prepare Ward Boundary amendments per the Ordinance and Ward Map attached to this memo. The Council took action on first reading of the ordinance at its February 13 meeting and is scheduled to take action on second reading at this meeting. Approving the ordinance on second reading at this meeting will ensure the City provides the updated Ward Boundary information to the County Elections Administrator in advance of the deadline for candidates to register for the 2023 Primary Election for City Council.

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, 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 as much as possible among all of the election districts.

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. 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 map that accompanies the ordinance, 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. The attached map accompanying the ordinance 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, including population in any annexed property up until December 2022 -  $117,240/5 = 23,448$ . The map provides for the populations in all Wards for being within 1% plus or minus of 23,448.

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 proposed ward boundary update does not affect any current Council members in terms of their place of residence and the ward they represent.

The City's 2020 population per the 2020 Census data and including any annexations through December 2022 is 117,240. The 2010 Census data set the City population at 104,170. The increase in population since the 2010 Census is most significant in Ward 4 at 25,722. This creates a significant imbalance with Ward 1 that has a current population of 20,580. Staff has reviewed the populations in the wards and also looked at election district boundaries, and has developed a recommendation for Council to make changes between Ward 1 and Ward 4 and several other small adjustments between other Wards to achieve nearly equal Ward populations. This proposal appears to be the most straight forward way to make the necessary changes with the least effect on the five wards boundaries overall.

Staff first brought proposed Ward Boundary updates to the City Council at a Work Session on October 5, 2022. Following this meeting, staff found that the methodology for calculating the ideal ward population and bringing the Wards within 1% was incorrect and the process was revised. Staff brought the Ward Boundary updates back to Council at its Work Session on December 5, 2022. After hearing recommendations and discussions as to how to adjust the Ward boundaries to best represent the Wards and try and make the boundaries between Wards a little cleaner, staff made further modifications to the map and shared the revisions via email with Council on December 22. Council was generally supportive of the revised map and staff prepared to share the changes in a public forum. A Ward Boundary Update Open House was held on January 11 to share information on the process and background on the City making Ward Boundary changes. About four members of the public attended the meeting and some provided comments and asked questions. The comments included concern the open house had not been well publicized and the Billings Heights continues to be underrepresented by the way the Council Ward boundaries are defined. There were no specific comments as to changes to the Ward Boundaries as proposed.

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. 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, staff has brought the ordinance for first reading to Council tonight. If Council conducts a public hearing and takes action on the first reading of the ordinance tonight, the second reading will be scheduled for February 27, meaning the ordinance takes effect March 27 and may be sent to the County Elections Administrator in early April, 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. A public hearing is scheduled for this meeting prior to action on the ordinance amending the Ward Boundaries. A Ward Boundary Update Open House was held on January 11 to share information with the public on the process and background on the City making Ward Boundary changes. About four members of the public attended the meeting and some provided comments and asked questions. The comments included concern the open house had not been well publicized and the Billings Heights continues to be underrepresented by the way the Council Ward boundaries are defined. There were no specific comments as to changes to the Ward Boundaries as proposed.

### **Public Hearing:**

The City Council conducted a public hearing at its meeting on February 13 and heard from a few members of the public. The comments included accusations that the Heights (which is made up of Ward 2 and Ward 1) was not receiving enough attention from the Ward 1 Council members and a suggestion the Council consider having the two Council Members from each Ward represent a geographic area of the Ward, basically splitting each Ward into to representation areas. The City Council itself also discussed how often the ward boundaries are updated and other ways to look at making adjustments. Council Member Owen also expressed concern that that Ward 2 was one of the lower percentages across the one percent deviation among wards and thought the population adjustments between Ward 4 and Ward 1 that were needed could have avoided taking the small areas of Ward 2 along its south boundary creating some areas that seemed to reach into Ward 2. Ultimately, the Council approved the ordinance amending the Ward Boundaries on first reading without making any changes.

## **ALTERNATIVES**

There is really only one alternative for the City Council to ensure the City Council Wards are updated before the 2023 City primary election schedule begins, and that is to update the City Council Wards to adjust population distribution as evenly as possible across all five Wards. In this case, the Council has made adjustments that bring all 5 Wards within less than 1% deviation of the ideal Ward population of 23,448 (See attached Ordinance and Ward Boundary Map).

## **FISCAL EFFECTS**

The main fiscal impact from this effort was 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 are participating. 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**

Ward Boundary Ordinance and Map  
Ward Boundary Redistricting Map



ORDINANCE 23-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS,  
PROVIDING THAT THE BILLINGS, MONTANA CITY  
CODE (BMCC) BE AMENDED BY REVISING SECTION  
11-102; CHANGING WARD DISTRICT BOUNDARIES TO  
REFLECT NEW CENSUS AND GROWTH INFORMATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

**Section 1.** That Section 11-102 of the Billings, Montana City Code (BMCC) is amended as follows:

**Sec. 11-102. Ward Boundaries**

- (a) Pursuant to MCA 7-5-4401 and the Billings City Charter, the boundaries of the five (5) city wards are hereby changed and established. The wards are described by a map based on the Montana Census 2020 Redistricting Blocks and is attached hereto as Exhibit "A" that shall be kept on file in the clerk's office.
- (b) As the city boundaries change the ward boundaries will be changed by an ordinance amending this section and the city ward boundaries as established herein. Such change shall be certified to the election administrator as required by MCA 13-3-103(1) not more than ten (10) days after the change. The city ward boundaries will be changed to conform to MCA 7-5-4401 and other provisions of law as required by law. The map herein referred to as Exhibit "A", sufficiently detailed to clearly identify the wards or districts and the territory included in each, shall be kept on file in the clerk's office.

**Section 2. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 3. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 4. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the 13<sup>th</sup> day of February, 2023.

PASSED, ADOPTED and APPROVED on second reading this 27<sup>th</sup> day of February, 2023.

CITY OF BILLINGS

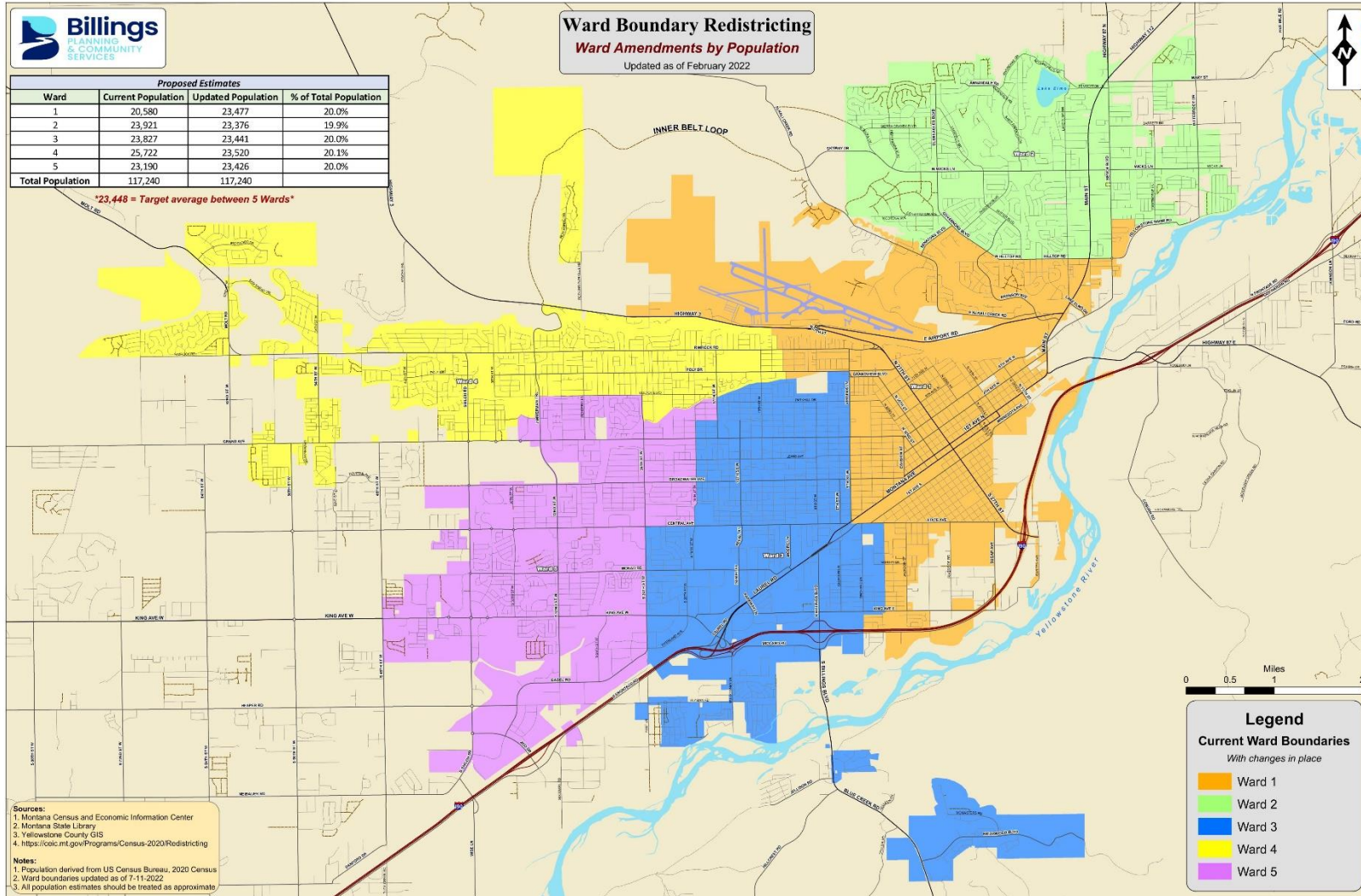
BY: \_\_\_\_\_

William A. Cole, Mayor

Attest:

BY: \_\_\_\_\_  
Denise R. Bohlman, City Clerk

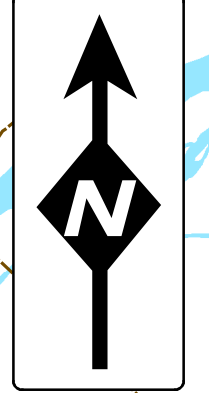
# Exhibit A



# Ward Boundary Redistricting

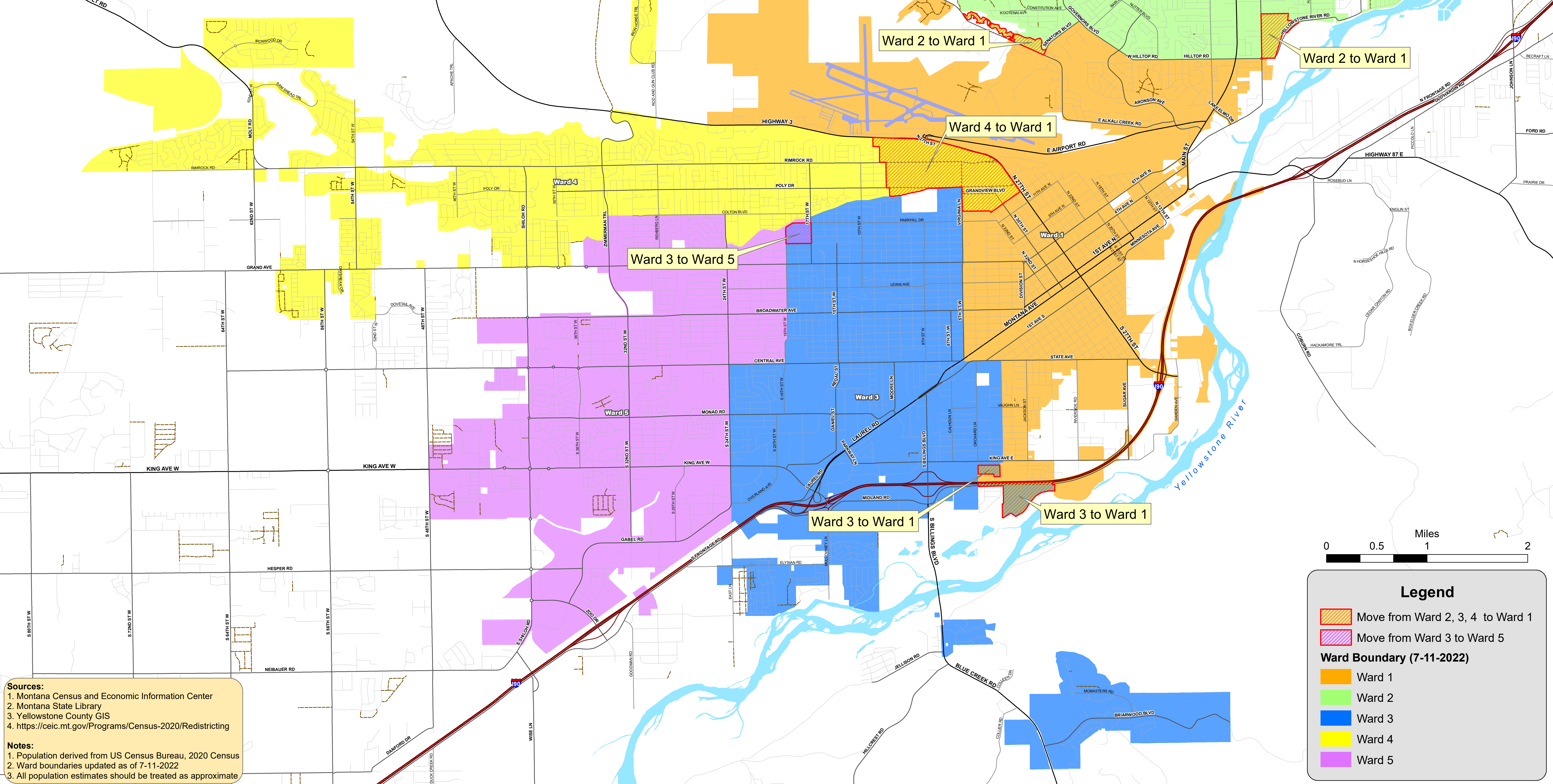
## Ward Amendments by Population

Updated as of December 22, 2022



| Proposed Estimates      |                    |                    |                       |
|-------------------------|--------------------|--------------------|-----------------------|
| Ward                    | Current Population | Updated Population | % of Total Population |
| 1                       | 20,580             | 23,477             | 20.0%                 |
| 2                       | 23,921             | 23,376             | 19.9%                 |
| 3                       | 23,827             | 23,441             | 20.0%                 |
| 4                       | 25,722             | 23,520             | 20.1%                 |
| 5                       | 23,190             | 23,426             | 20.0%                 |
| <b>Total Population</b> | <b>117,240</b>     | <b>117,240</b>     |                       |

*\*23,448 = Target average between 5 Wards\**



**Legend**

- Move from Ward 2, 3, 4 to Ward 1
- Move from Ward 3 to Ward 5

**Ward Boundary (7-11-2022)**

- Ward 1
- Ward 2
- Ward 3
- Ward 4
- Ward 5

**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 Regular**

**Date:** 02/27/2023  
**Title:** Second Reading- Amending Ordinance 22-5819 correction of legal description  
**Presented by:** Karen Husman  
**Department:** Planning & Community Services  
**Presentation:** No  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Staff recommends City Council approve the second reading to amend Ordinance 22-5819.

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

City Zone Change 1018 was a zone change request from Mixed Residential 1 (NX1 -- 1 to 4 unit buildings) to NX1 and Heavy Commercial (CX) approved with an incorrect legal description on the ordinance. This action is to amend the legal description cited in the ordinance to "WESTERLY PORTIONS OF Lot 9A of Amended Holling Ranch Sub and Parcel A of C/S 451, AS SHOWN ON ATTACHED EXHIBIT A." The property was properly represented in the zone change process, but the legal description read, "on Lot 9A of Amended Holling Ranch Sub and Parcel A (less 815 sf for Bench ROW) of C/S 451", a 2.91 acre parcel of land. The attached exhibit was not included for verification.

**STAKEHOLDERS**

The City Council held a public hearing to amend the ordinance and the hearing was not on the zone change, but rather the amendment of the legal description. Two readings are required. The City Council approved on first reading February 13, 2023, and this meeting will be the second and final reading.

**ALTERNATIVES**

City Council should: Approve the corrected ordinance. The correction to the legal description needs to be approved to properly map and record the change in zoning for the property that was approved by the Council. Denying the amendment will create a continued inconsistency with the legal description and is not in the interest of the City or the landowner.

**FISCAL EFFECTS**

This item has no impact on the Planning Division budget.

**SUMMARY**

The original ordinance (copy) and the corrected ordinance are attached.

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**Attachments**

Corrected Ordinance  
Original Ordinance

ORDINANCE 23-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS,  
PROVIDING THE ZONE CLASSIFICATION ON THE  
WESTERLY PORTIONS OF LOT 9A OF AMENDED  
HOLLING RANCH SUB AND PARCEL A OF C/S 451, BE  
AMENDED AS SHOWN ON ATTACHED EXHIBIT A

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

**Section 1. RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

**Section 2. DESCRIPTION.** All of **Lot 9A of Amended Holling Ranch Sub and Parcel A of C/S 451**, is presently zoned **Mixed Residential 1 (NX1 – 1 to 4 unit buildings)** and is shown on the official zoning map within this zone.

**Section 3. ZONE DISTRICT AMENDMENT.** The official zoning map is hereby amended and the zoning for the westerly portions of **Lot 9A of Amended Holling Ranch Sub and Parcel A of C/S 451**, as shown on the attached “Exhibit A”, are hereby changed from **Mixed Residential 1 (NX1 – 1 to 4 unit buildings)** to **Heavy Commercial (CX)**, and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Heavy Commercial (CX)** as set out in the Billings, Montana City Code.

**Section 4. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 5. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 6. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other

provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 13<sup>th</sup> day of February, 2023.

PASSED, ADOPTED and APPROVED on second reading this 27<sup>th</sup> day of February, 2023.

CITY OF BILLINGS

BY: \_\_\_\_\_

William A. Cole, Mayor

Attest:

BY: \_\_\_\_\_

Denise R. Bohlman, City Clerk

Zone Change 1018, 2110/2116/2130 Bench Blvd. – correcting the legal description of Ordinance 22-5819

**EXHIBIT A**  
**ZONE CHANGE 1018**



## ORDINANCE 22-5819

### AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE ZONE CLASSIFICATION ON LOT 9A OF AMENDED HOLLING RANCH SUB AND PARCEL A (LESS 815 SF FOR BENCH ROW) OF C/S 451

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

**Section 1. RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

**Section 2. DESCRIPTION.** **Lot 9A of Amended Holling Ranch Sub and Parcel A (less 815 sf for Bench ROW) of C/S 451,** is presently zoned **Mixed Residential 1 (NX1 – 1 to 4 unit buildings)** and is shown on the official zoning map within this zone.

**Section 3. ZONE DISTRICT AMENDMENT.** The official zoning map is hereby amended and the zoning for **Lot 9A of Amended Holling Ranch Sub and Parcel A (less 815 sf for Bench ROW) of C/S 451,** is hereby changed from **Mixed Residential 1 (NX1 – 1 to 4 unit buildings)** to, and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining **NX1 and Heavy Commercial (CX)** as set out in the Billings, Montana City Code.

**Section 4. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 5. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 6. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 24<sup>th</sup> day of October, 2022.

PASSED, ADOPTED and APPROVED on second reading this 14<sup>th</sup> day of November, 2022.



CITY OF BILLINGS

DocuSigned by:  
*William A Cole*  
BY: \_\_\_\_\_  
William A. Cole, Mayor

Attest:

DocuSigned by:  
*Denise Bohman*  
BY: \_\_\_\_\_  
Denise R. Bohman, City Clerk

Zone Change 1018, 2110/2116/2130 Bench Blvd.

**City Council Regular**

**Date:** 02/27/2023  
**Title:** City Zone Change 1021 - Vista West - 2nd reading  
**Presented by:** Nicole Cromwell  
**Department:** Planning & Community Services  
**Presentation:** No

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**RECOMMENDATION**

The Zoning Commission recommends approval and adoption of the findings of the 10 review criteria for Zone Change 1021. The Zoning Commission also recommended approval of the requested variance from Section 27-804 BMCC requiring connectivity to existing streets - specifically Obie Lane and Bell Avenue. The City Council adopted the zone change ordinance on first reading on February 13, 2023, with a super majority vote of 6 in favor and 3 opposed. A super majority vote was required due to the filing of a valid protest against the zone change on Friday, February 10, 2023. A second reading is required to pass the zone change. The second reading vote must also be by a super majority vote of the Council. The City Council did not approve the requested variance from Section 27-804 requiring connectivity to existing streets. The variance does not require a second vote since it is not an ordinance action. The exhibit attached to the zone change ordinance reflects this decision on first reading.

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

This is a zone change request using the Planned Neighborhood Development zone change process for a proposed annexation of a 27.7 acre parcel located south of Bell Avenue and north of Rocky Vista Way and the Bannister Drain, generally located west of Shiloh Road. The proposed Mixed Residential PND will include 14.1 acres of NX3, 2.49 acres of NX2, 2.2 acres of N1 and 1.53 acres of Public 1 (P1). The PND process is a new zoning tool to help guide the coordination of annexation, subdivisions, and master planning for new city neighborhoods. The previous zoning code allowed urban-type zoning districts in both the city and the county. In many cases, developers were "pre-zoning" parcels in the county prior to annexation. The new PND process is allowing developers to process all the zoning with the City Council, phase the annexation of the property (if necessary), and coordinate both of these processes with subdivision or master site plan review. The new tool applies a level of certainty to all stakeholders, including the surrounding property owners.

This zone change is for a Mixed Residential PND and includes two types of mixed residential zoning (NX3 and NX2), an N1 zoned area adjacent to the County residences on Obie Lane and along Bell Avenue to the north. The PND zoning plan includes 5.9% of the area as open space (P1).

The applicant had submitted a similar request in 2021 that was withdrawn in February 2022, before the City Council acted on the Zoning Commission recommendation of approval (Zone Change 1004). A valid protest had been filed and there was a large volume of public comment regarding the proposed access to the property from Bell Avenue and the traffic generation from the site.

This new application is requesting the City Council approve the proposed street layout that has no connections to Bell Avenue (City public street) or Obie Lane (County public road). This would be a variance from the PND regulations at Section 27-804.C that requires connectivity to existing streets from adjoining property. The Zoning Commission recommended approval of the variance from connectivity. The City Council considered the merits of the requested variance. City staff did not support the variance. City staff believes at least one vehicle connection should be made to Bell Avenue and a connection to Obie Lane, a County public road at this time, should be developed. The Zoning Commission stated its support includes a recommendation the City Council consider whether issues of phasing or timing are options, so possible connections may be preserved for the future. The current PND proposal includes two full access points from Rocky Vista Way (south) and includes connections points on the west property line to allow future development of county land to the west. The proposed concept plan for the Master Site Plan (MSP) shows the dwellings on the north will face Bell Avenue, but vehicle access to these dwellings will be from the private internal street system. An alternate plan that shows full access to Bell Avenue and Obie Lane was also submitted. The City Council did not approve the variance from the connectivity requirement.

This area of Billings has experienced a great deal of growth and development in the past decade. This includes three Planned Development zones, customized zoning for specific parcels, that include mixed uses, residential development and medical facilities. Housing demand has reached a high level while supply of all types of housing choices has not kept up with the demand. At least two decades ago, local planning and growth policy documents indicated a need for independent living units for aging residents who want to "downsize" from a maintenance heavy

single family dwelling on a large lot to unit ownership or townhomes as well as rental apartments. The 2010 Census indicated Billings, like many other urban areas, saw a reduction in average household size to 2.3 persons. The 2020 Census saw a slight increase to 2.8 persons per household, with 17.5% of the city population over the age of 65. Smaller households, aging residents and the higher costs of all housing has driven the demand for apartments, townhomes, and smaller multifamily products. Developers have made robust investments in multifamily dwelling choices in Lenhardt Square already including the InterUrban and Interpointe Apartments, and the KWO Apartments. A new multifamily project is underway for the northern piece of Lenhardt Square. Several other multifamily developments have come on-line in the last 15 years around King Avenue West and Shiloh Road including Long Beach Apartments, Affinity at Billings (age restricted), and Hoop Dreams Apartments and condominiums. Apartments, townhomes and unit ownership housing choices are still in high demand in Billings especially in areas close to shopping, schools and recreational opportunities. The Ridgeline Subdivision and PND zoning was approved last year and will include areas for mixed residential and two-family townhomes as well as a small commercial node at King Ave West and 48th St West.

There are challenges to an area of urban development that is on the edge of the city limits. These challenges include ensuring there are transitions between adjacent county property and uses and the new urban neighborhoods and uses. This is not meant to ensure similarity or homogenous development patterns between the city and county, but the development plans should include buffering, connectivity where and when needed, and recognition of similar goals for both types of property. The 2016 Billings Growth Policy and the 2001 West Billings Neighborhood Plan goals and policies support the proposed Mixed Residential PND zoning for different housing types. The West Billings Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The proposed zone change supports these goals. The 2016 Billings Growth Policy supports a broad range of housing choices, encourages more walkable neighborhoods with connectivity to other transportation options, and building the community fabric through urban designed public spaces. The proposed zone change supports these goals as well.

## **STAKEHOLDERS**

The applicant conducted a pre-application neighborhood meeting on October 25, 2022, at the King of Glory Church located at 4125 Grand Avenue. Twenty-seven persons attended the meeting including the applicants, Rick Leuthold and John Halverson from Sanderson Stewart, agent for the applicant. The required notification area for all new PND zone changes is 1/4-mile from the property boundary. In this case, over 180 individual property owners and interested parties were notified of the pending zoning application. The summary of the meeting is included in the attachments. In general, the questions from the surrounding owners included interest in the number of new dwelling units. The applicants estimated at the time of the pre-application meeting about 550 units might be built. Attendees asked about the traffic impacts and access to surrounding existing streets. The agents stated they would seek a variance from the requirement to connect to existing streets and a full traffic impact study would be based on whether the requested variances are approved or not approved. A preliminary traffic study was done on the prior zone change proposal that included two vehicle connections to Bell Avenue. In response to a question about management of the development, the agents stated this would be under one management company.

The applicant attended the West End Task Force meeting on November 15, 2022, at the Community Connections Church at 5556 Grand Avenue. Meeting notes from this meeting are also included. A third public meeting was held at Riverfront Park on November 22, 2022, at 10:30 am. Notes from this "public event" are also included.

Planning staff did not receive any written comments or phone calls from the surrounding owners prior to preparing the Zoning Commission report and recommendation. City staff and departments had no negative comments on the proposed annexation and zoning plan except for the requested variance from connecting existing streets to this development. City staff did not support the variance. City staff believes at least one vehicle connection should be made to Bell Avenue and a connection to Obie Lane, a County public road at this time, should be developed. The Zoning Commission did not concur with the staff recommendation to deny the requested connectivity variance.

## **ZONING COMMISSION HEARING JANUARY 3, 2023**

The Zoning Commission conducted its public hearing on January 3, 2023, and received the staff report, testimony from the agent and from surrounding property owners including, Steve Zeier of Trinity Real Estate, Terry Kaufman of 110 Big Pine Court, Toby Erickson, of 4142 Banbury Place, who was speaking on behalf of the several owners in Legends West and Twin Pines, Missy Erickson of 4142 Banbury Place, Mike Henthorn of 4160 Bell Avenue, Lisa Moen of 4160 Obie Lane, Nancy Pederson of 26 Twin Pines Lane, and Lincoln Powers of 4185 Obie Lane.

John Halverson of Sanderson Stewart spoke as agent for the property owner, Mr. Rick Dorn. He presented the history of the project for annexation and zone change. He stated the original request had significantly more NX3 zoning and adjacent development was not addressed in the zoning plan. He stated the current proposal respects the adjacent zoning of N2 to the north and the RR1 zoning to the east by providing compatible zoning of N1 to the north

and east. In addition, there is a plan for a small tot-lot in the northeast corner, zoned Public 1, and a large central recreation area for all the residents also zoned Public 1. Mr. Halverson stated the request for the variance from the connectivity requirement is based on potential traffic management scenarios and on the requests from the adjacent owners on Obie Lane and Bell Avenue as well as the residents in the developments north of Bell Avenue. He stated there is a proposed pedestrian connection to Bell Avenue, but the east property line adjoining Obie Lane and Bell Estates subdivision (county) is planned to be fenced off with no connection. He stated the N1 zone on the north and east will allow for compatible dwellings to be developed with similar building heights. Mr. Halverson presented a slide show with a graphic showing the different building heights allowed and the geographic relationship to existing homes to the east and north. He stated the taller buildings in the proposed NX3 zone would be at least 290 feet west of Obie Lane homes and at least 350 feet from homes in Twin Pines. He stated this location is within 1/4 mile of Shiloh Road which is a major corridor in Billings where a variety of housing choices are available including mixed uses at Shiloh Commons with ground-floor retail and apartments above, apartments in Lenhardt Square and to the east of Shiloh Road as well as manufactured home parks to the east. Mr. Halverson stated not everyone who lives in Billings is a homeowner and the latest information shows that at least 35% of the Billings population rents. He stated none of those renters are represented at this meeting. He stated the developer intends to build a variety of housing choices on the property to help create naturally occurring attainable housing. None of the units are intended to be subsidized and will be market rate products.

Mr. Halverson stated the owner provided three opportunities for surrounding owners and the public to learn more about the proposed development prior to submitting the application to the city. The first meeting was by invitation to the surrounding owners in November. The agent also attended the Westend Task Force meeting in November and a public activity in Riverfront Park to ask people about their experiences in Billings, and their opinion on the proposed development plan. Mr. Halverson stated the project was generally well received, but the surrounding owners still had concerns with the access to the property. He stated the application conforms to the city's Growth Policy and Westend Neighborhood Plan. He stated that traffic volume is not dangerous - but traffic speed is dangerous. He stated the illustrated concept plan showing the internal street system is provided with traffic-calming throughout, reducing traffic speed. He stated high traffic volume streets can be designed to make it is safe for cars and pedestrians. He stated the location of the project will give these residents the opportunity to use other transportation options and not have to drive everywhere. He stated the recreational, educational and shopping opportunities are all within a comfortable walking distance to the property. Residential density of property makes these nearby amenities and destinations sustainable. Mr. Halverson pointed out the multi-use trail on Shiloh Road is now part of the Billings Marathon Loop and is within walking distance of the newly open medical college at Rocky Vista University. He stated the clear limiting factor for economic growth in Billings is the availability of housing for workers in existing and new businesses. He stated this location within 1 mile of the primary corridor intersection of King Ave West and Shiloh Road makes compact and efficient land use a good choice. Mr. Halverson stated this new zoning plan has almost three times the minimum required open space area for a PND and this will help improve the sustainability of the neighborhood. He stated the city and state investment in Shiloh Road should be supported by well-designed neighborhoods with amenities and not just big yards. He stated the zoning plan is supported and complements both the zoning to the north and east and the south and west.

Mr. Luethold, speaking as an agent for the applicant, stated the annexation and zone change proposal are a good fit with the city's growth policy. He stated Josephine Crossing is a good example on how to handle lots of traffic with pedestrian safety throughout. He stated the developer will contribute to any off site and adjacent right of way improvements that are needed. These needed improvements are identified through a complete traffic study. As part of the previous application, a preliminary traffic study was done, but this is incomplete. A complete traffic study will be required once a zoning plan is finalized and the developer begins work on finalizing the development plan. One of the examples of an off site improvement might be upgrades to the Bell Ave street section where it crosses the drain at Shiloh Road. He stated there are deficiencies in the width and geometry at the crossing and there is a wooden fence in the clear vision area that blocks vehicle sight distance for pedestrians and bicyclists on the multi-use path. Mr. Luethold stated improvements will be done on Bell Avenue where it is adjacent to the property and if other improvements are required by the traffic study, those will be done as well. He stated the variance request is based on requests from the adjacent owners, and based on the perception that this development will add an uncompensated burden on these adjacent neighborhoods. He stated the owner is open to leaving utility easements available to Bell Ave and Obie Lane if needed for future utility connections.

In response to a question from Commission member David Goss, Mr. Luethold stated the reason no access to Obie Lane is provided is the clear concern from these neighbors that people from this new development would wander through the subdivision. Mr. Luethold stated the connection was eliminated in response to their concerns.

Mr. Steve Zeier of Trinity Real Estate stated he was in favor of the zone change. He stated he has no relationship with the developer or the agent but was here to support this type of zoning for the area. He stated as our city has grown, the development of new housing of any type has lagged behind. He stated the one area where we can make a difference in housing costs is in local regulations and by allowing this mixture of zoning to help build housing choices.

He also stated his desire to see the new code implemented consistently and fairly across the board.

Terry Kaufman of Twin Pines testified in opposition. She stated the number of dwelling units - 582 - was too many for this 27 acre parcel of land. She stated the answer to the lack of housing is not just a quantity issue -- it also is a quality issue. She stated there were 4,000 jobs available in Billings recently. Even if every job was taken, there would still be enough apartments for everyone who wants one. She stated the City Council has approved zoning or development of over 2,000 apartments in the last year. She asked whether the City Council or staff has a plan for when all these apartments go vacant when demand subsides. She stated the amount of parking required would be too much for this property to accommodate.

Toby Erickson of Legends West spoke in opposition to the zone change. He stated the homeowners in the adjacent subdivisions could not hope to compete with the slick presentation by the developer. He stated he was testifying on behalf of many owners in the adjacent Twin Pines and Legends West subdivision and would appreciate more than three minutes to present his arguments. Chairman Larson allowed Mr. Erickson 15 more minutes than the usual three minutes. He stated the first mention of multifamily development on the property was 10 year ago and that application was withdrawn. At the time, there was no possibility of physically connecting the development to the south, so the only connections was to Bell Ave and Obie Lane. Last year, the applicant came in with a development of mostly 4-story apartment buildings, and no transitional zoning across Bell Ave from Bell Estates. He stated the current proposal has a few more things going for it, but the density is still too high. He stated one row of developed lots with similar dwellings to Twin Pines and Legends West is not enough. He stated it should be much more. He stated the existing city infrastructure cannot support an additional 582 dwelling units in this area. He stated everyone in the room opposes the zone change. He stated there is not enough consideration for the neighbors. He stated the development plan may tick many boxes, but the development just does not fit with the adjacent area. He stated the higher the density, the fewer people tend to care about their surroundings or their neighbors. He stated Bell Avenue is an incomplete street, and it would not be right to put any of the new traffic on Bell Avenue. He stated the existing Bell Ave intersection is deficient and only allows a right turn (south bound) on Shiloh Road. Anyone wanting to go north or east will drive through Legends West, or even Twin Pines or Bonaventure to reach Central Avenue. This puts a traffic burden on our streets we should not have to endure. He stated there is already a good mix of development styles and housing choices in the area and does not see the need to add more apartments. He questioned whether West Billings will be nothing but apartments from now on. He stated apartment developments are not as fire-safe as less dense neighborhoods. He stated there will be significant impacts on schools and there will be higher incidence of crime. He stated these are just results of a higher population - not that people living in apartments are more prone to crime. He stated this will be a negative impact on all types of transportation in the area and there is no benefit to connecting this development to Obie Lane - even a pedestrian connection does not make sense for Obie Lane. He stated Obie Lane has no sidewalks so adding pedestrians to this street will just increase the possibility of car/pedestrian conflicts. He stated Twin Pines is a private development and if this development is connected to Bell Ave, those residents will petition to gate the streets where they connect with Central Ave and Bell Ave. He stated this would not be as safe for these residents if they had to gate their own streets. Legends West is all public streets and connects to Bell Ave - also a public street. It would be unfair to place this cost on existing residents. He stated leaving the area on Bell Avenue is not safe right now especially at peak times. Cars on Shiloh Road are going 50+ mph where Bell Ave intersects. A safe turn onto Shiloh is not really possible during certain times of the day. If new traffic is added, then a queue of cars will back up on Bell Avenue, making the situation that much worse. He stated when the developer presented his preliminary traffic, it showed 1,000 more cars per day using Bell Avenue. Mr. Erickson stated Bell Avenue cannot handle that many additional cars. He stated the zoning buffer is not enough and the proposed N1 is not the same as N2 or RR1. He stated appraisal values of adjacent homes will be reduced and this will result in less marketability of homes and townhomes in the adjacent neighborhoods. He stated most residents of the area feel safe in the homes and on the neighborhood streets. He stated this development will make everything feel less safe.

Missy Erickson of Legends West stated the neighbors are not opposed to development of land. She stated the Career Center and the Home Builders Association have sponsored many student-built homes in the neighborhood. She stated this development is not compatible and there should be much less multifamily on the property.

Mike Henthorn of Bell Avenue stated the number of people in this development will equal the population of Columbus, MT. He stated this is too many people in such a small area. He stated no workers in the nearby commercial businesses could afford to live in any of these apartments. He stated the potential rent prices are too high for many workers in Billings.

Lisa Moen of Obie Lane stated she was opposed to the zone change. She stated she has lived in the area for 23 years and never imagined she would be looking at a 4-story apartment in the field west of her house. She stated this is not what she thought would be developed west of her subdivision. She stated she thinks she will have to sell her home - now valued between \$400 and \$500 thousand dollars. She stated she is just flabbergasted to think that 582 families will be living on the 27 acres to the west of her house.

Nancy Pederson of Twin Pines stated she was opposed to the development and definitely opposed to any connection to Bell Avenue. She stated all the traffic not just from the development, but traffic from the medical school and other apartments south of Monad Rd would use Bell Ave as a convenient cut through.

Lincoln Powers of Obie Lane testified in opposition. He stated he and his wife invested in their property with the expectation of continued value over time. He stated his property shares a property line with the subject property and so the impact to his land and property value is more than anyone else. He stated if he had known about the plans to build apartments on the land next door 20 years ago, they would never have built here or invested so much time and resources into their home. He stated Obie Lane is in a private subdivision and cannot just be connected to a new street to the west. He stated, if this was required by the city, they would explore their legal options to stop it. He stated he was concerned about what type of fencing the developer proposes to use along the property boundary. He stated there is no doubt their land will be de-valued if this development goes ahead.

Mr. Leuthold provided rebuttal comments to the Zoning Commission. He stated all city departments have reviewed the application and the concept for the development of 582 units. He stated none of those departments expressed hesitation on whether services could be provided to the property safely. The new development will pay its fair share for any off-site improvements that may be required, the new development will pay its property taxes and mill levies to support, police, fire, schools, planning and government in general. Fees for other services like street maintenance, and storm water control will also be paid. He stated he is not a traffic engineer but has worked through many projects that needed a traffic engineer to study the impacts of new traffic. He stated this project, when the entitlements are finalized, will begin the scoping and preparation of a full traffic impact study, the scope of that study will depend on the city's requirement for vehicle connections to adjoining property. He stated Shiloh Road will carry the greatest burden of the new traffic since it is the closest arterial street and is designed to handle at least 50,000 vehicle trips per day. (Shiloh carried about 18,000 vehicles per day in 2021). He stated local streets are designed to handle much less traffic at much lower speeds. Local streets provide circulation within neighborhoods and tend to have less than 1,000 vehicles per day. He stated one of the driving factors of apartment development in Billings is not the normal demand for apartments but new demand from new economic development such as Rocky Vista Medical School and other medical business development. He stated the students and professors of Rocky Vista should be able to live as close to the school as possible - reducing the burden of new traffic trips. He stated he has lived in Billings for 38 years and lived in three different types of neighborhoods from Wells Garden Estates to Rimrock Road to a condo development north of Central Avenue. He stated most of these neighborhoods are "drive-to" only since there are no amenities or services within walking distance. The new reality of development is that people want more amenities closer to their homes and more walk-to services. This development fills this market demand. He stated the city will continue to grow and neighborhoods on the edges of the city will need to adjust as the city grows. He stated he remembers when West Park Plaza was the edge of town, and now it is considered to be a "central" part of the city. He stated the city, through its policies, has guided developers to be more efficient, to use land more deliberately and carefully. He stated this plan meets these policy goals.

The Zoning Commission closed the public hearing. Commission member Trina White made a motion to recommend approval of the zone change and denial of the requested variance from Section 27-804 requiring connectivity to existing streets. The Chairman, Mike Larson, asked if the motion could be amended to exclude the recommendation on the requested variance so that issue could have a separate vote. The motion was amended to exclude a recommendation on the variance and seconded by Commission member David Goss. Commission member Trina White stated that consideration for traffic and vehicles is not the paramount issue. She stated developers work to diminish the impact new traffic has on surrounding neighborhoods, but the neighborhoods should be connected. She stated the cost of housing is rising because of the cost of local and state regulation of building. She stated the new national estimate of the cost to developers to build a single dwelling unit is \$95,000 dollars - and all of that cost is up front before a single shovel goes in the ground. She stated the city is growing as demand is going up for new housing of all types. She stated this has happened since she started as a real estate broker. She stated the expectation that nothing will be built next door on the farm field is not realistic. Commission member David Goss stated he was the first assistant City Administrator back when the city changed its charter. He stated the major issues back then are still the same issues of today - annexation laws, county subdivisions on the edge of the city and how those rules and regulations negatively affected the growth of the city. He stated the city did grow - but it grew out but not up. He stated the city needs to increase density to be more efficient and that includes taller buildings. He stated he does not believe that Bell Avenue has the capacity - even with improvements - to handle the traffic from this development. He stated his support for the requested variance to not connect this development with Bell Avenue. He stated he wished there was an easy answer for this issue of traffic. He stated he supported to motion to recommend approval of the zone change.

Chairman Mike Larson stated he would like to make a substitute motion. Mr. Larson made a motion to recommend approval of both the zone change and the requested variance. He stated it was clear the members wanted to discuss both the zone change and the variance together, and he agrees with Commission member Goss. The motion was seconded by Commission member Goss. Mr. Goss stated he would like to encourage the Council to consider

preserving a right-of-way if a future connection is needed and can be done without damaging the existing neighborhoods. Mr. Larson stated he is not convinced that the new traffic would not have a detrimental impact on Bell Avenue. He stated the current condition of the street shows it should not be used by new traffic from this development. He stated the city can only require so much from one developer,

The motion to recommend approval of the zone change and approval of the requested variance was approved on a 2-1 vote, with Commission member White voting against the motion. Ms. White stated she supported the zoning but not the requested variance.

### **CITY COUNCIL FIRST READING PUBLIC HEARING FEBRUARY 13, 2023**

The City Council held a joint public hearing for the annexation and zone change request on February 13, 2023, and received the Zoning Commission recommendation presented by planning staff, and testimony from the applicant's agent, John Halverson of Sanderson Stewart. The Planning Division did receive a valid protest petition against the zone change on February 10, 2023. The petition is scanned and attached to this Council report. Below is a summary of the public hearing, but it is not intended to act as the official record or minutes for the meeting.

John Halverson from Sanderson Stewart presented the application to the Council. He stated the owners desire to build to meet the city's growth policy and development goals and to meet the market demand for more housing choices in Billings. He stated the proposal checks all the boxes and all the existing policies adopted by the City for new development. He stated the development is within 1/4-mile of Shiloh Road, the largest development investment the city and state have made in the past 15 years. He stated the improvements to Shiloh Rd from a 2-lane county road to the 4-lane limited access road has inspired at least a billion dollars in property value and private investment. The development is within walking distance of the largest hub of this investment at Shiloh Road and King Ave West where Shiloh Crossing, Montana Sapphire, Harvest Subdivision and the St Vincent's Healthcare campus are building out at a rapid pace. The recent addition of Rocky Vista University, a medical college, has increased demand for the type of housing the owner wants to build. The applicant took the neighborhood concerns seriously and worked hard over the last year to re-invent the development to accommodate those concerns including a reduction in the NX3 zone from 73% to 53%, three times more open space than is required and placed in a central location for amenities, placement of the N1 zone along both the north and east boundary lines to better match existing development and the variance proposal to allow no connection to Bell Ave or Obie Lane.

The Council received testimony from 28 individuals, seven in support of the zone change, 19 opposed to the zone change and two opposed to the requested variance but with no opinion on the zone change.

Steve Simonsen, Billings Area Realtors, Jeff Kanning, Collaborative Design Architects, Bailey Desper of 540 Sudan Place, Melissa Smith of 1335 Naples St., Eric Schmidt of 2915 2nd Ave S, #205, Virginia Duke of 239 Avenue F, Katie Harrison of 2901 6th Ave S, and Jenna Martin of 1822 Lost Creek Road all spoke in favor of the zone change. Speakers in favor of the zone change noted lack of access to all types of housing choices in Billings, the economic impact of building more housing choices both for people who need housing and people who are trying to attract employees, and the favorable location close to shopping, services and transportation choices. Speakers also noted the lack of affordable housing in Billings is related to the balance of supply and demand. The demand for rental housing is high, so any addition to the supply side would ultimately ease the market and lower rental prices elsewhere. Speakers in favor noted the applicant's effort to re-design the proposal based on neighborhood input and the accommodation provided for their concerns.

Terri Kaufman of 110 Big Pine Ct, Toby and Missy Erickson of 4142 Banbury Place, Mike Henthorn of 4160 Bell Ave, Wesley and Amber Dunn of 832 Dorothy Lane, Jacquelyn Garcia of 836 Dorothy Lane, Lisa Moen of 4160 Obie Lane, Roger and Linda Fuhrman of 191 Legends Way, Judi Powers of 4185 Obie Lane, Ed Hofmann of 4246 Central Ave, Billie Rice of 29 Twin Pines Loop, Mike Van Hoover of 4115 Obie Lane, Dick Reich of 4154 Banbury Place, Terry Havener of 11 Twin Pines Loop, and Phil Johnson of 82 Legends Way spoke in opposition to the zone change. Speakers opposed to the zone change noted the density of the proposed housing on the site, the traffic impact to the adjacent and underbuilt roads of Bell Avenue and Obie Lane, and the apparent abandonment of access to homeownership opportunities in this development. Those opposed were concerned the new residents would not appreciate or protect the quiet nature of the existing neighborhoods to the north. In general, those who spoke against the zone change were in favor of granting the variance so the developer would not connect to Bell Ave or Obie Lane. Those opposed were concerned with the preliminary assessment that traffic would increase by at least 1,000 more cars a day on Bell Avenue. Some speakers were concerned the owners would not impose background checks on future renters and this would create more crime in the area. Several speakers were concerned with the existing number of high density multifamily developments in the area including just south of Rocky Vista Way, and the effect of even more units that may not be filled by residents. Several concerns were expressed about the lack of services in the area and that contrary to testimony from the applicant, no one walks to any service business in the area. Several speakers were concerned about loading more traffic onto Shiloh Road that is a high speed, high volume thoroughfare already. Speakers also noted how stretched city services are (police and fire), and the lack of space in schools to

accommodate more students from development.

Margy Bonner and Joan Schey of the Bicycle and Pedestrian Advisory Committee (BPAC) presented testimony in opposition to the proposed variance to connectivity to Bell Avenue and Obie Lane. They stated BPAC voted to oppose the variance because connections are important for a good quality of life, and the board advises the City Council on issues for bicyclists and pedestrians. Not connecting would prevent children from safely and easily visiting neighbors who might share a backyard. They stated the lack of connections would hinder residents from accessing the main confluence of MET bus routes at Central Ave and Shiloh Road. Ms. Schey noted the Council and developer should explore traffic calming efforts on Bell Avenue.

The Council asked staff for clarification on preliminary traffic generation, direction of traffic flow, the requirement for connectivity to Bell Ave and Obie Lane, and what parts of the adjacent property are in the county. Staff clarified these issues for the Council. Debi Meling provided information on preliminary traffic on Bell Ave and Legends Way. About 800 new trips may occur on Bell Ave and about 100 to 200 new trips on Legends Way. Staff clarified that all property in Bell Estates is outside the city limits and could annex to the city at some time in the future.

The Council asked the applicant's agent the following questions for clarification on why commercial uses are not included in the planned neighborhood, whether all the units are for rent, Crime Prevention Through Environmental Design (CPTED), whether pedestrian counts have been done in the surrounding areas, and the origin of the variance for connectivity. The applicant clarified the location of adjacent commercial uses in walking distance, so any commercial use would be competing with these existing businesses. The applicant clarified that CPTED goals are integral to the design of the park space and the street plan within the development. Mr. Leuthold of Sanderson Stewart clarified that commercial development depends on the number of rooftops and whether the commercial business can make a profit. The old style of retail such as corner grocery stores could make a profit with just a few blocks of rooftops. Modern retail needs more rooftops. Smaller retail is built into some neighborhood developments, but it is not common. Mr. Leuthold stated there have not been any pedestrian counts in the surrounding neighborhoods. Mr. Leuthold stated Billings needs to encourage more walk-ability in the neighborhood. Mr. Halverson stated the variance to connectivity was to accommodate the neighborhood concerns.

The Mayor closed the public hearing. Council member Joy made a motion to approve the zone change based on the findings of the 10 review criteria and as recommended by the Zoning Commission. CM Gulick seconded the motion. Monica Plecker, Planning Division Manager, clarified that any Council action of the proposed variance to the connectivity requirement is accommodated in the existing annexation agreement language. Council member Gulick stated the zone change plan was much improved from last year with a good street layout and a good model for how to lay out a mixed residential neighborhood. Council member Gulick stated he was not in favor of the variance but that will be a separate discussion and vote. He stated he believed the adjoining streets will be improved to a safe standard and approving development is how that gets done. Council member Owen stated she was concerned with a march away from homeownership. She stated there are too many incentives to do multifamily and not homes for people to buy. She stated she was concerned about the lack of services in these new developments. She stated at the same time she works with the most vulnerable children every day who are prevented from re-uniting with their families because safe decent housing is not available. She stated there are hundreds of Billings residents surviving on motel vouchers. She stated she would vote for the zone change because more supply of housing will help ease the demand for rental housing. Council member Purinton stated she echoes Council member Owen's comments on abandoning the dream of homeownership in Billings. She stated she was concerned that renters will become the normal. She was also concerned that these market rate apartments will not supply housing for medical students and mostly will not help the renter in search of an affordable apartment. She stated there are many examples in West Billings of poorly constructed apartment buildings and poorly managed properties. She stated she would vote for the zone change but with reluctance. Council member Joy stated that private investment builds housing - not the city. She stated the city has struggled with making sure residents have shelter. She stated this development helps by increasing the supply of housing that is in demand right now. She stated as supply increases, affordability increases. CM Joy stated she was also concerned with homeownership as this is how families build wealth through generations. She stated if we only allow single family owner occupied dwellings then we will fail at making sure Billings has enough shelter for everyone. She stated the history of shelter in the US and in Billings is not the single family home occupied by just the owner, it is a multi-generational home. Council member Shaw stated she would also love to see more homeownership in Billings neighborhoods but that the Council needs to support developers who want to fill the market demand. She stated she will continue to support more opportunities for homeownership. Council member Rupsis stated this development may be subsidized from a tax revenue point of view. He stated he ran the property tax revenue on a per-unit basis for the apartment development in Lenhardt Square and compared it to the tax revenue per dwelling unit in Legends West and Twin Pines. He stated the per-unit tax revenue for apartments in Lenhardt Square is about \$1,100 while the per-unit tax revenue from dwellings in Legends West and Twin Pines is about \$3,200. He stated the reason all the new building and development of high density residential is on the west end is because the risk is lower. He stated the City should solve the risk problem and get this type of development downtown where it belongs. He stated the Council should use the power of policy to make a difference. He stated there are many of the 10 review criteria

that are not met for this zone change. He stated this type of zoning does not belong here, and he would vote against the zone change. Council member Neese stated it was a difficult decision. He stated he appreciated the re-working the applicant did over the past year and the lay-out has changed for the good. He stated the situation has also changed over the last year with more experience with the new code. He stated he was concerned there was no commercial space or services for the new residents within the development. He stated this is not the best area for this type of development. He stated it was a false argument that this was a renters versus owners decision. He stated the market will support this proposed development. He also stated there was no set policy to affirm where high density development should go, but it should have services for these residents. He stated he would like to support the zone change, but without those service she could not. Council member Purinton stated the Council might pursue a policy, but it should not demand commercial development for a residential area. She stated the market would take care of it if commercial space was profitable. Mayor Cole stated he has noted how the development plan has evolved from last year. He stated he agreed with the Council that homeownership was important to the city, but the demand for rentals is too high right to support condominiums or townhome ownership in this development. He stated the risks of unit ownership are too high right now to make that viable for this development. The motion was approved on a 6 to 3 vote in favor of the zone change. Six votes were required for a super majority. Council members Neese, Boyett and Rupsis voted against the motion to approve Zone Change 1021.

The Council then took up the request for a variance from Section 27-804, requiring connectivity to existing streets. A motion was made by Council member Rupsis and seconded by Council member Boyett to deny the requested variance with the condition that roads are built to the property lines to connect Bell Avenue and Obie Lane but emergency access only gates are placed at these connection points. Council member Rupsis stated this would allow time for those adjacent roads to be completed to a good standard and the gates could possibly be removed in the future. Council members Boyett, Purinton and Rupsis spoke in favor of the motion. These Council members stated the need protect the adjacent neighbors from traffic impacts on an under-built street like Bell Avenue and a county road like Obie Lane. Council members Gulick, Joy and Neese spoke against the motion's condition of approval. Council member Gulick made a substitute motion to deny the proposed variance with no conditions. Council member Shaw seconded the motion. Council member Boyett stated the Zoning Commission agreed with the developer's proposed variance. Council member Neese stated his support for the substitute motion. Council member Purinton stated she was opposed to the motion. Council member Rupsis stated he was in support of connectivity - just not right away. The motion to deny the requested variance was approved on a 6 to 3 vote. Council members Rupsis, Boyett and Purinton voted against the motion.

## **ALTERNATIVES**

The City Council may:

- Approve the zone change and adopt the findings of the ten review criteria for Zone Change 1021 as recommended by the Zoning Commission and as approved by City Council on first reading; or,
- Deny the request and adopt different findings of the ten review criteria for Zone Change 1021; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

## **FISCAL EFFECTS**

Approval or denial of the proposed zone change will not have an effect on the Planning Division budget.

## **SUMMARY**

Before making a decision on the requested zone change, the City Council shall consider the Zoning Commission's recommended findings of the ten review criteria:

1) Is the new zoning designed in accordance with the Growth Policy?

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy and the West Billings Neighborhood Plan (2001):

The West Billings Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The West Billings Plan adopted a number of Goals, Policies, and Implementation Strategies. The proposed Mixed Residential Planned Neighborhood Development for the property is consistent with the following adopted Policies of Planned Growth Goal 1: Establish Development Patterns that Use Land More Efficiently

Policy R "Encourage innovative land-use planning techniques to be used in building higher density and mixed-use developments as well as infill developments."

The proposed zoning is compatible with goals of the West Billings Neighborhood Plan. The proposed zone change and street layout will accommodate uses that are compatible in a mixed-use environment. The proposed development will

also have good access to outdoor activities and is in proximity to commercial centers and transportation options.

The applicant has requested a variance from the requirement to connect the new streets to existing adjacent streets. This requirement is found in Section 27-804.C of the PND regulations:

*Sec. 27-804. - Blocks.*

*Each development shall contribute to an interconnected system of streets and blocks as required by the city subdivision regulations in addition to the following requirements. Streets shall be located to result in the following block regulations.*

*C. Connectivity.*

*1. Streets shall connect and continue existing or planned streets from adjoining areas.*

*2. Block faces at the maximum length above require pedestrian access at mid-block points to ensure walkability. Pedestrian access or walkways may be incorporated as a dedicated alley or as an easement between lots.*

The 2021 application for this new neighborhood included two connections to Bell Avenue, one connection to the south to Rocky Vista Way (formerly Monad Rd), a pedestrian connection to Obie Lane, and a new north/south road along the western property line. The applicant has re-designed the proposed development to eliminate vehicle access to Bell Avenue and Obie Lane, have one pedestrian access to Bell Avenue, two vehicle access points to Rocky Vista Way, and two potential access points to the west. While connections to the west and south are maintained, no vehicle connections are proposed to the east or the north. City staff opposed the requested variance as it limits the city's ability to plan for growth of well-connected neighborhoods, decreasing public safety, hampering future extension of city utilities and private utilities and decreasing resiliency in new neighborhoods. The City Zoning Commission is recommending approval of the variance based its discussion and on testimony received at the public hearing.

The proposed zone change is in line with the adopted 2016 Growth Policy goals for:

**Strong Neighborhoods:**

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill and social interaction
- Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale streetlights, street trees and walkable access to public spaces
- Neighborhoods that are safe and attractive and provide essential services are much desired Implementation of the Infill Policy is important to encourage development of underutilized properties

**Home Base:**

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings Public safety and emergency service response are critical to the well-being of Billings' residents
- Homes that are safe and sound support a healthy community

The proposed layout for the property will allow the higher density housing to be located internal to the property and the dwellings adjacent to the County development to the east will be similar. The dwellings on the Bell Avenue frontage will be similar to the two-unit dwellings in the Twin Pines development to the north. The layout of the parkland will provide a central park area for the new residents and two smaller parks on the northeast and southeast corners of the property. There is a linear area along the eastern property line to handle stormwater infiltration and provide open space.

2) Is the new zoning designed to secure from fire and other dangers?

The zoning requires minimum setbacks, open and landscaped areas and building separations. The zoning assembly is designed to secure the development from fire and other dangers. City staff did not support the variance from the connectivity requirement especially no vehicle access to the north. Staff believes this connection will help secure the development from fire and other dangers. A right-of-way connection to the east (Obie Lane) will also help provide security from fire if a future annexation requires installation of water lines. The City Zoning Commission did not concur with this finding. The Zoning Commission believes fire safety and access as proposed to Rocky Vista Way will provide security from fire and other dangers.

3) Whether the new zoning will promote public health, public safety and general welfare?

Public health and public safety will be promoted by the proposed change. Approval of the overall zoning plan will

provide certainty both for the property owner and the surrounding owners. Annexation and provision of public health and safety services from the city will promote the general welfare of the area.

4) Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?

**Transportation:** The applicant has started the process of developing a traffic impact study and will coordinate with the City Engineering Division. The applicant has proposed a variance to allow no vehicle connections to the north or east to established streets. These two streets are local streets and are not shown on any official transportation planning map for future extensions. The future transportation map only includes collector streets and arterial streets. A mid-section collector street (44th St West) is intended to come south from Central Avenue. This mid-section street is further west from this development. Bell Avenue could extend further west to meet this collector street in the future. The City Zoning Commission finds that disconnecting this neighborhood from existing neighborhoods to the north and east will not hamper the future ability of the city to make connections to the north and east as the city grows.

**Water and Sewer:** The City will provide water and sewer to the property. There will be no additional impacts to the system from the proposed changes.

**Schools and Parks:** Schools and parks may be effected by the proposed zone change and development of a new city neighborhood. SD #2 did not provide any comments.

**Fire and Police:** The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

5) Will the new zoning provide adequate light and air?

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6) Will the new zoning effect motorized and non-motorized transportation?

Non-motorized travel -- walking and biking -- is an essential part of the circulation plan both within the proposed development and connecting to adjacent areas including the multi-use trail on Shiloh Road, the trail systems under construction and development in Lenhardt Square and St. Vincent's Healthcare development to the south and to the nearby Shiloh Conservation Area Trail system south of King Avenue West. Pedestrian connections to the north will be ensured through the development, and the property is close to a fixed route MET bus line. The applicant is proposing no pedestrian connection to the existing neighborhood to the east. City staff did not support the plan to disconnect the County neighborhood from this new city neighborhood. Staff believes this is a disruption to normal foot, vehicle and public safety traffic between neighborhoods. For example, a person in the new neighborhood may have to walk 3/4 of a mile to visit a neighbor who lives behind their back fence on Obie Lane. This is a poor neighborhood design, and city staff does not support this variance from the connectivity requirement. The City Zoning Commission did not concur with the staff recommendation and is supporting the requested variance from the connectivity requirements. Traffic counts in the area on King Ave West are well below the expected volume on a principal arterial street. King Avenue West has an average daily traffic volume of 11,390 vehicles per day at this location, less than Rimrock Road at 17th St West. Shiloh Road just south of the Central Avenue intersection is about 16,300 vehicle trips per day. In comparison, 24th St West at Central Avenue handles almost 30,000 vehicle trips per day. Most local streets average less than 1,000 vehicles per day. As development increases in the area, these three arterial streets will need to build in additional controls, management facilities and safety features. MDT retains jurisdiction over the management of King Avenue West and the city manages Shiloh Road and Central Avenue.

7) Will the new zoning will promote compatible urban growth?

The proposed increase in the overall development density is compatible with urban growth and the provision of city level services to the new residents. The proposed zone district boundaries are consistent with the urban growth in this area and will be compatible with the surrounding neighborhoods

8) Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. This area between King Avenue West and Central Avenue is undergoing rapid urban development and growth. Demand for new housing choices including townhomes and apartments is increasing. Providing a wide range of housing choices is suitable for this area.

9) Will the new zoning conserve the value of buildings?

The property is an undeveloped agricultural parcel. Approval of the zone change will provide certainty to surrounding landowners and may help to maintain property values of adjacent buildings.

10) Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

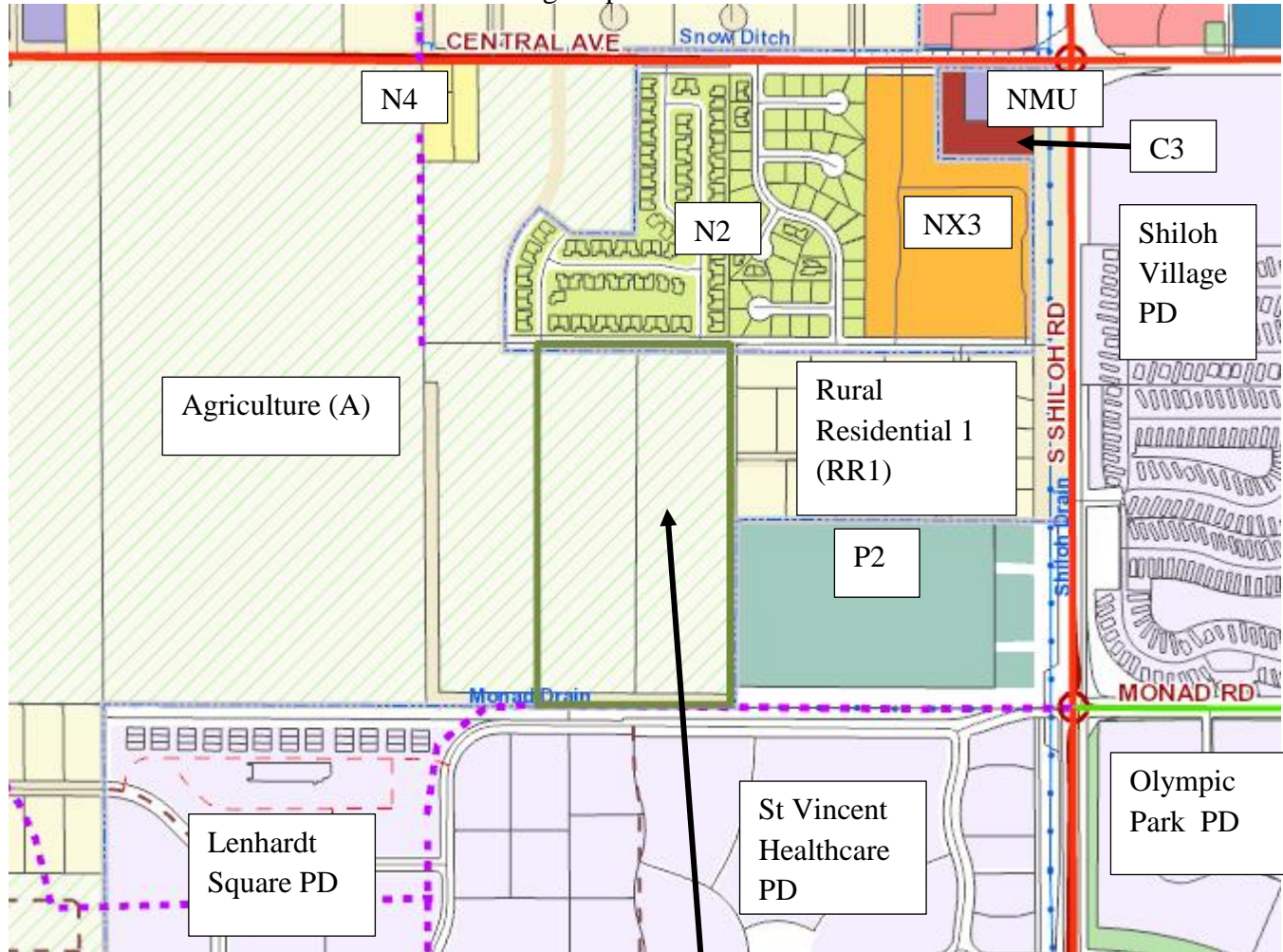
The proposed Mixed Residential Neighborhood with N1, NX2, NX3 and Public 1 zoning will encourage the most appropriate use of this land in Billings.

---

## Attachments

Zoning Map and Site Photos  
Application and Letter  
Preapplication meeting materials  
Letter Requesting Variance from 27-804.C  
Public Comments as of Jan 11 2023  
Protest Petition Letter  
Petition Signature for Valid Protest  
Petition Signatures outside Protest Area  
Map of Protest Signatures  
All comments as of Feb 12 2023  
Ordinance ZC 1021 2nd reading

City Zone Change 1021 – C/S 2828 Tracts 1 & 2 – Planned Neighborhood Development  
Zoning Map and Site Photos



Subject Property  
Existing Zone = A  
Proposed Zone = N1, NX2, NX3 and Public 1

# Zoning Plan – Without Variance to Connectivity

## EXHIBIT A LAND USE AND ANNEXATION DETAILS

### TRACTS 1 & 2, CERTIFICATE OF SURVEY No. 2828

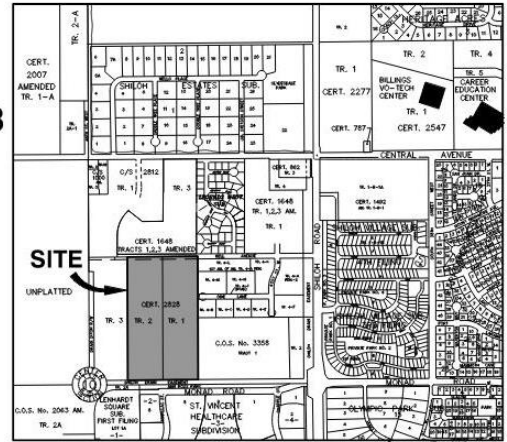
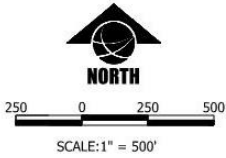
PREPARED FOR : DORN REAL ESTATE AND DEVELOPMENT

PREPARED BY : **SANDERSON STEWART** 

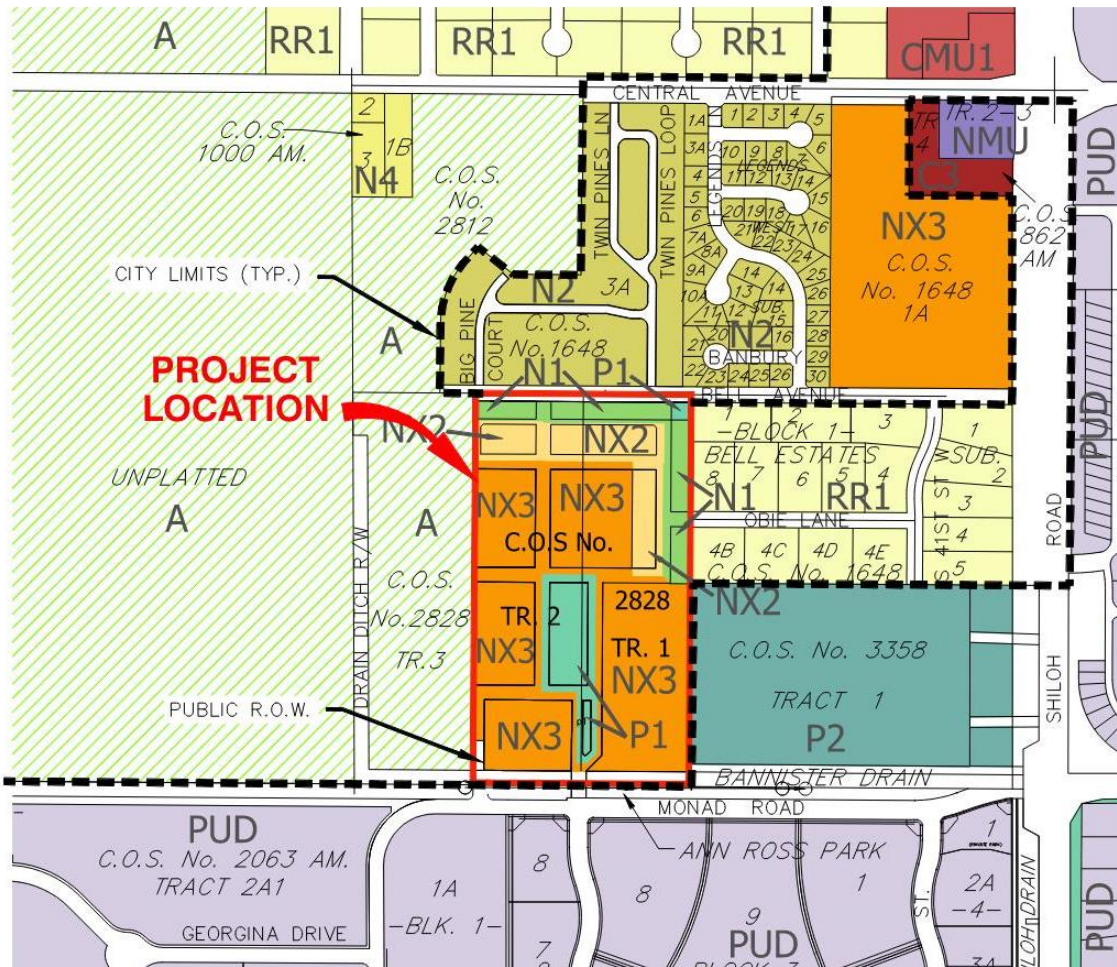
BILLINGS, MONTANA NOVEMBER, 2022

#### LAND USE SUMMARY

- P1 = 1.547 ACRES = 5.90%
- N1 = 2.022 ACRES = 7.71%
- NX3 = 14.155 ACRES = 53.98%
- NX2 = 2.349 ACRES = 8.96%



**VICINITY MAP**



# Zoning Plan with Variance to Connectivity

## EXHIBIT B

### LAND USE AND ANNEXATION DETAILS

## TRACTS 1 & 2, CERTIFICATE OF SURVEY No. 2828

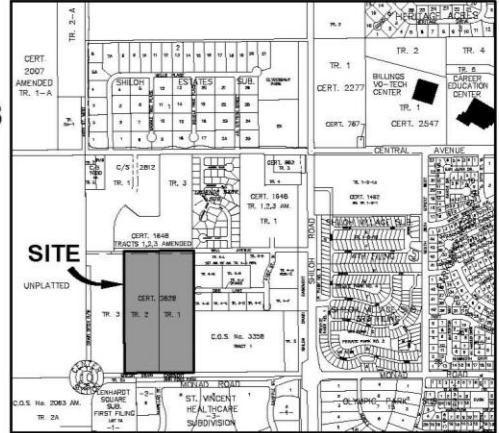
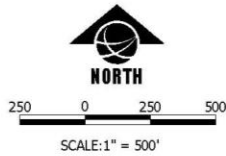
PREPARED FOR : DORN REAL ESTATE AND DEVELOPMENT

PREPARED BY : **SANDERSON STEWART** 

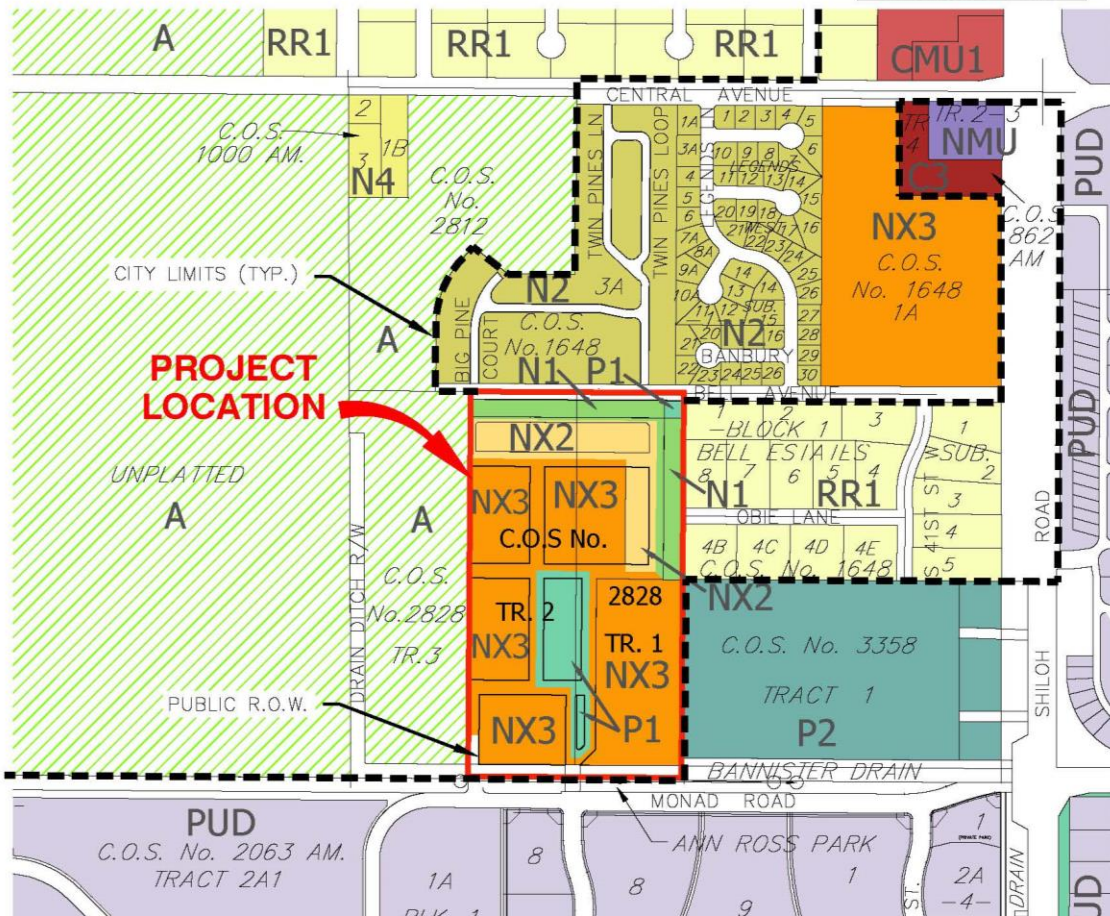
BILLINGS, MONTANA      NOVEMBER, 2022

#### LAND USE SUMMARY

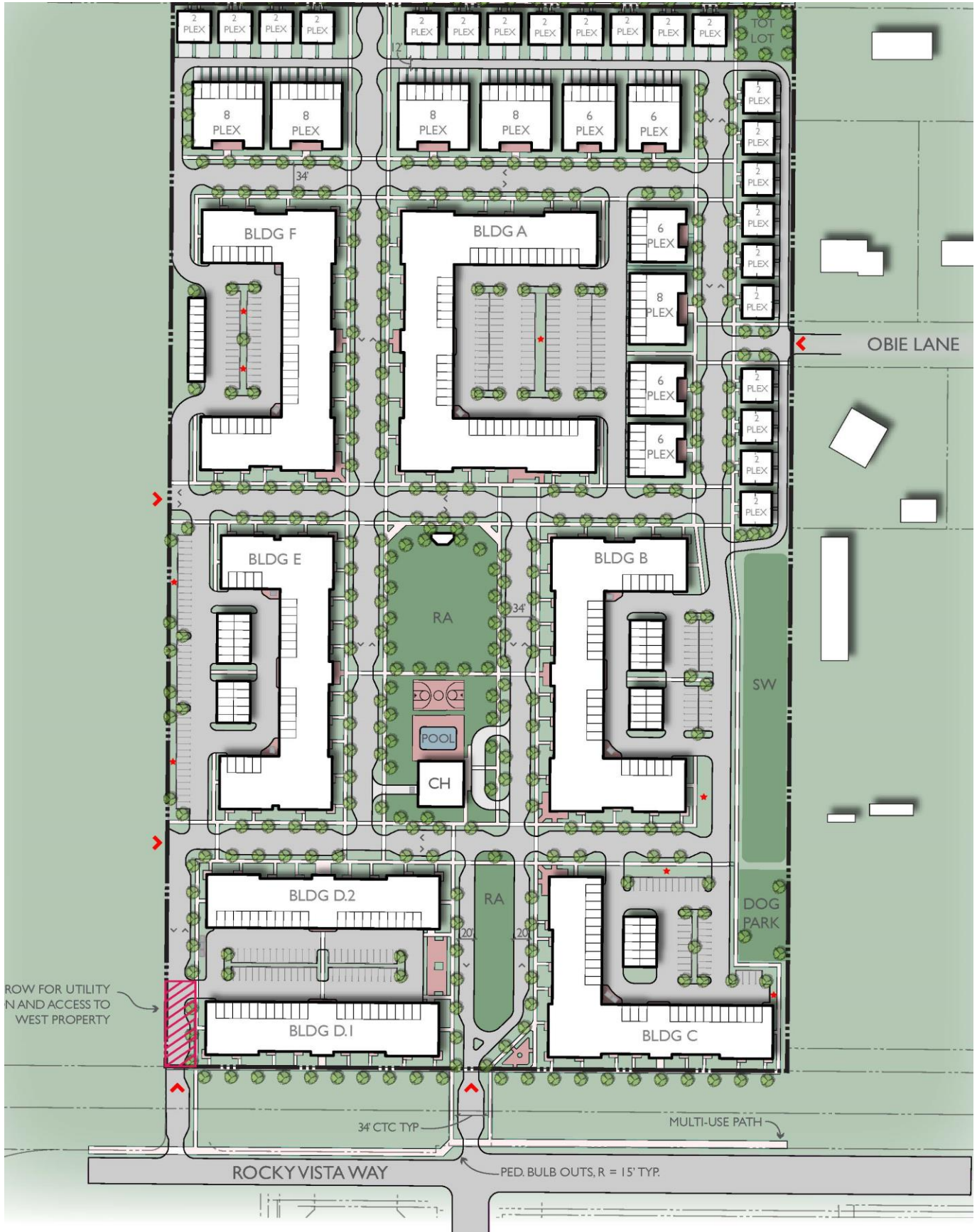
- P1 = 1.547 ACRES = 5.90%
- N1 = 2.208 ACRES = 8.42%
- NX3 = 14.155 ACRES = 53.98%
- NX2 = 2.494 ACRES = 9.51%



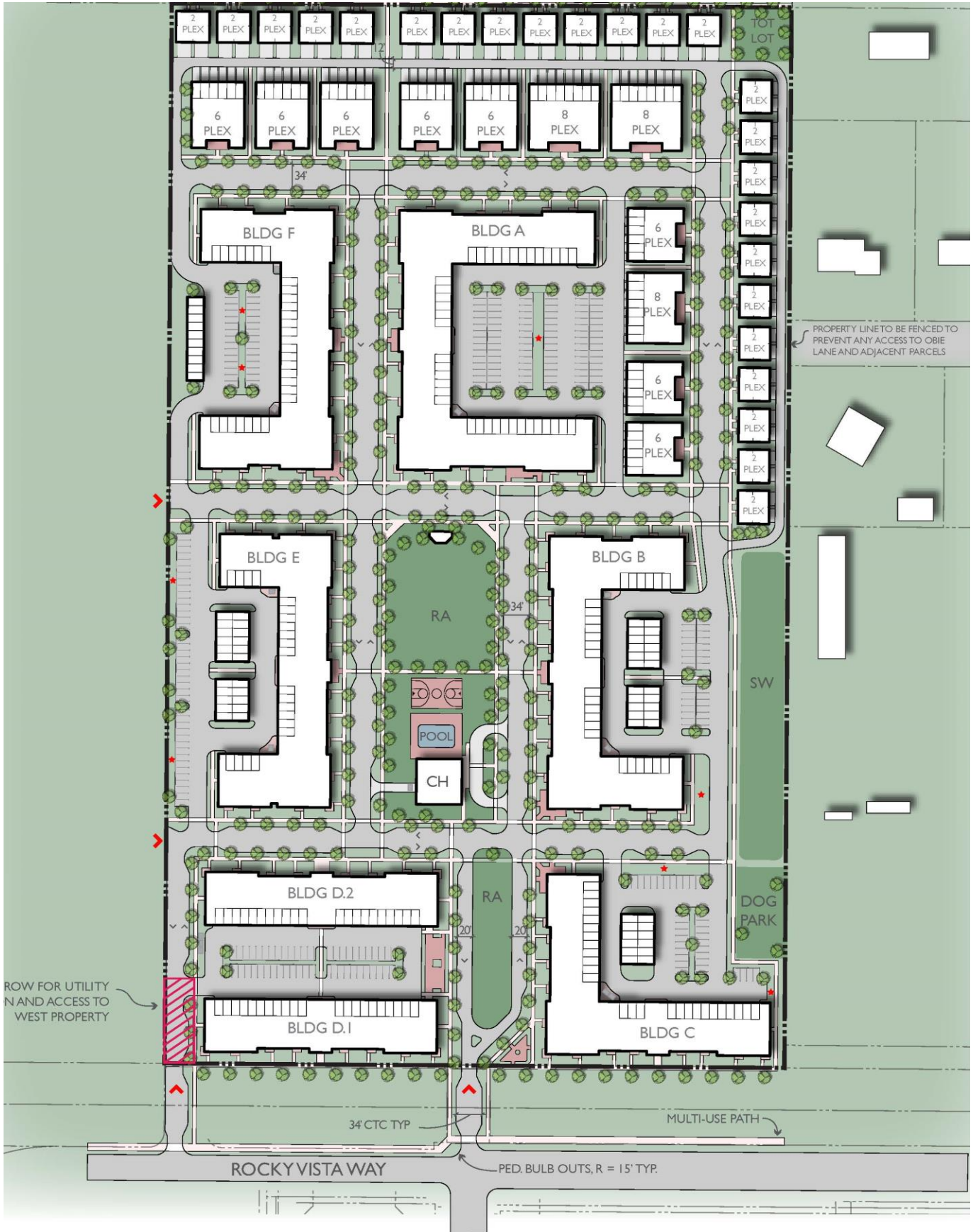
**VICINITY MAP**



# Illustrated Concept Plan without Variance



# Illustrated Concept Plan with Variance to Connectivity





CENTRAL AVE

Future  
Collector  
Street

Subject  
Property

Arterial  
Streets

S SHILOH RD

MONAD RD

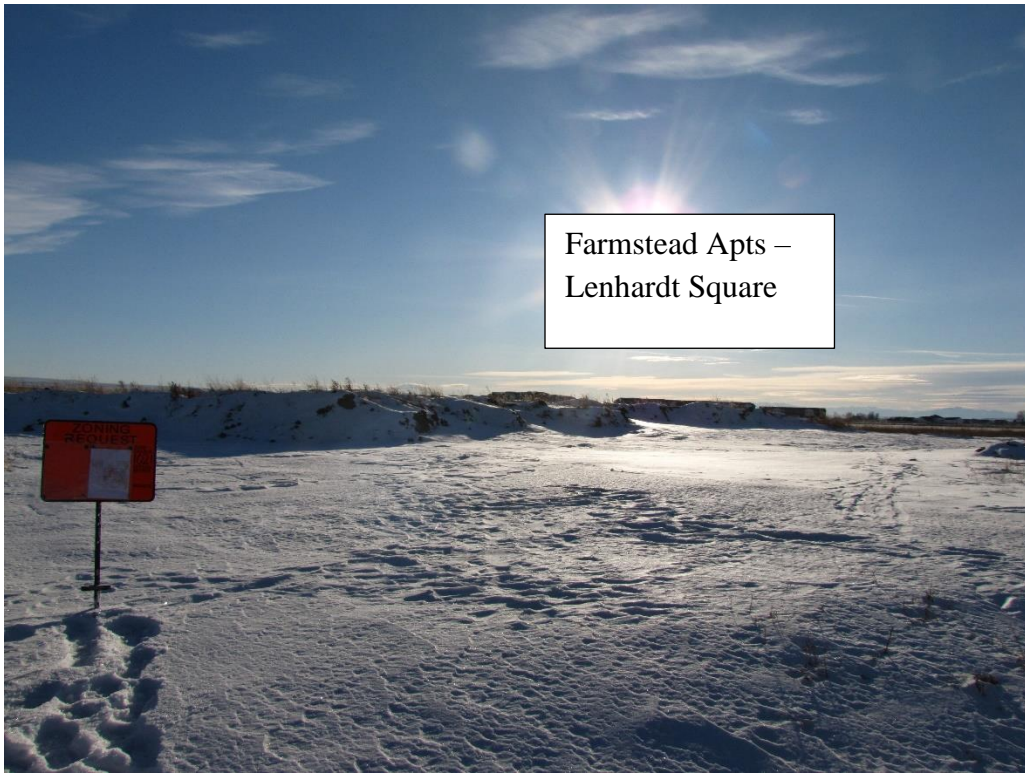
Monad Drive



Subject Property view south from Bell Avenue



View east from subject property – along Bell Avenue



Farmstead Apts –  
Lenhardt Square

View south and west from Bell Avenue



Twin Pines  
Townhomes

View west along Bell Avenue



View north and west across Bell Avenue to intersection with Twin Pines Lane – a private street



View east on Bell Avenue from current deadend at Big Pine Court

# APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # 1021 - Project # PZX-22-00289

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning Agriculture

Proposed Zoning: N1, NX2, NX3, P1

TAX ID# D00503, D00503A, D00486A CITY ELECTION WARD 5

Legal Description of Property: S10, T01 S, R25 E, C.O.S. 2828, TRACTS 1 & 2 Drain ROW (attached)

Address or General Location (If unknown, contact City Engineering): Bell Ave.

Size of Parcel (Area & Dimensions): Approx 27.7 Acres, 816' wide x 1482' long

Present Land-Use: Agriculture

Proposed Land-Use: Residential, SF, Duplex and MF

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No X

If yes, please attach to application

\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Dorn Property & Homes  
(Recorded Owner)  
PO Box 81524  
(Address) (406) 652-8232 rick@dornrealestate.com  
(Phone Number) (email)

Agent(s): Rick Dorn, Dorn/ Lowe LLC  
(Name) PO Box 81524  
(Address) (406) 652-8232 rick@dornrealestate.com  
(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: *Rick Dorn* Date: 11/30/22  
(Recorded Owner)



## Certificate of Survey 2828, Tracts 1 & 2, & Drainage Ditch ROW

Zone Change Request from Agriculture to N1 First Neighborhood Residential, NX2 Mixed Residential 2, NX3 Mixed Residential 3 and P1

### **Statement of Proposal**

Dorn Property and Homes LLC, with Dorn/ Lowe LLC, are seeking to Annex and Rezone Tracts 1 and 2 of Survey CS 2828 and A 55-foot wide strip of land adjoining the south property lines of Tracts 1 and 2.

The intent of the requested zoning will allow for the future development of duplex, townhome, and multi-family residential units. The proposed zoning meets the intent of the Planned Neighborhood Development (PND) standards by providing the requisite mix of residential zones, open public space, and block formats.

The proposed Residential PND will allow for a transition between the existing Twin Pines Townhomes and Legends West subdivision to the north and existing county residential lots to the east of the subject parcels. This is in accordance with the general development pattern for adjacent development to the south of the subject parcels.

### **Responses to Questions in Zoning Application**

- a. **In what ways is your proposal consistent with the statutory criteria, guidelines and policies of the adopted Growth Policy?**

The Growth Policy states:

In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development. The City will prosper with strong neighborhoods with their own unique character that are clean, safe and provide a choice of housing and transportation options.

The requested zoning is in compliance with the following growth guidelines:

#### **Essential Investments (Relating Public and Private Expenditures to Public Values)**

- ***The safety of all users and the connectivity of the transportation system are important criteria to consider in roadway designs and transportation plan.***

Yes. Streets within the PND are designed for low speeds to calm traffic and provide safe environments for all users while still providing enough room for emergency vehicles to safely navigate.

- ***Planning and construction of safe and affordable interconnected sidewalks and trails are important to the economy and livability of Billings.***

Yes. This PND will provide pedestrian connections to adjacent development on Bell Avenue and along the Bannister Drain.

- ***Developed parks that provide recreation, special amenities (community gardens, dog parks, viewing areas), and active living opportunities are desirable for an attractive and healthy community***

Yes. This PND will provide a centrally located park that will be developed, owned, and maintained by the developer. This park area will be zoned P1 and will host amenities including a clubhouse and pool. Other areas within the development are also planned to include dog parks and play equipment.

- ***Infill development and development near existing City infrastructure may be the most cost effective***

Yes. The proposed PND is in close proximity to areas of similar intensity of development which already have city services. When annexed, extension of City and municipal infrastructure will be more cost effective than less-dense development, on a per-capita basis.

- ***Neighborhoods that are safe and attractive and provide essential services are much desired***

Yes. The design of this PND, in compliance with relevant PND and zoning regulations will promote a high level of public safety. This includes streets, parking and recreational areas which are easily observable from residences within the development. This property will not impact public health, safety and welfare any differently than the other neighborhood developments which are developed in accordance with the City's zoning requirements.

#### **Place Making (Enhance, Maintain, Preserve, and Improve Existing Public Places)**

- ***A multi-use community recreation facility is desirable***

Yes. This PND provides recreational open spaces in the form of pedestrian connections, a centrally located park space, a dog park, tot lot, and private pool.

- ***The history and heritage of Billings are cornerstones of our community***

Yes. Billings has always adapted to the changes in economic drivers and been welcoming of projects that allow the community to continue to grow and prosper in a systematic and planned way. This zone change will follow in that light by supporting a variety of housing units at an attainable price.

- ***Enhancing public buildings and spaces to be more efficient in their uses of energy, money, and space is important to having a vibrant and livable City***

Yes. The PND's centrally located public park will serve as a shared community gathering and recreation space for the entire neighborhood. The compact nature of this development will ensure that the public space is a well-used and vibrant community asset.

### **Community Fabric (Attractive, Aesthetically Pleasing, Uniquely Billings)**

- ***Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods***

Yes. This PND will be developed in accordance with the City's code regulating street section to include planted boulevards. This will ensure that vehicular traffic is calmed and can navigate the development at slow, safe speeds for all street users. Street-front landscaping will be provided in accordance with the zoning code's landscape section, providing street trees and other water-efficient landscaping.

- ***Planning and construction of interconnected sidewalks and trails are important to the livability of Billings***

This property will feature sidewalks on all streets, including pedestrian connections to adjacent development and the surrounding pedestrian network.

### **Strong Neighborhoods (Livable, Safe, Social and Resilient Neighborhoods)**

- ***Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels***

The mixture of zones and housing types within this PND exceeds the percentages required by the city's PND regulations. Most of the site, 54% gross, is proposed as NX3 which, because of its efficient use of land, will be the most affordable rental homes within the proposed PND. NX2 is the second-most prevalent zone district in the PND with almost 9% of the site's gross area. This zone can host structures of up to eight units, which will likely take the form of townhomes or multiplexes designed to closely resemble large mansion-style homes. The remainder, 7.7% gross, of residentially zoned land within the proposed PND is N1 first neighborhood, which can host single family or duplex homes. The diversity of housing in the proposed PND will allow residents of varying income levels to call this neighborhood home.

- ***Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction***

By locating a greater density of residences in proximity to the medical school, commercial and business uses to the property's south, and providing pedestrian connections between them, this project will promote active transportation trips between the two.

- ***Public safety and emergency service response are critical to the well-being of Billings' residents and businesses***

The property considered under this zone change will use named streets within its bounds to better address locations within and obtain an enhanced level of public safety.

**Prosperity (Promoting Equal Opportunity and Economic Advancement)**

- ***Predictable, reasonable City taxes and assessments are important to Billings' taxpayers***

The densities that will result from this proposed zone change will promote efficient use of city services and high tax revenues per acre.

- ***Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses***

This development, the lifestyle and amenities it will offer will attract a diverse demographic of residents seeking housing alternatives to single-detached residential. The property's proximity to the commercial center developing around the intersection of Shiloh and King will also reduce those residents' transportation costs. The density that will result from the proposed zone change will also provide tax revenues that will support the high-quality services that a quality work force demands.

The COS 2828 Tracts 1 and 2 and the drainage ditch ROW Zone Change will help Billings manage its growth by encouraging development within and adjacent to the existing City limits, giving preference to areas where City and municipal infrastructure exists helping to maintain fiscal responsibility for the City. This development will allow the City to increase tax revenue and the City will prosper by further developing a variety of neighborhoods with their own unique character that are governed by City regulations and provide a further choice of housing options and additional housing inventory.

The West Billings Plan states:

- ***More compact development patterns are desirable because they make full use of urban services, offer cost-effective infrastructure, and hold down costs to the taxpayer***

Yes. This proposed PND will develop in a compact manner and will host residential densities that will support cost-effective provision of municipal services.

- ***Plan for a mix of land uses that reduces automobile usage by locating stores, housing, schools, and recreation within a very short drive (or walking distance) from each other in compact neighborhoods with pedestrian-oriented streets***

Yes. The proposed PND is in very close proximity to job and commercial centers and planned recreational facilities on the Shiloh Corridor. Streets within the proposed PND will be designed in accordance with all relevant City regulations to include pedestrian facilities and planted boulevards.

- ***PG1.M.5 Enable the approval of development project that incorporate innovative mixed-use land planning concepts that provide for community aesthetics, compatible land uses, a mix of housing opportunities, open space, and other community amenities by revising zoning and subdivision regulations***

Yes. In accordance with the City of Billings' PND regulations, the proposed PND includes a mixture of housing opportunities including zones that allow single-detached homes, duplexes, townhomes, multiplexes, and apartment buildings. The proposed PND also includes area zoned P1 public space for a centrally located park and a tot lot in the northeastern corner of the site for use by the development's residents and the surrounding neighborhood. The total area in the proposed PND designated P1 is nearly 300% of the area required by code.

The 10 Zone Change Criteria:

- ***Whether the new zoning is designed in accordance with the Growth Policy***

Yes, tracts 1 and 2 of COS 2828, and the drainage ditch ROW are being developed under the consideration of the Growth Policy statement and guidelines on previous pages. It is a project adjacent to parcels where municipal services exist and is compatible with other recent developments in the area to the south and is in accordance with the newly adopted Recode zoning document.

- ***Whether the new zoning is designed to secure from fire and other dangers***

Yes, The subject parcels will be serviced by City fire and police services and will be designed in accordance with City of Billings rules and regulations thus assuring protection from common dangers.

- ***Whether the new zoning will promote public health, public safety and general welfare***

Yes, All development on Tracts 1 and 2 of COS 2828 and the drainage ditch ROW will be designed under the new City Zoning code which will regulate density and land use transitions. All residential uses will be subject to City of Billings building codes, and the utility and surface infrastructure will be constructed in accordance with City of Billings rules and regulations assuring compliance to this criterion.

- ***Whether the new zoning will facilitate the adequate provision of transportation, water sewerage, schools, parks and other public requirements***

Yes, the proposed PND will provide streets designed in compliance with relevant City of Billings regulations for adequate transportation provision. Water, sewer and storm facilities will also be developed in accordance with all relevant regulations. The residential densities proposed in this PND will create a neighborhood that costs less for schools to serve, as it will require less distance for buses to travel for student pick up and drop off. Areas zoned P1 within the PND exceed the city's PND regulations by nearly 300%, thus providing ample recreational opportunity for area residents.

- ***Whether the new zoning will provide adequate light and air***

Yes. Tracts 1 and 2 COS 2828 and the drainage ditch ROW are being developed in accordance with City of Billings rules and regulations and therefore meets this requirement.

- ***Whether the new zoning will affect motorized and nonmotorized transportation***

Because the proposed zone change/ PND is adjacent to one of the fastest growing and largest commercial and job centers in the state, it is reasonable to predict that a significant portion of the trips generated by the residential uses planned for this site will be captured by walking, bicycling, or public transit use, thus reducing the impact of this development on the surrounding roadway network.

When this development progresses through the approvals process to master site plan review, a Traffic Impact Study will be completed, and the developer will be responsible for any improvements the study deems necessary because of the trips generated by this development.

The zone change will continue to support and address growth needs and have additional connections to the local street network while concentrating housing within the established City of Billings projected growth areas.

- ***Whether the new zoning will promote compatible urban growth***

Yes, the proposed PND site is within a quarter mile of Shiloh Road, is a principal arterial, designated as a controlled access highway and facility, and is one of the most heavily trafficked and quickly developing corridors in the state of Montana. The Shiloh Road corridor hosts a broad range of uses and intensities of development both existing and planned. Exhibit C, attached to this application, illustrates this point. The intersection of Shiloh Road and King Avenue, approximately one-half mile from this site, is the center of a rapidly developing commercial and job center that rivals many of the downtowns in Montana in terms of its economic activity. Locating the number of homes that this PND proposes near this activity center will yield significant cost efficiencies to the City of Billings and its taxpayers for provision of services.

The proposed PND also provides an ample transitional distance of approximately 350' between the existing duplex residential uses across Bell Avenue, north of the subject parcels to the proposed NX3 zone. It similarly provides a transitional distance of approximately 220' between the single-detached uses to the east of the subject parcels and the proposed NX3-

zoned areas within the subject parcels. The proposed zone change provides NX3-zoned area where it faces, across the Bannister Drain and Rocky Vista Way to the Rocky Vista Medical School Campus and existing NX3-zoned areas to the south-east of the subject parcel.

- ***Whether the new zoning considers the character of the district and the peculiar suitability of the property for the particular use***

Yes. The property is located to the north, across the Monad and Bannister Drain rights of way from the existing multi-family and commercial center at Lenhardt Square and the new medical school campus. This proposal is compatible with those developments while providing a transition to existing single-detached and duplex residential uses to the north and single-detached uses east of the subject parcels.

The subject parcels and those parcels to the west of the proposed PND are undeveloped, and currently under agricultural use. The commercial center south of the proposed PND hosts a variety high intensity uses as compared to those uses to the north and east of the subject parcels. Thus, any one character in this neighborhood has not been established and will continue change as development occurs.

- ***Whether the new zoning will conserve the value of buildings***

Neutral. Although there is no evidence to suggest that the development of multi-family residential uses has any negative effect on the value of adjacent, existing single-detached and twin home residential uses, the design of this development will provide generous transitional buffer zones of N1 and NX2 between existing single-detached twin home uses and proposed NX3 uses.

The residential uses included in this PND will likely have a positive effect on the commercial properties to the south and the residential properties to the southwest of the subject parcels.

- ***Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings***

Yes. The City of Billings continues to need projects that provide for a variety of housing types. It is appropriate to continue to promote efficient development in close proximity to the City Limits boundaries. This zone change helps support an appropriate level of development which will serve the City both now and in the future. It is also beneficial to have greater densities near the new medical school campus and other business and commercial uses in order to reduce overall vehicular loads on local area streets.

# Exhibit C: Shiloh Corridor

## Existing and Planned Uses

- Res - Single Family
- Res - Townhouse/Duplex
- Res - Mobile Home
- Res - Multi Family (2 Lvl)
- Res - Multi Family (3-4 Lvl)
- Commercial
- Civic
- Office
- School
- Misc PUD
- Industrial
- Green Space
- Ag/Undeveloped

RIMROCK RD

GRAND AVE

CENTRAL AVE

Project Location

KING AVE W

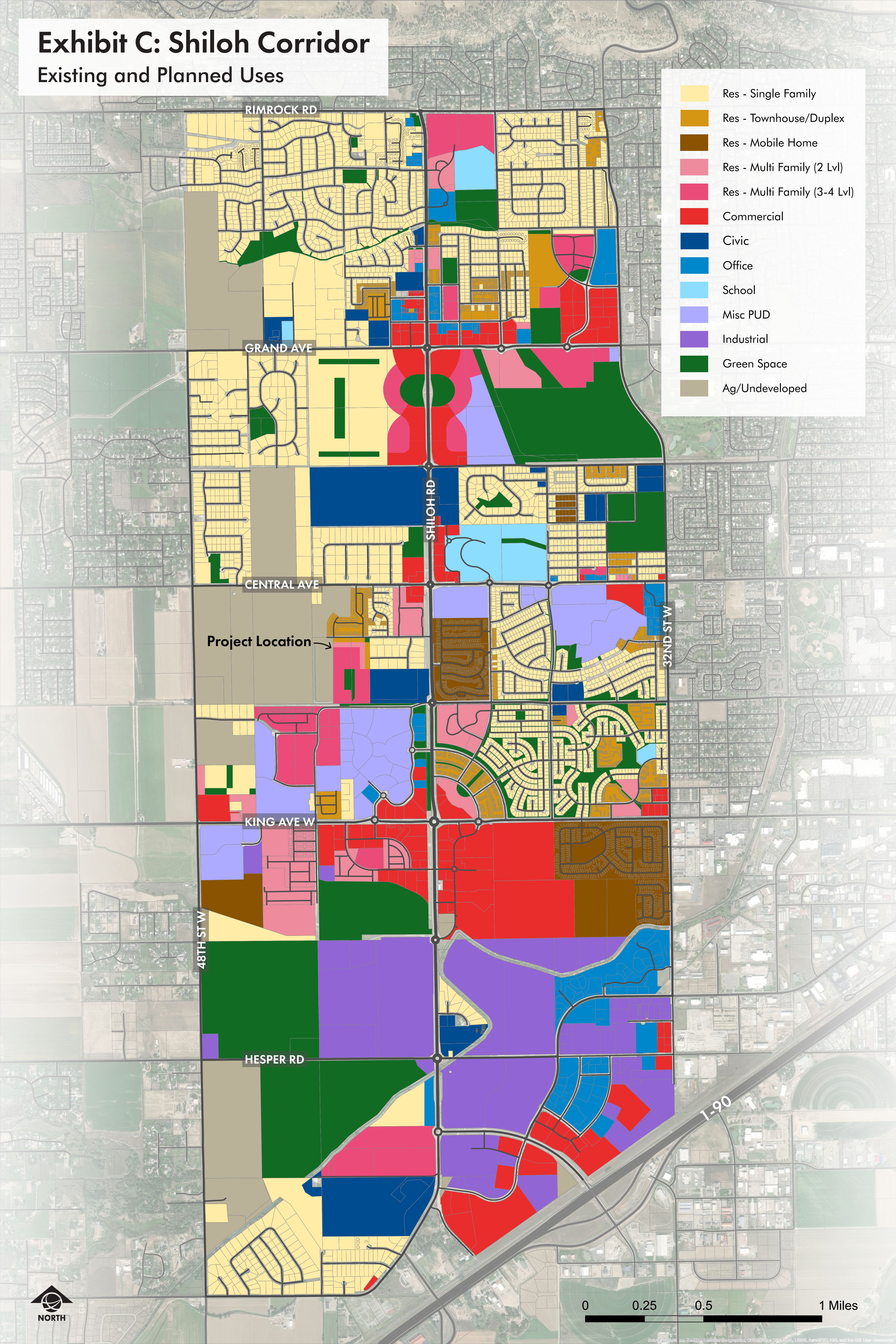
48TH ST W

HESPER RD

SHILOH RD

32ND ST W

I-90



**Pre-Application Statement of Owner(s) or Agent(s)**

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

- 1. **Present Zoning:** Agriculture \_\_\_\_\_
  
- 2. **Written description of the Zone Change Plan** including existing and proposed new zoning:

Existing use of Agriculture to be changed to Residential use N1, NX2, NX3 AND P1 \_\_\_\_\_

- 3. **Subject Property Map:** please attach to this form

- 4. **Legal Description of Property:**  
S10, T01 S, R25 E, C.O.S. 2828, TRACT 1  
S10, T01 S, R25 E, C.O.S. 2828, TRACT 2  
Drain ROW (legal description attached) **Exhibit A**

- 5. **Neighborhood Task Force Area:** Yes /// No . If Yes, Name of Task Force and mailing address of Chairperson:

Yes. West End Task Force. Chairperson: Gordon Olson windrivermts@yahoo.com

- 6. **Roster of persons who attended the pre-application neighborhood meeting:** please attach to this form **Exhibit B**

- 7. **A copy of the meeting notice.** please attach to this form **Exhibit C**

- 8. **A brief synopsis of the meeting results including any written minutes or audio recording.** please attach to this form **Exhibit D** **Synopsis of additional public input in exhibits E, F, and G**

- 9. **The undersigned affirm the following:**

- 1) The pre-application neighborhood meeting was held on the 25, day of Oct, 2022, 20\_\_.
- 2) The zone change application is based on materials presented at the meeting.

**Owner (s):** Dorn Property & Homes Telephone: (406) 652-8232

Address: PO Box 81524 Email: rick@dornrealestate.com

**Agent (s):** Dorn/ Lowe LLC Telephone: (406) 652-8232

Address: PO BOX 81524 Email: rick@dornrealestate.com  
BILLINGS, MT 59108-1524

## Exhibit A

### LEGAL DESCRIPTION: DRAINAGE DITCH RIGHT-OF-WAY

A 55-foot wide strip of land adjoining the south line Tracts 1 and 2 of Certificate of Survey 2828, located in the Northeast Quarter of Section 10, Township 1 South, Range 25 East, P.M.M., Yellowstone County, Montana, more particularly described as follows:

Beginning at the southeast corner of Tract 1 of Certificate of Survey 2828, thence S 00°08' 00" W, a distance of 55.00 feet along the prolongation of the east line of said Tract 1 to the east-west mid-section line of Section 10, Township 1 South, Range 25 East, P.M.M.; thence N 89°49' 29" W, a distance of 817.10 feet along said east-west mid-section line to a point being the intersection of said east-west midsection line and the prolongation of the west line of Tract 2 of Certificate of Survey 2828; thence N 00°08' 00" E, a distance of 55.00 feet along said prolongation of the west line of Tract 2 to the southwest corner of Tract 2 of Certificate of Survey 2828; thence S 89°49' 29" E, a distance of 408.59 feet along the south line of said Tract 2 to the southeast corner of said Tract 2, also being the southwest corner of said Tract 1 of Certificate of Survey 2828; thence S 89°49' 29" E, a distance of 408.51 feet along the south line of said Tract 1 to the southeast corner of said Tract 1 and the point of beginning. Said strip of land containing 1.0317 acres.







PRE-APPLICATION MEETING  
ATTENDANCE SIGN-IN SHEET

Date: 10/25/2022

Time: 5:30

Project: Down/Pull

Project No.: 12004.01

Meeting Location: King of Glory

| Name and Title:<br>(Please Print) | Representing: | Phone Numbers |                | Email Address              |
|-----------------------------------|---------------|---------------|----------------|----------------------------|
|                                   |               | Office        | Mobile         |                            |
| VERA Willis                       |               |               | 678-863-6741   | WILLENE1129@COMCAST.NET    |
| Cinda & Greg Biggs                |               |               | 406 656 6664   | cinda.sbiggs@nr.com        |
| Terri Kaufman                     |               |               | 928-242-7966   | kaufmanterri@gmail.com     |
| DONNA TIMMERMAN                   |               |               | 406-860-4597   | 2golft4life@gmail.com      |
| JAN ROSS                          |               |               | 406 598 1641   | JAN.ROSS49@gmail.com       |
| DEEWIN & BEV McCRAZY              |               |               | 307-654-1589   | WYOGEESEK@HOTMAIL.COM      |
| Dwight & Lisa Moen                |               |               | 406-955-8102   | dmdist@bresnan.net         |
| VERN & DIANNE SANDAU              |               |               | 406 692-7203   | SANDAU@OV@GMAIL.COM        |
| Rick & Kathy Brookshire           |               |               | (406) 670-5205 | rck.brookshire@outlook.com |
| Toby Erickson                     |               |               | 281-468-1872   | TLEricksonmail@gmail.com   |
| Nancy Pederson                    |               |               | 406-860-0150   | ourmen47@gmail.com         |
|                                   |               |               |                |                            |
|                                   |               |               |                |                            |
|                                   |               |               |                |                            |

October 17, 2022

Reference: Notice of Pre-Application Neighborhood Meeting for Annexation and Planned Neighborhood Development (PND) Zone Change Certificate of Survey No. 2828, Tracts 1 and 2.

Dear Neighbors:

You are receiving this letter because the City of Billings requires a pre-application neighborhood meeting for any zone change request on property located within or intending to be annexed to the City. By City Code, the surrounding property owners within 1,320 feet (quarter mile) are notified of this meeting so you can ask questions of the materials described in this letter. This is not your last time to comment on this proposal, as future public hearings by the Zoning Commission and City Council will be scheduled.

The request for this property involves annexation of the two tracts of land, as noted in the enclosed exhibit, and a zone change from Agricultural to a combination of NI-First Neighborhood, NX1-Mixed Residential 1 (1-4 dwelling units per structure), NX2-Mixed Residential 2 (2-8 dwelling units per structure), NX3-Mixed Residential 3 (5 or more dwelling units per structure) and PI-Open Space, Parks, Recreation. As part of its process, variances are being sought to honor neighbors' requests to bar vehicular access to Obie Lane and Bell Avenue, although pedestrian access to Bell Avenue will be provided.

The Neighborhood Pre-Application Meeting will be held on **Tuesday, October 25, 2022, at 5:30 PM**. This meeting will be held in-person at King of Glory Lutheran Church. Their address is 4125 Grand Ave, Billings, MT 59106. You may also receive log in credentials so that you can join remotely via Teams. If you plan on attending or would like the log in information, please email John Halverson at [jhalverson@sandersonstewart.com](mailto:jhalverson@sandersonstewart.com) so that we can verify accommodations for the in-person meeting and have a list of attendees that will be joining via Teams.

Comment may also be given via an online survey, which can be accessed by typing the following URL address into your internet browser:

<https://lp.constantcontactpages.com/sv/euWqtM5/WestBillingsPUD>

The survey may also be accessed by opening your smart phone's camera and aiming it at this QR code:



Exhibit C



Billings  
Bozeman  
Fort Collins

Please plan on attending this Neighborhood Pre-Application meeting if you have comments or questions regarding the proposed Annexation and Planned Neighborhood Development Zone Change. If you have immediate questions or cannot attend the meeting, please contact me at (406) 869-3311 or via my email at [jhalverson@sandersonstewart.com](mailto:jhalverson@sandersonstewart.com)

Respectfully,

A handwritten signature in blue ink, appearing to read 'John Halverson'.

John Halverson, LEED AP, Land Planner

JDH/hl

Enc.

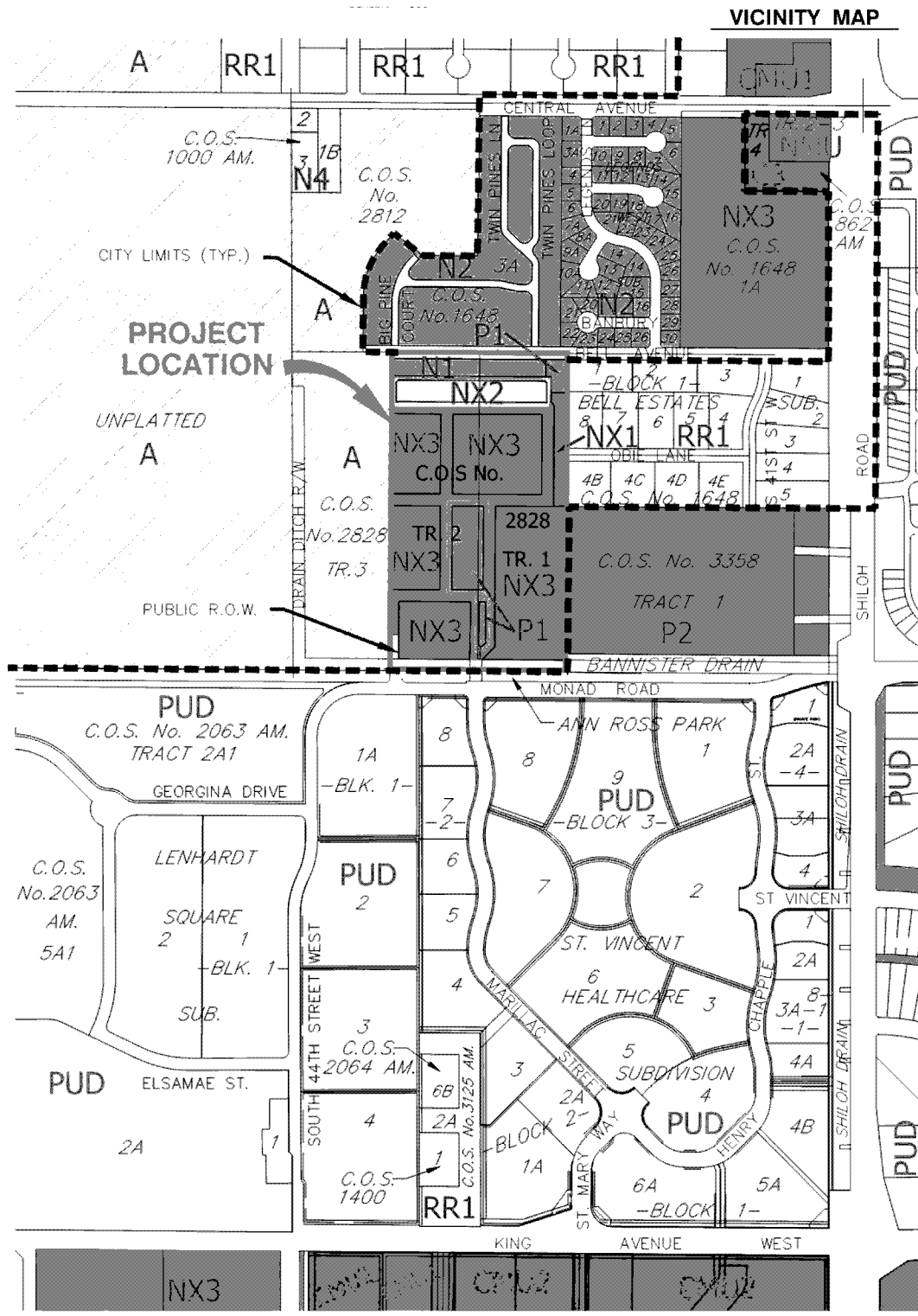
c: Nicole Cromwell, Zoning Coordinator / Code Enforcement Supervisor, City of Billings  
Rick Dorn, Dorn Real Estate and Development

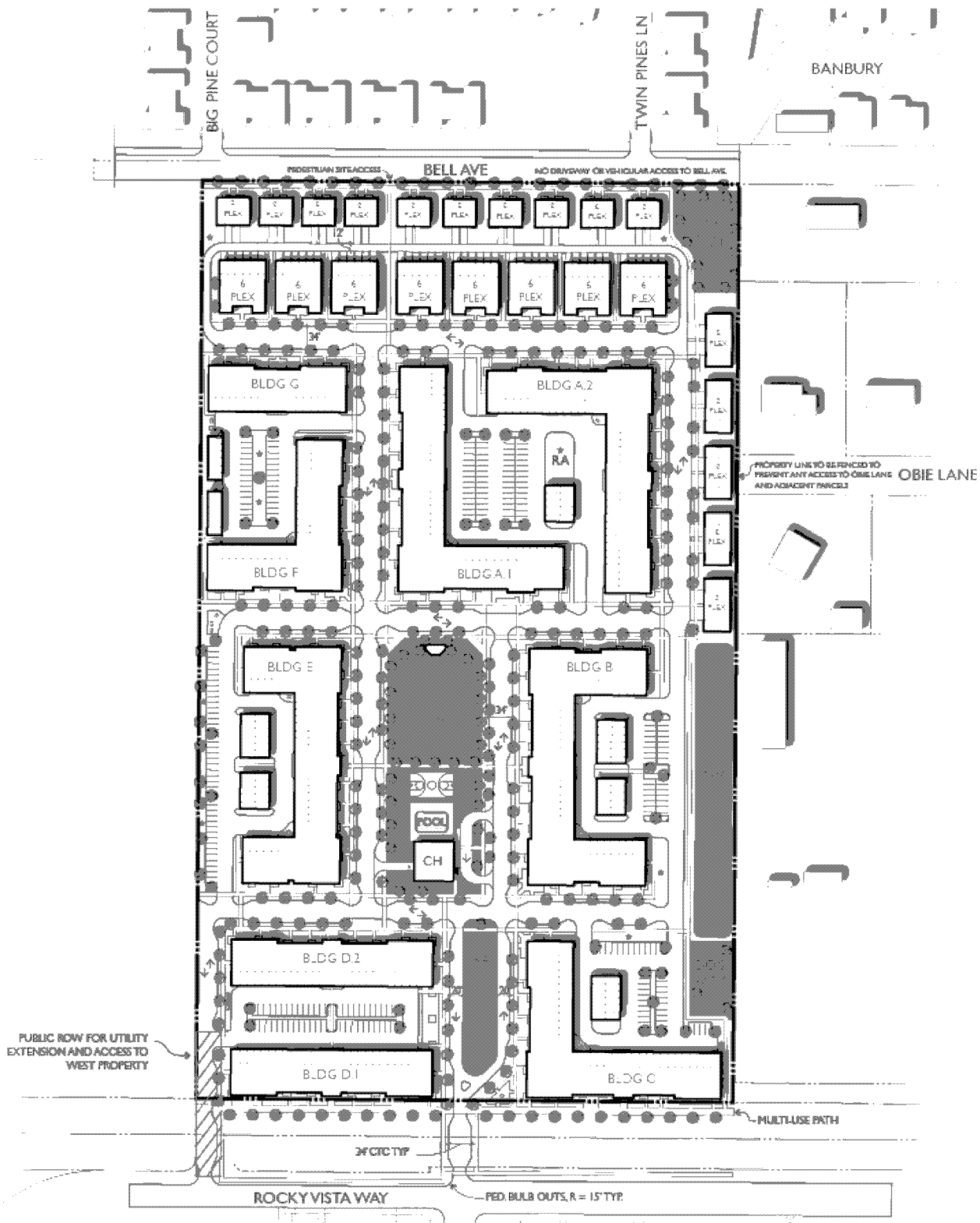
PREPARED FOR : BORN REAL ESTATE AND DEVELOPMENT

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA      OCTOBER, 2022

LAND USE SUMMARY





| PROGRAM                          |            |
|----------------------------------|------------|
| MF Units (NX3)                   | 504        |
| 6-plex Units (NX2)               | 48         |
| Duplex Units (N1, NX1)           | 30         |
| <b>Total Dwelling Units</b>      | <b>582</b> |
| Res Surface Pkg Stalls           | 495        |
| Res Garage Pkg Stalls            | 380        |
| Parking Stalls Per Dwelling Unit | 1.5        |
| Recreation Area                  | 2.58 Acres |

| ZONES |       |       |         |
|-------|-------|-------|---------|
| Zone  | Acres | % Net | % Gross |
| NX3   | 15.0  | 73.5  | 57.5    |
| NX2   | 1.6   | 7.9   | 6.1     |
| NX1   | 0.7   | 6.4   | 2.8     |
| N1    | 1.3   | 6.4   | 5.0     |
| P1    | 1.7   | 8.5   | 6.6     |
| ROW   | 5.7   | -     | 21.8    |

| LEGEND          |  |
|-----------------|--|
| Dumpsters       |  |
| Snow Storage    |  |
| Site Boundary   |  |
| Recreation Area |  |
| Landscape       |  |

| ABBREVIATIONS   |    |
|-----------------|----|
| Stormwater      | SW |
| Clubhouse       | CH |
| Recreation Area | RA |

**MEETING MINUTES**

|                                                                                   |  |                                |  |
|-----------------------------------------------------------------------------------|--|--------------------------------|--|
| <b>PROJECT: Certificate of Survey #2828 Tracts 1&amp; 2</b>                       |  |                                |  |
| Project No: 12004.01                                                              |  |                                |  |
| Meeting Location: King of Glory Lutheran Church 4125 Grand Ave, Billings MT 59106 |  | Meeting Date: 10/25/22 5:30 PM |  |
| Meeting Subject: Zone Change Neighborhood Pre-Application Meeting                 |  | Prepared by: John Halverson    |  |
| Attending:                                                                        |  | (See attached sign-in sheet)   |  |
| Sanderson                                                                         |  | Rick Leuthold                  |  |
| Stewart:                                                                          |  | John Halverson                 |  |
|                                                                                   |  |                                |  |
| Date of Issue: 12/01/2022                                                         |  |                                |  |

Minutes:

- Mr. Halverson opened the meeting at 5:30 PM by introducing himself and outlining the agenda, which included a presentation on the zone change, a brief explanation of the new zoning code, and time for questions and comments.
- After completing that presentation, Mr. Leuthold and Mr. Halverson took questions and comments from the attendees.
- An attendee asked how many residential homes would be included in the planned neighborhood development.
- Mr. Leuthold responded that the estimated number of units was about 550, but that the development is early in its process, and that actual counts would not be solidified until an architectural plan was completed.
- An attendee asked what the future development and approvals process is.
- Mr. Leuthold answered that the current plan would require a variance to allow it not to connect to the public rights of way of Bell Avenue and Obie Lane. He explained that staff had objected to the proposed plan

on those grounds and had asked Sanderson Stewart to create an alternative plan illustrating what the street layout would be without that variance.

- An attendee asked about traffic impacts in the surrounding area.
- Mr. Leuthold answered that a “traffic study lite” had been undertaken as part of the previous zone change effort in 2021 and that a full traffic impact study would be completed in the site development phase of project approval.
- An attendee asked for clarification on the matter of the variance and non-variance plans that would proceed concurrently.
- Mr. Leuthold responded that, at the pre-application staff review meeting, police, fire, planning, and engineering staff had raised concerns about lack of connection to Bell Ave. and Obie Lane, and asked Sanderson Stewart to draw up an alternative concept plan that does connect to those public rights of way.
- An attendee raised the concern that the variance concept plan shown having only 2 points of access onto Rocky Vista Way was not sufficient
- Another attendee asked if the variance could be rescinded after it was granted.
- Mr. Leuthold answered that it could not and explained the impacts of the variance.
- An attendee suggested that, if the variance were not granted, a security gate could be installed to restrict access onto Bell Avenue.
- Mr. Leuthold replied that such a restriction was unlikely, but that traffic calming measures could be taken on Bell Avenue to ensure safety.
- An attendee asked if the development would be under an HOA.
- Mr. Leuthold answered that it would likely be under collective management by Dorn Real Estate.
- An attendee asked if a buffer yard and fence would be included at Obie Lane.
- Mr. Leuthold responded that, under the plan that would require a variance, a buffer yard and fence would be included, and that, if the variance were denied, a buffer yard would be included along the boundary with Bell Estates.
- An attendee asked if a fence would be built along the western boundary of the project where it abuts an agricultural field.
- Mr. Leuthold answered that it would not be fenced, but that measures could be taken to prevent people from driving onto that field from the site.

## Exhibit D

- An attendee asked if short term rentals or VRBOs would be part of the development.
- Mr. Leuthold replied that Dorn Homes would retain full ownership of the site and any development thereon, and that there were no plans to include short term rentals on site.
- An attendee stated their preference for the site to have no access to any adjacent properties other than to the south.
- An attendee urged the other attendees to google Dorn Real Estate.
- An attendee asked why the city would consider a non-compliant option at all.
- Mr. Leuthold responded that the neighborhood held sway over council despite non-compliance.
- An attendee referred to the proposed zone change as “the same pig in different skin” and stated that “we’re not going to let it happen.” They also stated a preference to see the entire project changed to only N zones (rather than NX zones) and stated that they would be mobilizing to oppose the project.
- Mr. Leuthold responded that most of Billings is Single detached housing and that this project would help supply much needed housing choice.
- An attendee raised concerns that there was not enough parking on site.
- Mr. Halverson responded that residents would likely use public transit at higher rates.
- Attendees laughed at Mr. Halverson’s response.
- An attendee asked about stormwater provisions on the site.
- Mr. Leuthold responded that a legal manual dictated what stormwater facilities would be required on site, and that underground facilities, green space and city stormwater would be utilized.
- An attendee stated that he had been a broker in Jackson Wyoming and that developers there followed their profit motive.
- Mr. Leuthold cited the city’s current housing crisis, that there are 4300 unfilled job openings in Billings. He noted the need to house the city’s workforce and the basic supply and demand dynamics of housing market.
- An attendee asked what could be done to prevent the owner from accepting a section 8 housing voucher.
- Mr. Leuthold responded that land would have to be specially designated for HUD’s voucher program and that there were no plans to do so on this property.

## Exhibit D

- An attendee suggested that development already approved in the area would provide sufficient supply to meet the region's demand.
- Mr. Leuthold responded that the homes approved in the area of King and 48<sup>th</sup> is planned to be 4-plex development and was not of sufficient scale to satisfy the Billings job market's housing demand.
- An attendee asked why NX1 and 4-plexes were planned for the land immediately abutting Bell Estates. And stated a preference for N1 at that location to provide a more significant buffer.
- An attendee asked if such residential density could be moved further west to where there were no neighbors.
- Mr. Leuthold answered that it would not be efficient to provide services to such far-flung locations without first developing closer-in areas such as the area in question.
- Mr. Leuthold closed the meeting at 6:50 PM

### MEETING MINUTES

|                                                             |                              |                                |  |
|-------------------------------------------------------------|------------------------------|--------------------------------|--|
| <b>PROJECT: Certificate of Survey #2828 Tracts 1&amp; 2</b> |                              |                                |  |
| Project No: 12004.01                                        |                              |                                |  |
| Meeting Location: Connections Church 5554 Grand Avenue      |                              | Meeting Date: 11/15/22 7:00 PM |  |
| Meeting Subject: West End Neighborhood Task Force Meeting   |                              | Prepared by: John Halverson    |  |
| Attending:                                                  | (See attached sign-in sheet) |                                |  |
| Sanderson                                                   | John Halverson               |                                |  |
| Stewart:                                                    |                              |                                |  |
|                                                             |                              |                                |  |
|                                                             |                              |                                |  |
| Date of Issue: 12/01/2022                                   |                              |                                |  |

Minutes:

- Mr. Halverson was invited to present the proposed zone change/ PND at the West End Neighborhood Task Force by task force chairperson, Gordon Olson, who, having completed discussion of several other items on the evening’s agenda, introduced Mr. Halverson and gave him the floor.
- Mr. Halverson introduced himself and outlined the agenda, which included a presentation on the zone change, a brief explanation of the new zoning code, and time for questions and comments.
- After completing that presentation, which was substantially the same presentation given at the neighborhood pre-application meeting on October 25 at King of Glory Lutheran Church, Mr. Halverson opened the floor to questions and comments from the attendees.
- An attendee asked if the homes in the proposed PND would be for sale or rent.
- Mr. Halverson answered that the homes would all be for rent.
- An attendee raised concerns that the two access points onto Monad [Rocky Vista Way] would be too much for that right of way to handle.
- Mr. Halverson explained that city staff had raised the same concern at the project’s pre-application staff meeting and directed Sanderson

Stewart to create an alternative plan that provided access onto Bell and Obie Lane.

- An attendee raised the concern that there is not enough parking on the site.
- Mr. Halverson explained how parking calculated for multi-family residential under the zoning code and that the project takes advantage of a reduction in parking stalls required by purchasing bus passes for residents, which is allowed under the code. He also explained that the project's proximity to commercial and job centers makes it more likely that residents will make trips by bicycle, walking, or public transit.
- An attendee asked how this development would impact public services like schools, and asked how children living in this development would safely walk to school.
- Mr. Halverson answered that Billings SD2 has an advisory role in the approval process for residential development and that he was unaware of the district's plans to accommodate increasing population. He explained that safe routes to school on Billings' West End is a major cause for concern and called out the planned multi-use path along Rocky Vista Way's north side. He also explained that a traffic impact study would be completed later in the development process, which could include broader pedestrian improvements in the area.
- An attendee asked about trail access for the residents in the proposed PND.
- Mr. Halverson reiterated the planned mixed-use path on Rock Vista Way and that broader trail connectivity concerns were beyond the scope of this project.
- An attendee suggested that the West End would benefit from a community center.
- Mr. Halverson pointed out the clubhouse planned for the central park of the PND.
- Mayor Cole mentioned that a new transit plan is in progress and may affect the PND's ability to make use of the transit parking discount.
- An attendee mentioned that in their neighborhood, Vintage Estates, that a developed park had been advertised, but had yet to be built.
- Mayor Cole explained that, depending on whether the park were dedicated or privately owned, either the city or the developer would be responsible for the park improvements.
- An attendee asked whether bike lanes would be included in the PND.
- Mr. Halverson answered that the streets were designed with traffic calming features so as to create a slow-speed right of way in which a

## Exhibit E

bicycle could safely share the lane with vehicular traffic similar to those found in Annafeld or Josephine Crossing.

- An attendee raised the concern that in those neighborhoods, street parking made driving difficult at higher speeds.
- Mr. Halverson responded that that outcome is intended as part of the design to slow vehicular traffic and create pedestrian and child-friendly streets.
- At this point Mr. Olson moved the meeting onto its next agenda item.
- After the meeting adjourned, Mr. Halverson made remained to answer any questions attendees still had.
- An attendee raised the concern that the PND did not have enough connectivity to surrounding neighborhoods.
- Mr. Halverson answered that he shared those concerns and that the developer is seeking a variance not to connect to those surrounding neighborhoods as a concession to the residents of those neighborhoods.
- An attendee stated their preference for a separated bicycle facility

### EVENT MINUTES

|                                                             |                |                               |  |
|-------------------------------------------------------------|----------------|-------------------------------|--|
| <b>PROJECT: Certificate of Survey #2828 Tracts 1&amp; 2</b> |                |                               |  |
| Project No: 12004.01                                        |                |                               |  |
| Event Location: Riverfront Park                             |                | Event Date: 10/22/22 10:30 AM |  |
| Event Subject: Zone Change/ PND<br>Public Input Event       |                | Prepared by: John Halverson   |  |
| Attending:                                                  |                | Unknown members of the public |  |
| Sanderson                                                   | John Halverson |                               |  |
| Stewart:                                                    |                |                               |  |
|                                                             |                |                               |  |
|                                                             |                |                               |  |
| Date of Issue: 12/01/2022                                   |                |                               |  |

Public Comments:

- Mr. Halverson set up a table and three presentation boards (attached) and solicited public comment from attendees of The Great Masked Pumpkin Race at Riverfront Park.
- At 10:30 AM the race event was initiated. The organizer introduced Mr. Halverson and stated his purpose for tabling at the event and invited the attendees to give comment on the proposed PND.
- At 10:36 AM a member of the public expressed the need for a new public high school on the West End.
- At 10:56 a member of the public expressed that they liked the pool on the concept plan.
- At 11:07 a member of the public expressed that more apartments are needed for both young people and elderly in the Billings area.
- At 11:23 a member of the public stated that the PND looked good and they like Shiloh Commons and the businesses therein. They also asked the cost of rent.
- Mr. Halverson replied that these homes would likely have similar rents to those in the area.

## Exhibit F

- The same member of the public stated that rentals are good for immigration and noted the need to supply housing for the workers at the Laurel refinery and that such development is “a good thing.”
- At 11:55 a member of the public expressed that locating housing close to the commercial uses on Shiloh would have the benefit of reducing travel distances.
- At 12:16 a member of the public expressed that, “as long as it’s not in my back yard, I like it.”
- At 12:26 a member of the public stated that they “like it” but also said the PND has “too many apartments” while also stating the need for the city to develop efficiently for tax and service efficiency. They also expressed the need for sufficient parking, and noted that Interpointe is high quality. They stated that they like the park and expressed the need for understandable addressing and wayfinding.
- At 12:30 Mr. Halverson broke down the booth and left the event.

## Exhibit G

### Constant Contact Survey Results

**Campaign Name:** Dorn PUD Survey

**Survey Starts:** 197

**Survey Submits:** 25

**Export Date:** 11/22/2022 01:39 PM

#### MULTIPLE CHOICE

"A mix of housing types that meet the needs of a diverse population is important."

| Answer Choice          | 0% | 100% | Number of Responses | Responses Ratio |
|------------------------|----|------|---------------------|-----------------|
| Very Well              |    |      | 9                   | 39%             |
| Well                   |    |      | 8                   | 34%             |
| Somewhat               |    |      | 3                   | 13%             |
| Poorly                 |    |      | 3                   | 13%             |
| Very Poorly            |    |      | 0                   | 0%              |
| <b>Total Responses</b> |    |      | <b>23</b>           | <b>100%</b>     |

#### MULTIPLE CHOICE

"Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy, and safe."

| Answer Choice          | 0% | 100% | Number of Responses | Responses Ratio |
|------------------------|----|------|---------------------|-----------------|
| Very Well              |    |      | 10                  | 41%             |
| Well                   |    |      | 6                   | 25%             |
| Somewhat               |    |      | 6                   | 25%             |
| Poorly                 |    |      | 1                   | 4%              |
| Very Poorly            |    |      | 1                   | 4%              |
| <b>Total Responses</b> |    |      | <b>24</b>           | <b>100%</b>     |

#### MULTIPLE CHOICE

"Developed parks that provide recreation, special amenities (community gardens, dog parks, viewing areas), and active living opportunities are desirable for an attractive and healthy community."

| Answer Choice          | 0% | 100% | Number of Responses | Responses Ratio |
|------------------------|----|------|---------------------|-----------------|
| Very Well              |    |      | 13                  | 54%             |
| Well                   |    |      | 4                   | 16%             |
| Somewhat               |    |      | 5                   | 20%             |
| Poorly                 |    |      | 2                   | 8%              |
| Very Poorly            |    |      | 0                   | 0%              |
| <b>Total Responses</b> |    |      | <b>24</b>           | <b>100%</b>     |

## Exhibit G

### MULTIPLE CHOICE

"Allowing a mixture of housing types provides housing options for all age groups and income levels."

| Answer Choice          | 0% | 100% | Number of Responses | Responses Ratio |
|------------------------|----|------|---------------------|-----------------|
| Very Well              |    |      | 8                   | 33%             |
| Well                   |    |      | 8                   | 33%             |
| Somewhat               |    |      | 6                   | 25%             |
| Poorly                 |    |      | 1                   | 4%              |
| Very Poorly            |    |      | 1                   | 4%              |
| <b>Total Responses</b> |    |      | <b>24</b>           | <b>100%</b>     |

### MULTIPLE CHOICE

"Community investments that attract and retain a strong, skilled, and diverse workforce also attracts businesses."

| Answer Choice          | 0% | 100% | Number of Responses | Responses Ratio |
|------------------------|----|------|---------------------|-----------------|
| Very Well              |    |      | 12                  | 50%             |
| Well                   |    |      | 6                   | 25%             |
| Somewhat               |    |      | 5                   | 20%             |
| Poorly                 |    |      | 1                   | 4%              |
| Very Poorly            |    |      | 0                   | 0%              |
| <b>Total Responses</b> |    |      | <b>24</b>           | <b>100%</b>     |

### MULTIPLE CHOICE

Do you rent or own the home where you currently live?

| Answer Choice          | 0% | 100% | Number of Responses | Responses Ratio |
|------------------------|----|------|---------------------|-----------------|
| Rent                   |    |      | 5                   | 20%             |
| Own                    |    |      | 19                  | 79%             |
| <b>Total Responses</b> |    |      | <b>24</b>           | <b>100%</b>     |

### MULTIPLE CHOICE

Approximately how close do you live to this PND?

| Answer Choice               | 0% | 100% | Number of Responses | Responses Ratio |
|-----------------------------|----|------|---------------------|-----------------|
| Immediately Adjacent        |    |      | 1                   | 4%              |
| Less than 1/4 mile          |    |      | 0                   | 0%              |
| Between 1/4 mile and 1 mile |    |      | 4                   | 16%             |
| 1 mile or more              |    |      | 19                  | 79%             |
| <b>Total Responses</b>      |    |      | <b>24</b>           | <b>100%</b>     |

OPEN QUESTION

What else would you like us to know?

Housing affordability also involves integrating work opportunities into the neighborhood, reducing the burden of vehicle ownership and complicated commuting for work and childcare—how does this neighborhood support light mixed use or neighborhood commercial activities?

All access to the site appears from one point—how is this site safe for fire services access, evacuation, or reduced traffic congestion? Will only one entrance degrade faster causing wear the City will need to maintain?

My parents built their dream home two years ago. This potential PND abuts next to their property. I don't think they would have built there if they knew this could happen. They moved to the outskirts of Billings for peace and quiet. I don't think they were counting on the equivalent of a small Montana city to move in next door. These developments effect people's lives. They worked their whole life for their dream home on the outskirts of town. Not sure this development is appreciated.

Are these for sale? Then I'm all in.

I would like to see more fourplex, duplex options and a little less apartment living to integrate more generations and appeal to greater income levels.

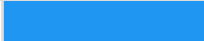

It is difficult to agree with any of the policy statements regarding mixed housing without knowing the targeted income levels for the housing types.

I hope the city approves this annex proposal so that anything built in such a prime location complies with our Growth Policy. I also love that these will be majority apartments. The lack of affordable housing options in Billings, especially apartments for rent, impacts everyone in our city, not just people who leave near this PND. The positive impact of a project like this needs to carry as much weight--or more!--than any potential opposition from residents in the immediate vicinity.

**11 Response(s)**

MULTIPLE CHOICE

Do you plan on attending the neighborhood meetings or public hearings?

| Answer Choice          | 0%                                                                                  | 100% | Number of Responses | Responses Ratio |
|------------------------|-------------------------------------------------------------------------------------|------|---------------------|-----------------|
| Yes                    |  |      | 7                   | 29%             |
| No                     |  |      | 17                  | 70%             |
| <b>Total Responses</b> |                                                                                     |      | <b>24</b>           | <b>100%</b>     |

December 1, 2022

Ms. Nicole Cromwell  
Ms. Monica Plecker  
2825 3rd Avenue North 4th Floor  
Billings, MT 59101

Reference: Variance Request  
COS 2828 Tracts 1 & 2 (Vista West fka Dorn/Bell property)

Dear Ms. Cromwell and Ms. Plecker:

Per our discussions on this project, we are making application for a Variance to the strict interpretation of Section 27-804 of the City Zoning Code under paragraph C which calls for all Streets to connect and continue as they either exist or are planned for from adjacent developments. We provide the following reasons for this request as is associated with the Concept 2 illustrative plan.

1. A previous zone change submittal for this project included access to Bell Avenue because of its importance as an east/west connector in the area, but no access to Obie Lane as it was deemed a low volume short run county access road.
2. As part of the earlier submittal, we provided a summary review of the project traffic impacts that demonstrated the acceptability of the connection under the City's standard requirements.
3. During the processing of the earlier submittal there was significant neighbor input at the Neighborhood Meeting and the Zoning Commission meeting as well as City Council and Mayor comments both at a council meeting and in other forums that acknowledged the neighbor concern about the connection and indicated support of the elimination of that connectivity.
4. The development of the site has been reviewed in consideration of no additional access to Bell Avenue or Obie Lane, but rather providing two accesses to Rocky Vista Way. This is a standard development layout for many developments of this nature throughout our community. Once again, the access and road impacts have been initially reviewed and such a layout would meet all requirements with the exception of the connectivity aspect.
5. It should be noted that the land uses as indicated in the separate zone change request for this project are in full compliance with City of Billings zoning regulations regardless of which Concept layout is chosen.

Ms. Nicole Cromwell  
Ms. Monica Plecker  
December 1, 2022  
Page 2

It is on this basis that we have prepared Concept 2 of this development, and it is under this layout that we are requesting a Variance to the strict interpretation of that section of the Zoning Code. It should be noted, that through discussion with staff, we have also prepared a Concept 1 layout, that meets in full the requirements of Section 27-804, C as it applies to connectivity. Concept 1 is also a part of the overall zone change for this project and will allow the City Council the ability to weigh the various merits of each option and approving the one they find to be most beneficial.

Please feel reach out to me directly if you have an y immediate comments or questions.

Respectfully,



Rick Leuthold, PE, LEED AP  
Principal | Chairman

# **Opposition to City Zoning Change 1021**

**January 3, 2022, 4:30 pm.**

**1<sup>st</sup> Floor conference room, The Miller Building**

**2825 3<sup>RD</sup> Ave N**

## **General Overview:**

We are requesting the Zoning Commission deny the application for the Zoning Change 1021. The request is being made by many of the individual property owners and interested parties located within the ¼ mile distance from the property boundary who are adamantly opposed to the proposed change. We are requesting the proposed zoning change be denied for the following reasons: the change is not in accordance with the Growth Policy; is not designed to secure fire and other dangers; does not promote public health, public safety and general welfare; does not facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; will adversely affect motorized and nonmotorized transportation; is contradictory to compatible urban growth; does not consider the character of the district and the peculiar suitability of the property for the particular use; will reduce the value of established homes and neighborhoods; is not the most appropriate use of land throughout the City of Billings. A detailed description for the opposition will be presented in the later sections of this document.

A similar zoning change was requested and defeated approximately 10 years ago. Another request was made last year and was withdrawn by the applicant after significant opposition to the request was made. The land owner/developer and the professional community designer, Sanderson Stewart have stated that the development now meets the new requirements for the proposed changes. They have presented an optimistic overview of the proposed development. Many of the overarching issues that resulted in the previous defeat are still applicable today and at best have only been partially addressed or not at all. They are utilizing the development of Interpoint Apartments, InterUrban Apartments and Happy Homes Apartments as justification to approve the proposed changes. The proposal, as presented, “checks the boxes” for meeting all of the 10 criteria used for review of a zoning change. When all of the factors are more closely examined, the proposed development fails to meet the criteria used for review of the zoning change.

The developer has submitted the modified plan after “feedback” from the community. The only modifications to the 2022 plan was to not connect the PND to Bell Ave and Obie Lane. The developer failed to acknowledge any of the other larger concerns regarding the number of units that would be add to the neighborhood and the negative impact to the fiber of the community. The develop submitted a plan that knowing violates the connectivity of the PND in hopes of

gaining approval of the zoning change then blaming the city for requiring the connectivity issue to be resolved. The Planning and Community services group has already made the recommendation to reject the variance and requested a second layout be submitted with connectivity to Bell Ave and Obie Lane. That puts the request back to the same status that was strongly opposed by the residents of the existing neighborhood and re introduces the traffic concerns down Bell Ave and thru the subdivisions of Legends Way and Twin Pines Townhomes. The developer 2022 traffic study identified that over 1000 vehicles will not utilize Bell Ave daily and well over 100 vehicle will "cut" through Legends Way and Twin Pines Townhomes. The number if "cut" through exceed the number of units in Legends Way and Twin Pines Townhomes

The polished campaign by the paid contractor, Sanderson Stewart is specifically designed to convince all parties that this is the best utilization of the tracts of land. The goal of Sanderson Stewart is to get this approved at the direction of the land owner and developer. This approval will optimize profits for the land owner and developer. However, if approved it will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

This proposal does not fully meet the growth policy and we are opposed to zoning change. The Growth Policy states: "The City will prosper with strong neighborhoods with their own unique character that are clean, safe and provide a choice of housing and transportation options." The development and maintenance of neighborhoods like Bell Estates, Legends West, and Twin Pines are the backbone of prosperity for Billings. The pride in ownership, the sense of community, the fabric of family, the feeling of a friendly, quiet neighborhoods are the key aspects to the value of the neighborhoods in Billings. The proposed changes will not enhance the value of the neighborhoods but will significantly diminish them. This development will not make Billings a better place to live. If approved it will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone. These neighborhoods already offer a diverse choice of housing. Our recommendation is to development the property in alignment with the current neighborhoods and that is the most appropriate us of the land.

The Growth Policy also states: "In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to **areas where City infrastructure exist or can be extended within the fiscally constrained budget** and with consideration given to increased tax revenue from development." The development as proposed addresses the infrastructure needs along the southern portion of the development but ignores the infrastructure improvements needed as a result of the development for Bell Estates, Legends West, and Twin Pines. If approved it will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

We are opposed to the proposed zoning because it will place a higher burden on fire and police services. These services are currently stretched very thin and by adding a high density

population expansion, it will negatively impact those services. The proposed zoning change does address many of the design criteria to secure fire and other dangers such as setbacks, open spaces, internal street design and others. However, it does not address all of the concerns and the additional cost associated with expanded fire and police services. Those costs will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

The new zoning will not promote public health, public safety and general welfare and we are opposed to the zoning changes. The proposed modifications will significantly increase the population density and will create additional public safety concerns. The safety concerns associated with large multi-dwelling units versus single and two family dwellings are well documented. There is a concern that higher crime rates will adversely affect the neighborhoods of Bell Estates, Legends West, and Twin Pines.

The new zoning does not facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements and we are opposed to the zoning changes. The high density population will place an additional burden on the already over extended SD#2 school system. There are improvements over the 2022 design in the area of parks but they are inadequate for development. The existing transportation infrastructure is not adequate to support this development. Although the developer is proposing providing primary access via Monad, a large percentage will be leaving/accessing the development from Central via Twin Pines and Legends Way. Additionally, traffic to the development from the North will turn onto Bell avenue to gain access. This will place a much higher traffic flow on existing streets. The additional cost associated with developing more schools, improved roads more sidewalks, more parks will be passed on to the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

The proposed zoning change does not adversely affect the quality of light and air.

We are opposed to the new zoning as it will adversely affect motorized and nonmotorized transportation. Sanderson Stewart has stated they anticipate the new development will generate approximately 3000 vehicle trips per day and the majority of these trips will utilize Monad as the primary route. Sanderson Stewart has also stated they will extend to connect to Bell Ave and Obie Lane. This will create a secondary access to and from the development through the existing neighborhoods of Bell Estates, Legends West, and Twin Pines. The 2022 traffic study shows that 1038 the new vehicles will utilize Bell Ave that 116 vehicles that would "cut" through Legends Way and Twin Pines Townhomes. We recognize that this number is less than the designed capacity for these roads, however, it is a **significant** increase in the traffic of the neighborhoods. This significant increase in traffic will adversely affect the quality of life and the property values of Bell Estates, Legends West, and Twin Pines.

In anticipation of the negative impacts due to the increase in traffic, the residents of Twin Pines have announced their intention to gate off Twin Pines Lane and Big Pine Court. Twin Pines is a unit owner development and is well within their rights. The additional costs to control traffic

within Twin pines will be a burden to residents of Twin Pines caused by the proposed development.

Once the gates are installed at Twin Pines, all of the secondary traffic will be forced to Bell Ave and Legends Way. The section of Bell Ave between Twin Pines Lane and Legends Way currently has between 50 and 75 vehicles per day (as observed by local residents). If this zoning change is approved, Bell Ave will have 20 times as many vehicles as it currently carries. This increase in traffic will present many challenges. The additional costs to control traffic along Bell Ave will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone. The south side of Bell Ave (county subdivision) does not have sidewalks or curb and gutters. The paved section of Bell Ave is very narrow. Additionally, the Moring Star employees park along on the road which contributes to traffic issues. The northside of Bell Ave has sidewalks and curb and gutters. Another item to consider is the intersection of Bell Ave and Shiloh. With the speed of the southbound traffic on Shiloh and the additional traffic that will have to make a right hand turn on to Shiloh from Bell Ave, the probability of major traffic accident will be significantly increased.

Currently, Bell Ave is the “feeder” for nonmotorized traffic for the residents Bell Estates, Legends West, and Twin Pines to the pedestrian path along Shiloh. This translates to a large number of pedestrians and cyclists that utilize Bell Ave. Additionally, many of the residents from Morningstar walk along Bell Ave. Another important item is the pedestrian path at Shiloh that crosses Bell Ave before the Stop sign. There is a cross walk with signage along Bell Ave but this last year there was a bicycle / vehicle incident. With the addition of 1000 more vehicles per day, the probability of major incident will be significantly increased.

We are opposed to the new zoning as it is contradictory to compatible urban growth. The application states that the proposed zoning provides “a transition to single-family and twin home residential uses to the north and single family uses east”. This is largely overstated. The transition, based on the zoning requests, move very quickly and in a cumbersome way directly to the apartment complex (NX3). The developers force a small area of N2 and NX1 as what they consider a buffer, which will only give a small transition from high value single family large lot homes into very compressed population.

The new zoning does not consider the character of the district and the peculiar suitability of the property for the particular use, and we are opposed to the change. The proposed changes do not take into consideration the existing single and two family dwellings in the surrounding neighborhoods to the north and east and in fact, directly discount those established neighborhoods.

The new zoning does not conserve the value of buildings and property and therefore we are opposed to the zoning change. The development of large scale apartment buildings and the added traffic in the area will reduce the desirability of the neighborhood and reduce from the value of the homes in the neighborhood.

The new zoning does not encourage the most appropriate use of land throughout the City of Billings. The need for suitable housing is a concern for Billings and its residents. The development of additional of large multi-dwelling units in the location does not constitute the proper use of this land. There is a continued need for affordable single and two family homes and would be a more suitable use of the tracts in question.

**From:** [ROGER FUHRMAN](#)  
**To:** [Cromwell, Nicole](#)  
**Subject:** [EXTERNAL] Zone change Dorn Property and Homes  
**Date:** Tuesday, January 3, 2023 9:26:31 AM

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From: Roger Fuhrman, 191 Legends Way, Billings

I am writing an opposition to the zone changing for the Dorn property and homes request. I feel the zoning proposal is not significantly different from previous proposals and that it remains essentially a high density apartment development. I offered the following considerations.

Monad is a two-lane traffic street including the east west flow at the Monad/Shilo roundabout. Considering the expected traffic from the apartments yet to come online south of Monad, the medical school and the adjacent campus I feel Monad will be insufficient to effectively handle this increased traffic.

This area is already the highest density area in Montana and this development does nothing to address infrastructure needs it will further impact including police, fire, school and traffic.

These costs will be shifted to the city of billings and county of Yellowstone.

I feel it is short-sighted to focus on maximizing profits for developers and shifting burden for infrastructure development to Billings and Yellowstone County. I feel the so-called expected increase tax revenue will not come close to covering increased cost. I am there for opposed to this proposed development. Monad is The logical dividing line in this area between high density development and single to smaller condo units.

Thank you for your consideration.

Roger Fuhrman

December 30, 2022

Attn: City/County Planning Division  
RE: CITY Zone Change 1021  
Project Number: PZX-22-00289

We are vehemently opposed to the city zone change 1021, this development does not comply with many of the 10 criteria used for review of zoning changes.

As a current home owner at 4185 Obie Ln, building the home on an undeveloped lot in 2002, we have a vested interest in the zoning change requested. We built the home, at the time, at the edge of Billings, with beautiful views of the Beartooth Mountains and the Rims. Over time, development has changed the environment. We recognize that growth on the West End is inevitable, yet trust that the City of Billings will support growth that is in the best interest of current and future residents. This is the third attempt at zoning to NX3, and the two times prior it has not proceeded likely due to the development planned, safety, objection of the current residents, and the roadway access.

Using some of the criteria, we would like to clarify our opposition:

- **Whether the new zoning will promote public health, public safety and general welfare?** While we are confident that the building will adhere to city stated codes, the addition of 550 units and potentially 1100 residents or more will not promote public safety and general welfare. The traffic that will be pulled into Monad Road as a main thoroughfare, must be taken into consideration. With the addition of the immense apartment complexes on the South portion of Monad, and the pending opening of MCOM/RVU, there will be a large amount of traffic placed onto the same major artery (Monad/Shiloh). The more traffic on Monad, the more the residents of this proposed apartment complex will detour through the existing streets, mostly Bell Avenue, Legends Way, Twin Pines, and now Obie Lane, with the revised recommended compliant change from the city planning commission. None of those streets can safely handle the dramatic increase of traffic. This will put the current and future residents at risk. In addition, Obie Lane and 41<sup>st</sup> Street are unmaintained county roads with no traffic signs or easements for the volume of traffic, and snow maintenance in the winter.

Bell Avenue is a right in, right out, and current traffic who want to access Central cut through either Legends West or Morning Star. The volume of individuals will increase due to the traffic pressure that will increase with a left out onto Monad, and the amount of traffic at high pressure times. Bell Avenue is also not adequate to handle the traffic flow today. Morning Star employees park on the north side of the road, leaving, essentially, a single lane for traffic.

The right out onto Shiloh from Bell also crosses the ditch, there is a walking/biking path that crosses the road, limited visual access to the right and high potential for injury/accidents.

Since the development of the large apartment complexes, there have been three occasions where individuals, appearing impaired, at very late hours while out in the yard with our pets (11pm to 2am), have been found wandering through the adjacent field to our home, in the dark, looking for a boyfriend in one situation, a main road in another, and in the third a woman crying hysterically unable to be stopped. In all situations, the individuals were offered police involvement and all scampered away into the dark of the field quite quickly. This has always been a safe environment, and thoughtful development will keep it as such.

- **Whether the new zoning will affect motorized and nonmotorized transportation?** The existing roads, Bell Avenue/Obie Lane/41<sup>st</sup> Street, cannot sustain the proposed dramatic increase in traffic. This increase, because there is only one side developed with a sidewalk and drain, will increase a risk to the current residents on Bell Avenue, and any pedestrians using this road for access to the Shiloh walking path. We want to again state that Bell Avenue is essentially a single wide road and it is NOT appropriate to increase traffic on that road at the level that is proposed especially if the Big Pine Court road is gated. Again, with the proposed growth that will increase motor vehicle traffic on Shiloh will force vehicles to a different path. This will be further exacerbated if Twin Pines gates their community. Obie Lane and 41<sup>st</sup> Street are unmaintained county roads without traffic signage and sidewalks, intended for a minimal number of vehicles to drive throughout the subdivision.
- **Whether the new zoning considers the character of the district and peculiar suitability of the property for particular use?** The application states that the proposed zoning provides “a transition to single-family and twin home residential uses to the north and single family uses east”. This is largely overstated. The transition, based on the zoning requests, move very quickly and in a cumbersome way directly to the apartment complex (NX3). The developers force a small area of N2 and NX1 as what they consider a buffer, which will only give a small transition from high value single family large lot homes into very compressed population. **It is our recommendation that the character that exists currently (N2),** be continued North of the Bannister Drain and East of 48<sup>th</sup> Street. This will maintain the character of the current developments, and the character of the district. The Bannister Drain creates a natural barrier between these neighborhoods and the developments south of Monad.
- **Whether the new zoning will conserve the value of buildings?** There is no accommodation or assumption that the proposed zoning would conserve the value of current homes (buildings). The existing Bell Estates subdivision, where the bulk of the traffic will pass by design, will see a decrease in the value to the current owners, and likely decrease re-sale. Individuals, especially those with families, will not want to risk purchasing in a high traffic area that was not built with that intent. This is currently a subdivision with homes of value, spacious lots, and limited traffic. The proposed zoning and development plan will put all of that value at risk, therefore there is no reason to

assume the value will be conserved. While some studies state that multi-family dwellings increase single home values, in this situation, the traffic alone will create a perfect scenario for decrease in the ability to sell the existing homes.

- **Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings?** While it does not go unnoticed that affordable housing is needed in Billings, there are numerous options for providing affordable housing that are not large apartment complexes that deter from the existing communities. If development continues as proposed, NX3 will continue to 48<sup>th</sup> street (will foster similar development from this point forward). The traffic will continue, the congestion will continue, and it will deter from the value of the land and existing developments. In addition, the city definition of affordable housing is not what many individuals are seeking. They are seeking a home they can own, first home often, where they can establish some equity to subsequently sell and purchase the next home. Apartments, by design, generate transient individuals. Those who are primarily looking for temporary housing while they look for more affordable options, finish school, or are between more permanent residences.

We are opposed to the currently proposed zoning change and want to go on record with the opposition. Further, it is our recommendation that the planning division and city council consider the current surrounding property types when making a decision, use the Bannister Drain as a natural defining border between current development of N2/RR1 and the large PUD development which includes MCOM/RVU campus, St. Vincent Healthcare Medical Offices, and existing NX3 complexes. In addition, we would recommend retaining a consistent N2 zoning, with a maximum of NX2 zoning.

Generally, our request is to keep the NX3 apartment developments to the West of Monad, do not set a precedence for more NX3 large apartment complexes. We implore you deny this zoning request.

Kind Regards,  
Lincoln and Judi Powers  
4185 Obie Ln  
Billings, MT 59106  
406-855-5149  
[powersjudi@gmail.com](mailto:powersjudi@gmail.com)  
[lincolnpowers@gmail.com](mailto:lincolnpowers@gmail.com)

**From:** [Kim Welzenbach](#)  
**To:** [Council](#); [Cole, Bill](#)  
**Cc:** [Cromwell, Nicole](#); [Steve Simonson](#); [daniel@billingschamber.com](mailto:daniel@billingschamber.com)  
**Subject:** [EXTERNAL] Support for PND Project  
**Date:** Tuesday, January 3, 2023 1:47:10 PM  
**Attachments:** [image001.png](#)

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Good afternoon Mayor Cole, City Council members and City staff:

I am writing today to add our support to the upcoming building/development project being reviewed today and coming before Council on the February 13<sup>th</sup> agenda.

Thank you,  
Kimberly Welzenbach, CEO

*“In the middle of difficulty lies opportunity.”*

- *Albert Einstein*

**Kimberly Welzenbach, Executive Officer**

**Home Builders Association of Billings**

**1645 Avenue D, Suite F**

**Billings, MT 59102**

**406/252.7533 OFFICE**

**406/248.8611 FAX**

<https://hbabillings.net/>

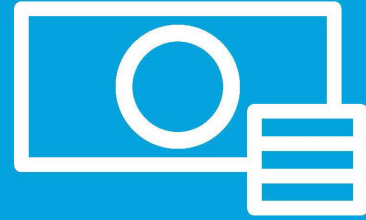


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[www.Billings.org](http://www.Billings.org) ♦ [BoardOffice@Billings.org](mailto:BoardOffice@Billings.org)

December 28, 2022

City of Billings  
ATTN: Mayor Cole and City Council  
PO Box 1178  
Billings, MT 59103

Dear Mayor Cole and City Council Members,

At our recent West Billings Task Force meeting, John Halvorson, the planner from Sanderson Stewart on the Vista West C/S 2828 project presented to our group. With the changes suggested at the task force meeting to improve neighborhood traffic patterns, I would like to add our support for the project as amended.

On behalf of the Government Affairs and Economic Development Committees, I am adding our support for the proposed housing units that are associated with this development. While BAR's focus is on home ownership, we feel that increasing the housing supply will help our community.

Thank you all for your service and leadership to our community!

Sincerely,

**Steve Simonson**

Steve Simonson  
Government Affairs Director

**From:** [Terri Kaufman](#)  
**To:** [Cromwell, Nicole](#)  
**Subject:** [EXTERNAL] City Zone Change 1021-Vista West-PND  
**Date:** Thursday, December 29, 2022 11:34:13 AM

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Dear Billings Metropolitan Planning Organization:

The design of the project as presented at the Pre-application Neighborhood Meeting for Annexation and Planned Neighborhood Zone Change Certificate of Survey No. 2828, Tracts 1 and 2, is excessive on many levels. The total dwelling units is listed as 582. Planning to place 582 people, and more likely at least double that number, on those small tracts of land will not solve any of the problems Billings has. Fewer dwellings would allow for yards, rather than asphalt, and add to the quality as opposed to the quantity in the space.

At the October 25, 2022, Pre-Application Neighborhood Meeting, the developer stated that there were 4,300 jobs open in Billings. In the year since changes to this tract of land were introduced, the city council has stamped for approval apartment complexes very similar to the one proposed in this application in at least four other spots in the Billings area. These complexes will add approximately 2,000 new rentals. Considering these additions and additions of the numerous apartments that are already built to the west and south of this area, are we going to end up with many empty apartment buildings in Billings? How is the city planning for these abandoned spaces?

In addition, the excessive traffic and parking concerns with adding 582 dwellings in the area have not been sufficiently addressed. Please do not approve the plan as proposed.

Sincerely,  
Terri Kaufman  
110 Big Pine CT  
Billings, MT 59106

# **Opposition to City Zoning Change 1021**

**February 13, 2023, 5:30 pm.**

**2<sup>nd</sup> Floor of City Hall**

**210 N 27<sup>th</sup> Street**

## **General Overview:**

We are requesting the City Council deny the application for the Zoning Change 1021. The request is being made by many of the individual property owners and interested parties located within the ¼ mile distance from the property boundary who are adamantly opposed to the proposed change. We are requesting the proposed zoning change be denied for the following reasons: the change is not in accordance with the Growth Policy; is not designed to secure fire and other dangers; does not promote public health, public safety and general welfare; does not facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; will adversely affect motorized and nonmotorized transportation; is contradictory to compatible urban growth; does not consider the character of the district and the peculiar suitability of the property for the particular use; will reduce the value of established homes and neighborhoods; is not the most appropriate use of land throughout the City of Billings. A detailed description for the opposition will be presented in the later sections of this document.

A petition opposing the zone change has been submitted to the Planning Division. The petition has the signatures of approximately 70 individuals representing approximately 45 of the properties with a lot within 150 feet of the proposed changes. In addition, the petition has the signatures of approximately 45 individuals representing approximately 35 of the properties with a lot within ¼ mile of the proposed changes. The signatures represent the bulk of the residents in Bell Estates, Legends West, and Twin Pines.

A similar zoning change was requested and withdrawn approximately 1 year ago. The land owner / developer and the professional community designer, Sanderson Stewart have stated that the development now meets the new requirements for the proposed changes. They have presented an optimistic overview of the proposed development. Many of the overarching issues that resulted in the significant opposition to the development are still applicable today and at best have only been partially addressed or not at all. They are utilizing the development of Interpoint Apartments, InterUrban Apartments and Happy Homes Apartments as justification to approve the proposed changes. The proposal, as presented, “checks the boxes” for meeting all of the 10 criteria used for review of a zoning change. When all of the factors are more closely examined, the proposed development fails to meet the criteria used for review of the zoning change.

The polished campaign by the paid contractor, Sanderson Stewart is specifically designed to convince all parties that this is the best utilization of the tracts of land. The goal of Sanderson Stewart is to get this approved at the direction of the developer. **This approval will optimize profits for the developer.** However, if approved it will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

This proposal does not fully meet the growth policy and we are opposed to zoning change. The Growth Policy states: "The City will prosper with strong neighborhoods with their own unique character that are clean, safe and provide a choice of housing and transportation options." The development and maintenance of neighborhoods like Bell Estates, Legends West, and Twin Pines are the backbone of prosperity for Billings. The pride in ownership, the sense of community, the fabric of family, the feeling of a friendly, quiet neighborhoods are the key aspects to the value of the neighborhoods in Billings. The proposed changes will not enhance the value of the neighborhoods but will significantly diminish them. This development will not make Billings a better place to live. If approved it will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone. These neighborhoods already offer a diverse choice of housing. Our recommendation is to development the property in alignment with the current neighborhoods and that is the most appropriate use of the land.

The Growth Policy also states: "In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to **areas where City infrastructure exist or can be extended within the fiscally constrained budget** and with consideration given to increased tax revenue from development." The development as proposed addresses the infrastructure needs along the southern portion of the development but ignores the infrastructure improvements needed as a result of the development for Bell Estates, Legends West, and Twin Pines. If approved it will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

We are opposed to the proposed zoning because it will place a higher burden on fire and police services. These services are currently stretched very thin and by adding a high density population expansion, it will negatively impact those services. The proposed zoning change does address many of the design criteria to secure fire and other dangers such as setbacks, open spaces, internal street design and others. However, it does not address all of the concerns and the additional cost associated with expanded fire and police services. Those costs will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

The new zoning will not promote public health, public safety and general welfare and we are opposed to the zoning changes. The proposed modifications will significantly increase the population density and will create additional public safety concerns. The safety concerns associated with large multi-dwelling units versus single and two family dwellings are well

documented. There is a concern that higher crime rates will adversely affect the neighborhoods of Bell Estates, Legends West, and Twin Pines.

The new zoning does not facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements and we are opposed to the zoning changes. The high density population will place an additional burden on the already over extended SD#2 school system. The additional cost associated with developing more schools, improved roads more sidewalks, more parks will be passed on to the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

The proposed zoning change does not adversely affect the quality of light and air.

We are opposed to the new zoning as it will adversely affect motorized and nonmotorized transportation. The developer submitted an initial plan that included a variance that did not connect the tracts to Bell Avenue or Obie Lane. However, the city planner has recommended this variance be denied. Although the developer is proposing providing primary access via Monad, if the variance is denied a large percentage will be leaving/accessing the development from Central via Twin Pines and Legends Way. Additionally, traffic to the development from the North will turn onto Bell avenue to gain access. This will place a much higher traffic flow on existing streets. The existing transportation infrastructure is not adequate to support this development. Sanderson Stewart has previously stated from their own initial traffic study, they anticipate the new development will generate approximately 1000 vehicle trips per day and the majority of these trips will utilize Bell Avenue. There will create approximately 125 secondary trips of to and from the development through the existing neighborhoods of Bell Estates, Legends West, and Twin Pines. We recognize that this number is less than the designed capacity for these roads, however, it is a **significant** increase in the traffic of the neighborhoods. This significant increase in traffic will adversely affect the quality of life and the property values of Bell Estates, Legends West, and Twin Pines.

In anticipation of the negative impacts due to the increase in traffic, the residents of Twin Pines have announced their intention to gate off Twin Pines Lane and Big Pine Court. Twin Pines is a unit owner development and is well within their rights. The additional costs to control traffic within Twin pines will be a burden to residents of Twin Pines caused by the proposed development.

The additional costs to control traffic along Bell Ave will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone. The south side of Bell Ave (county subdivision) does not have sidewalks or curb and gutters. The paved section of Bell Ave is very narrow. Additionally, the Moring Star employees park along on the road which contributes to traffic issues. The northside of Bell Ave has sidewalks and curb and gutters. Another item to consider is the intersection of Bell Ave and Shiloh. With the speed of the southbound traffic on Shiloh and the additional traffic that will have to make a right hand turn

on to Shiloh from Bell Ave, the probability of major traffic accident will be significantly increased.

Currently, Bell Ave is the “feeder” for nonmotorized traffic for the residents Bell Estates, Legends West, and Twin Pines to the pedestrian path along Shiloh. This translates to a large number of pedestrians and cyclists that utilize Bell Ave. Additionally, many of the residents from Morningstar walk along Bell Ave. Another important item is the pedestrian path at Shiloh that crosses Bell Ave before the Stop sign. There is a cross walk with signage along Bell Ave but this last year there was a bicycle / vehicle incident. With the addition of 1000 more vehicles per day, the probability of major incident will be significantly increased.

We are opposed to the new zoning as it is contradictory to compatible urban growth. The application states that the proposed zoning provides “a transition to single-family and twin home residential uses to the north and single family uses east”. This is largely overstated. The transition, based on the zoning requests, move very quickly and in a cumbersome way directly to the apartment complex (NX3). The developers force a small area of N2 and NX1 as what they consider a buffer, which will only give a small transition from high value single family large lot homes into very compressed population.

The new zoning does not consider the character of the district and the peculiar suitability of the property for the particular use, and we are opposed to the change. The proposed changes do not take into consideration the existing single and two family dwellings in the surrounding neighborhoods to the north and east and in fact, directly discount those established neighborhoods.

The new zoning does not conserve the value of buildings and property and therefore we are opposed to the zoning change. The development of large scale apartment buildings and the added traffic in the area will reduce the desirability of the neighborhood and reduce from the value of the homes in the neighborhood.

The new zoning does not encourage the most appropriate use of land throughout the City of Billings. The need for suitable housing is a concern for Billings and its residents. The development of additional of large multi-dwelling units in the location does not constitute the proper use of this land. There is a continued need for affordable single and two family homes and would be a more suitable use of the tracts in question.

PETITION AGAINST CITY ZONE CHANGE  
**ZONE CHANGE: 1021, C/S 2828 Tracts 1 & 2**

**GENERAL LOCATION: South of Bell Avenue, north of Rocky Vista Way**

WE, the undersigned are against the above proposed zone change for the following reasons:

The change is not in accordance with the Growth Policy; is not designed to secure fire and other dangers; does not promote public health, public safety and general welfare; does not facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; will adversely affect motorized and nonmotorized transportation; is contradictory to compatible urban growth; does not consider the character of the district and the peculiar suitability of the property for the particular use; will reduce the value of established homes and neighborhoods; is not the most appropriate use of land throughout the City of Billings

NAME (PRINT)                      SIGNATURE                      PROPERTY OWNED (ADDRESS)











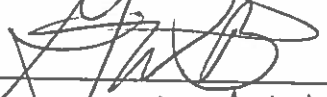

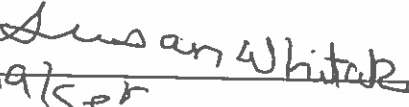
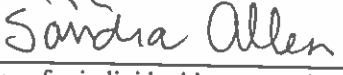
|                 |                        |                   |
|-----------------|------------------------|-------------------|
| Irma Radden     | <i>Irma L. Radden</i>  | 4229 Bell Ave.    |
| Jack Radden     | <i>Jack L. Radden</i>  | 4729 Bell Ave     |
| LEANN SARGENT   | <i>Leann Sargent</i>   | 4235 Bell Ave     |
| Barbara White   | <i>Barbara White</i>   | 4237 Bell Ave     |
| Tyler Harway    | <i>Tyler Harway</i>    | 120 Big Pine Ct   |
| Jenny Kim       | <i>Jenny Kim</i>       | 120 Big Pine Ct   |
| Yvonne Sander   | <i>Yvonne Sander</i>   | 121 Big Pine Ct   |
| Dianne Sander   | <i>Dianne Sander</i>   | 121 Big Pine Ct.  |
| Clyde Seifert   | <i>Clyde Seifert</i>   | 116 Big Pine Ct.  |
| Karen Seifert   | <i>Karen Seifert</i>   | 116 Big Pine Ct - |
| Suzanne Kleppel | <i>Suzanne Kleppel</i> | 114 Big Pine Ct   |
| Terri Kaufman   | <i>Terri Kaufman</i>   | 110 Big Pine Ct   |
| Mary Ann Sander | <i>Mary Ann Sander</i> | 108 Big Pine Ct   |
| Julianne Pitsch | <i>Julianne Pitsch</i> | 104 Big Pine Ct.  |

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PETITION AGAINST CITY ZONE CHANGE  
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| NAME (PRINT)     | SIGNATURE                                                                           | PROPERTY OWNED (ADDRESS)                                 |
|------------------|-------------------------------------------------------------------------------------|----------------------------------------------------------|
| Wendy Turpin     |    | 42331 Linberpine Ln <sup>59106</sup> Billings            |
| James Waller     |    | 4190 Obie Ln, Billings MT <sup>59106</sup>               |
| Jacquelyn Waller |    | 4190 Obie Ln, Billings MT <sup>59106</sup>               |
| Judith Powers    |    | 4185 Obie Ln, <sup>Billings</sup> MT <sup>59106</sup>    |
| Vivale Kringer   |   | 18 Twin Pines Ln. Billings <sup>MT 59106</sup>           |
| NANCY Pederson   |  | 26 Twin Pines Ln <sup>Billings</sup> MT <sup>59106</sup> |
| Lene Kelli       |  | 7 Twin Pines                                             |
| TERRY AVERNER    |  | 11 Twin Pines Loop                                       |
| Susan Havener    |  | 11 Twin Pines Loop                                       |
| Cinda Biggs      |  | 14 Twin Pines Loop                                       |
| Gregory Biggs    |  | 14 Twin Pines Loop                                       |
| DARRELL WHITAKER |  | 17 Twin Pines Loop                                       |
| SUSAN Whitaker   |  | 17 Twin Pines Loop                                       |
| Sandra Allen     |  | 24 Twin Pines Loop                                       |

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| NAME (PRINT)      | SIGNATURE       | PROPERTY OWNED (ADDRESS)                 |
|-------------------|-----------------|------------------------------------------|
| Barbara Rasmussen |                 | 4180 Banbury Pl<br>Billings, MT 59106    |
| Randy Rasmussen   |                 | 4180 Banbury Pl<br>Billings, MT 59106    |
| DAN TAVARES       |                 | 4192 BANBURY PL<br>BILLINGS, MT 59106    |
| Pavaree Tavares   |                 | 4192 Banbury Place<br>Billings, MT 59106 |
| Colleen Krause    | Colleen Krause  | 4180 Bell Ave<br>Billings, MT 59106      |
| ED HOFMANN        | Ed Hofmann      | 4244.6 CENTRAL<br>BILLINGS MT. 59106     |
| Sheila Schnert    | Sheila Schnert  | 4 Twin Pines Lane<br>Billings            |
| Linda Rekdal      | Linda Rekdal    | 8 Twin Pines Billings                    |
| HARLAND HANSEN    | Harland Hansen  | 8 TWIN PINES BILLINGS                    |
| Tucker Veltkamp   | Tucker Veltkamp | 28 Twin Pine                             |
| Danielle Lang     | Danielle Lang   | 28 Twin Pines Ln.                        |
| RON JOHNSON       | Ron Johnson     | 34 Twin Pines Lane                       |
| Denise Johnson    | Denise Johnson  | " " "                                    |
| MARILYN REHER     | Marilyn Reher   | 36 TWIN PINES LANE<br>BILLINGS, MT 59106 |
| Marilyn Reher     |                 |                                          |

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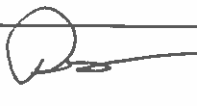
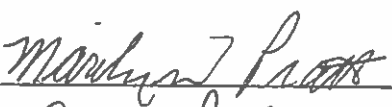



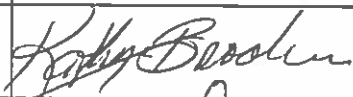

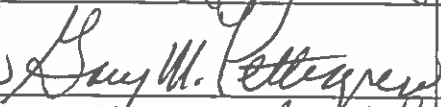
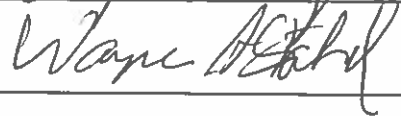
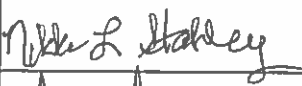


| NAME (PRINT)       | SIGNATURE                 | PROPERTY OWNED (ADDRESS)                |
|--------------------|---------------------------|-----------------------------------------|
| Sandy Persha       | <i>Sandy Persha</i>       | 113 Twin Pines<br>Billings, MT 59106    |
| Michael Persha     | <i>Michael Persha</i>     | 113 Twin Pines 59106<br>Blyr. MT.       |
| Billie Rice        | <i>Billie Rice</i>        | 29 Twin Pines Loop<br>Billings MT 59106 |
| Ernie Hergett      | <i>Ernie Hergett</i>      | 21 TWIN PINE LOOP                       |
| Dave Nordel        | <i>[Signature]</i>        | 3 TWIN PINES LOOP                       |
| Patricia Nordel    | <i>P. Nordel</i>          | 3 Twin Pines Loop Billings              |
| Sharon Richardson  | <i>Sharon Richardson</i>  | 1 Twin Pine loop Billings               |
| Willene Willis     | <i>WILLENE WILLIS</i>     | 116 TWIN PINES LOOP, BILLINGS.          |
| Jacqueline Beck    | <i>Jacqueline D Beck</i>  | 32 Twin Pines Loop, Blys                |
| CHARLIE WIDDICOMBE | <i>Charlie Widdicombe</i> | 4215 LIMBER PINE                        |
| DELWIN W McLEARY   | <i>Delwin W McLeary</i>   | 4227 LIMBER PINE                        |
| Beverly McLeary    | <i>Beverly McLeary</i>    | 4227 Limber Pine                        |
| Arnold Powell      | <i>GERALD L. POWELL</i>   | 4232 LIMBER PINE                        |
|                    |                           |                                         |

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| NAME (PRINT)      | SIGNATURE                                                                           | PROPERTY OWNED (ADDRESS) |
|-------------------|-------------------------------------------------------------------------------------|--------------------------|
| Charles F Pratt   |    | #42 Twin Pines Dr        |
| Marilyn Pratt     |    | #1/2 Twin Pines Ln       |
| Joyce Pulley      |    | 48 Twin Pine Lane        |
| Bob Pulley        |                                                                                     | 48 Twin Pine Lane        |
| Randall Adams     |   | 4206 Limber Pine Lane    |
| Rick Brookshier   |  | 4222 Limber Pine Lane    |
| Kathy Brookshier  |  | 4222 Limber Pine Ln      |
| Lynn Pittigrew    |  | 4228 Limber Pine         |
| ERRY M. Pettigrew |  | 4228 Limber Pine Lane    |
| Wayne Hawley      |  | 30 Twin Pines Loop       |
| Mikki L Hawley    |  | 30 Twin Pines Loop       |
| Lisa Ginzler      |  | 33 Twin Pines Loop 59106 |
| JIM LUTTSCHWAGER  |  | 101 TWIN PINE SHW 59106  |
|                   |                                                                                     |                          |

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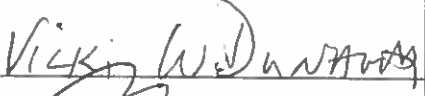

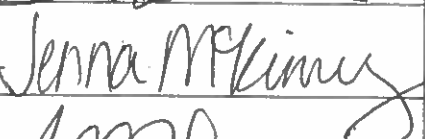
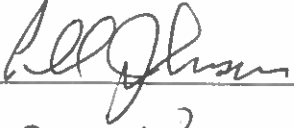

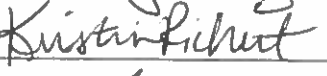
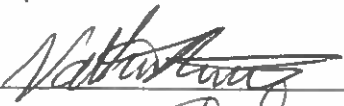
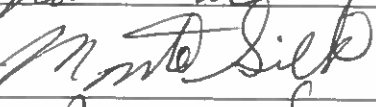
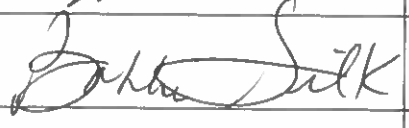
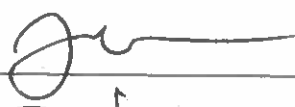
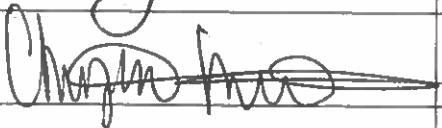
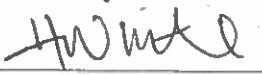
PETITION AGAINST CITY ZONE CHANGE  
**ZONE CHANGE: 1021, C/S 2828 Tracts 1 & 2**

**GENERAL LOCATION: South of Bell Avenue, north of Rocky Vista Way**

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NAME (PRINT)                      SIGNATURE                      PROPERTY OWNED (ADDRESS)

|                  |                                                                                     |                        |
|------------------|-------------------------------------------------------------------------------------|------------------------|
| GARY DICK        |    | 150 Legends Way 59105  |
| Dennis Dill      |    | 130 Legends Way 59106  |
| Vicki Whelan     |    | 112 Legends Way        |
| Charles Martin   |    | 4170 Bainbridge Circle |
| Jenna McKinney   |   | 97 Legends Way         |
| Phil Johnson     |  | 82 Legends Way         |
| LARRY KENNY      |  | 46 Legends Way         |
| Kristin Richert  |  | 4141 Ashford Pl        |
| Nathan Richert   |  | 4141 Ashford Pl        |
| Monte Silk       |  | 4156 Ashford Place     |
| Bobbi Silk       |  | 4156 Ashford Pl.       |
| Jan Warden       |  | 4134 Sedgwick Pl.      |
| Christina Miller |  | 4142 Sedgwick Place    |
| Haley White      |  | 4134 Sedgwick pl.      |

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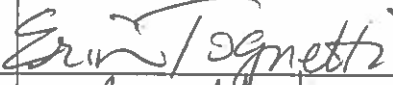











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NAME (PRINT)                      SIGNATURE                      PROPERTY OWNED (ADDRESS)

|                    |                                                                                     |                                   |
|--------------------|-------------------------------------------------------------------------------------|-----------------------------------|
| Quentin Gilman     |    | 4158 Bankers                      |
| Dick Reich         |    | 4154 Banbury Pl                   |
| Erin Tognetti      |    | 4195 Banbury Pl                   |
| Lisa Jensen        |    | 141 Legends Way                   |
| Brandon Murch      |   | 123 Legend's Way                  |
| Randy Martin       |  | 220 S. 41 <sup>st</sup> STR. WEST |
| Tara Jensen        |  | 215 S 41 <sup>st</sup> St W       |
| Thad Fanton        |  | 295 S. 41 <sup>st</sup> St W      |
| Melroe VanHorce    |  | 415 OBIE LANE.                    |
| Elizabeth Griffith |  | 4120 Obie Lane                    |
| Pamela Kinder      |  | 4140 Obie Lane                    |
| Alan Thomse        |  | 4125 OBIE LN                      |
| Lisa Moen          |  | 4160 Obie Ln                      |
| Beverly Zang       |  | 235 So. 41 <sup>st</sup> St W     |

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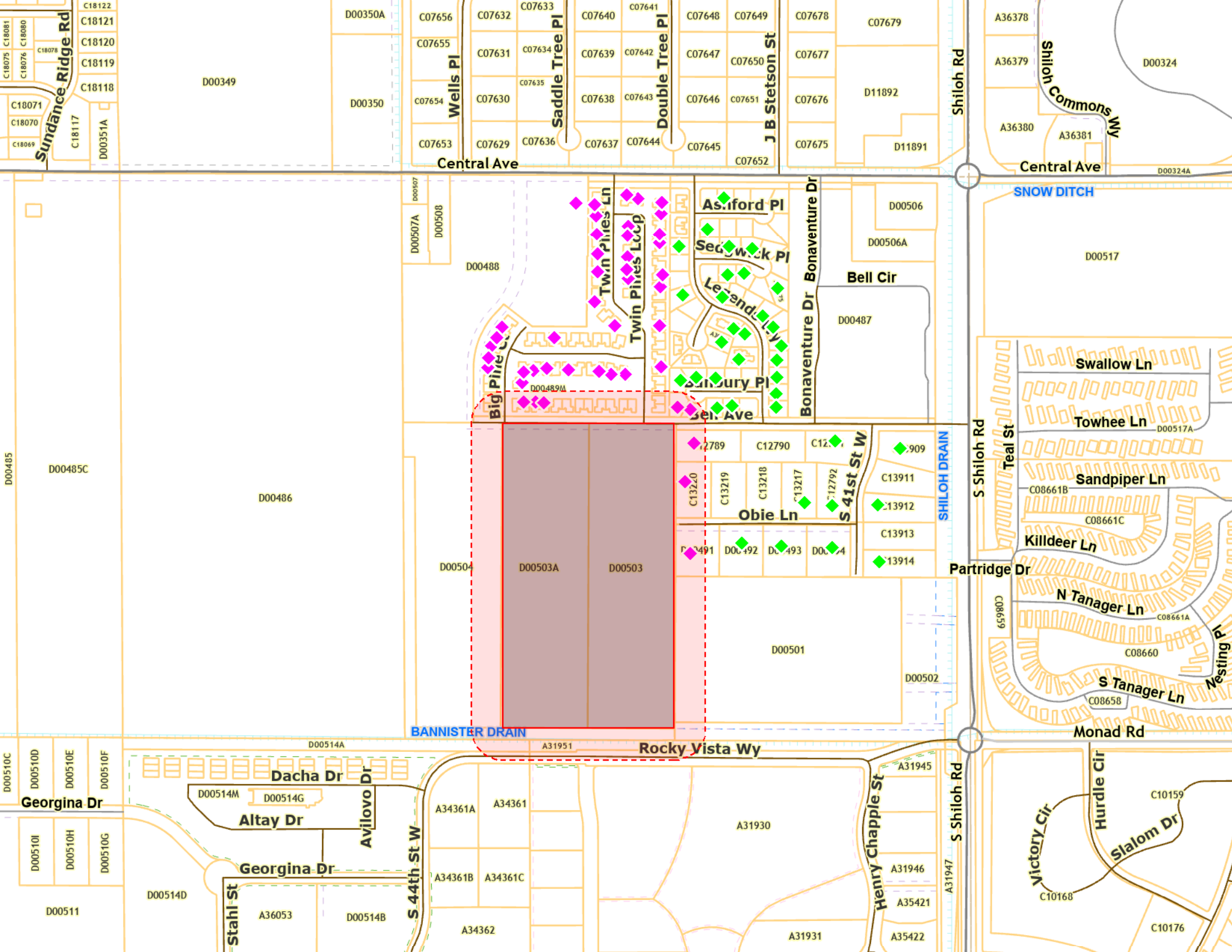
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| NAME (PRINT)     | SIGNATURE | PROPERTY OWNED (ADDRESS) |
|------------------|-----------|--------------------------|
| Justin Miller    |           | 4142 Sedgwick Pl         |
| Mercedes Hulbert |           | 4145 Sedgwick Pl         |
| Tim Hornung      |           | 4137 Sedgwick Pl         |
| KENIN FELDMAN    |           | 4118 SEDGWICK PL         |
| Allen SIMONSEN   |           | 135 Legends Way          |
| Heather Eleazer  |           | 155 Legends Way          |
| JT Flint         |           | 177 legends way          |
| Breen Cloud      |           | 183 Legends Way          |
| Roger Fuhrman    |           | 191 legends way          |
| Linda Fuhrman    |           | 191 Legends Way          |
| Connie Nacey     |           | 4171 Banbury Pl          |
| Jacob Jones      |           | 4183 Banbury Pl          |
| Marie Jones      |           | 4183 Banbury Pl          |
|                  |           |                          |

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**From:** [Steve Schey](#)  
**To:** [Council](#)  
**Subject:** [EXTERNAL] Request Zone Change 1021 be DENIED.  
**Date:** Sunday, February 12, 2023 1:25:14 PM

---

Council Members,

As a long time resident of the west end and a person who enjoys biking and walking I feel it is important to maintain open and connected streets between neighbors new and old.

I think the City should hold to its plan to provide connectivity between all neighborhoods, providing safe options for vehicle as well as bike and pedestrian travel.

I request the zoning variance associated with zone change 1021 and Vista West be denied.

Thank you.

**From:** [Robert Struckman](#)  
**To:** [Council](#)  
**Subject:** [EXTERNAL] In support of Zone Change 1021  
**Date:** Friday, February 10, 2023 4:12:23 PM

---

Honorable Councilmembers:

Thank you for your service on the Billings City Council. I have a lot of respect for the work you do, and for your efforts to find the best ways forward for our beautiful city on the Yellowstone River. I am writing in support of zone change 1021.

Billings has a fundamental problem with regard to housing. The high cost of rent and America's historically low pay for working people combine to create a lot of pain and anxiety for good families who work hard and play by the rules. Homelessness and home insecurity are high in Billings, across Montana and indeed across our entire nation.

As a board, it seems to me, you must take every opportunity to relieve this pain and lift this burden, and I believe that the stable and affordable housing that can be built if you vote YES on zone change 1021 will be just such an opportunity. It won't fix the problem. But it will be a solution to some families, and that's all we can ask of any single building project.

Please support zone change 1021 to allow construction to go forward.

Thank you for your time and consideration.

In solidarity,  
Bob Struckman  
2018 Mariposa Lane  
Billings, MT 59102

--

Robert Struckman  
Proud member and past-president of the Washington-Baltimore News Guild  
202 412 1918 - cell



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Mr. Mayor and Members of Council,

As a member of the development community, I have followed recent actions of the City Council as they relate to development within the city. Although I have no financial interest in these projects, the actions of the City Council ultimately affect the overall business climate in Billings. For that reason, I am writing to support Zone Change 1021 (Vista West) and to emphasize the importance of regulatory consistency in the land use approval process.

As I understand it, the application is consistent with the City of Billings Growth Policy, Zoning Code, and statutory approval criteria, and has therefore received a positive recommendation from City staff and the Zoning Commission. Denial of such applications contributes significant uncertainty, delay, and cost to the development process, which hinders our community's ability to provide the housing supply which the market so urgently demands.

As we are all aware, Billings area employers are struggling with staffing shortages. Because of our aging and retiring population, Billings must compete to attract workers more so than our peer communities. Our city's ability to compete for those workers depends, in large part, upon the availability of attainable housing in the Billings market. Annexations and zone changes, such as with this application, work toward meeting the demands of the housing market.

Thank you for your consideration and service to the Billings community.

Sincerely,

Mike Stock



February 3, 2023

Honorable Mayor Cole and Members of the City Council,

The Billings Chamber of Commerce lends its support to upcoming Zone Change 1021, allowing for the development of needed housing in Billings. We hear often from our members about the need for more housing in Billings. The lack of housing supply and affordability create difficulties for our businesses trying to recruit and retain the workforce needed for business growth.

Over the last year, we've encouraged numerous pro-housing decisions: zone changes, TIF applications, and supported Council's initiative to inventory City property to evaluate it for affordable housing uses. We know this housing crisis will not be solved easily or quickly. The only remedy to our housing challenge is to allow our local businesses and the free market to provide the solution. That's what you have before you with ZC 1021.

During a November 2021 legislative study committee meeting, Alex Horowitz, an analyst with Pew Charitable Trusts, stated, "There is by any metric an enormous housing shortage in this state." His presentation<sup>1</sup> highlights the link between supply and price. Higher housing supply brings more affordable housing while lower supply means higher housing prices. When rental supply is short, rents go up. This is particularly problematic when considering how that impacts other areas of concern—namely, homelessness. "Rent-to-income ratios are a very strong indicator of homelessness," Horowitz noted. He also points to research<sup>2</sup> conducted that suggests rent levels, rather than substance abuse, mental illness, or poverty, are more associated with homelessness.

Finally, bringing more residents to the neighborhood will provide additional safety. By activating a space with more "eyes on the street" you increase the potential for someone to catch offenders in the act, deterring crime. Despite the concerns you've likely heard about multifamily housing increasing crime, we would argue the opposite—this development is more likely to decrease crime in the area.

Our housing shortage impacts our employers, first-time homebuyers, low-income residents, frankly, everyone. We encourage a business-friendly YES vote on ZC 1021, bringing much needed housing to Billings.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "John Brewer". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

**JOHN BREWER**

President & CEO  
Billings Chamber of Commerce

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<sup>1</sup> [https://leg.mt.gov/content/publications/fiscal/2023-Interim/November-2021/Horowitz\\_Montana\\_HousingShortage\\_29Nov2021.pdf](https://leg.mt.gov/content/publications/fiscal/2023-Interim/November-2021/Horowitz_Montana_HousingShortage_29Nov2021.pdf)

<sup>2</sup> <https://homelessnesshousingproblem.com/>



City of Billings  
and  
Yellowstone  
County

2825 3rd Ave. N  
Billings, MT 59101  
4th Floor  
P 406.247.8676

Hon. Mayor Bill Cole  
Billings City Council

Dear Mayor Cole and Members of the Council,

The Bicycle and Pedestrian Committee (BPAC) discussed the variance request associated with Zone Change 1021 during its meeting on January 24th, 2023. The committee requests the application for the variance be DENIED because the variance requests allows for no street connections to Bell Avenue and Obie Lane: both of which are public streets.

One of the objectives of the Billings Area Bikeway and Trails Master plan is to provide a network of safe bicycle and pedestrian trails and routes. And, a major step in achieving that goal is to establish and maintain connections between neighborhoods.

It is important to ENABLE, not to DISCOURAGE people from engaging in healthy activity and transportation independence.

The zoning variance requested for the development known as Vista West would deny access to adjacent streets and properties, with the result of blocking all access to Obie Lane and providing only limited access to Bell Avenue. By restricting and denying access, students, cyclists, walkers and anyone wishing to use the Shiloh Road trail or access schools and parks would have limited ability to do so as the only remaining primary access would be along the very busy Monad Road/Rocky Vista Way and the sidewalk along Bell Avenue.

BPAC respectfully requests the zoning variance associated with Zone Change 1021 for the development of Vista West be DENIED.

Nikki Zimmer

Chair

Bicycle Pedestrian Advisory Committee

# **Opposition to City Zoning Change 1021**

**January 3, 2022, 4:30 pm.**

**1<sup>st</sup> Floor conference room, The Miller Building**

**2825 3<sup>RD</sup> Ave N**

## **General Overview:**

We are requesting the Zoning Commission deny the application for the Zoning Change 1021. The request is being made by many of the individual property owners and interested parties located within the ¼ mile distance from the property boundary who are adamantly opposed to the proposed change. We are requesting the proposed zoning change be denied for the following reasons: the change is not in accordance with the Growth Policy; is not designed to secure fire and other dangers; does not promote public health, public safety and general welfare; does not facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; will adversely affect motorized and nonmotorized transportation; is contradictory to compatible urban growth; does not consider the character of the district and the peculiar suitability of the property for the particular use; will reduce the value of established homes and neighborhoods; is not the most appropriate use of land throughout the City of Billings. A detailed description for the opposition will be presented in the later sections of this document.

A similar zoning change was requested and defeated approximately 10 years ago. Another request was made last year and was withdrawn by the applicant after significant opposition to the request was made. The land owner/developer and the professional community designer, Sanderson Stewart have stated that the development now meets the new requirements for the proposed changes. They have presented an optimistic overview of the proposed development. Many of the overarching issues that resulted in the previous defeat are still applicable today and at best have only been partially addressed or not at all. They are utilizing the development of Interpoint Apartments, InterUrban Apartments and Happy Homes Apartments as justification to approve the proposed changes. The proposal, as presented, “checks the boxes” for meeting all of the 10 criteria used for review of a zoning change. When all of the factors are more closely examined, the proposed development fails to meet the criteria used for review of the zoning change.

The developer has submitted the modified plan after “feedback” from the community. The only modifications to the 2022 plan was to not connect the PND to Bell Ave and Obie Lane. The developer failed to acknowledge any of the other larger concerns regarding the number of units that would be add to the neighborhood and the negative impact to the fiber of the community. The develop submitted a plan that knowing violates the connectivity of the PND in hopes of

gaining approval of the zoning change then blaming the city for requiring the connectivity issue to be resolved. The Planning and Community services group has already made the recommendation to reject the variance and requested a second layout be submitted with connectivity to Bell Ave and Obie Lane. That puts the request back to the same status that was strongly opposed by the residents of the existing neighborhood and re introduces the traffic concerns down Bell Ave and thru the subdivisions of Legends Way and Twin Pines Townhomes. The developer 2022 traffic study identified that over 1000 vehicles will not utilize Bell Ave daily and well over 100 vehicle will “cut” through Legends Way and Twin Pines Townhomes. The number if “cut” through exceed the number of units in Legends Way and Twin Pines Townhomes

The polished campaign by the paid contractor, Sanderson Stewart is specifically designed to convince all parties that this is the best utilization of the tracts of land. The goal of Sanderson Stewart is to get this approved at the direction of the land owner and developer. This approval will optimize profits for the land owner and developer. However, if approved it will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

This proposal does not fully meet the growth policy and we are opposed to zoning change. The Growth Policy states: “The City will prosper with strong neighborhoods with their own unique character that are clean, safe and provide a choice of housing and transportation options.” The development and maintenance of neighborhoods like Bell Estates, Legends West, and Twin Pines are the backbone of prosperity for Billings. The pride in ownership, the sense of community, the fabric of family, the feeling of a friendly, quiet neighborhoods are the key aspects to the value of the neighborhoods in Billings. The proposed changes will not enhance the value of the neighborhoods but will significantly diminish them. This development will not make Billings a better place to live. If approved it will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone. These neighborhoods already offer a diverse choice of housing. Our recommendation is to development the property in alignment with the current neighborhoods and that is the most appropriate us of the land.

The Growth Policy also states: “In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to **areas where City infrastructure exist or can be extended within the fiscally constrained budget** and with consideration given to increased tax revenue from development.” The development as proposed addresses the infrastructure needs along the southern portion of the development but ignores the infrastructure improvements needed as a result of the development for Bell Estates, Legends West, and Twin Pines. If approved it will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

We are opposed to the proposed zoning because it will place a higher burden on fire and police services. These services are currently stretched very thin and by adding a high density

population expansion, it will negatively impact those services. The proposed zoning change does address many of the design criteria to secure fire and other dangers such as setbacks, open spaces, internal street design and others. However, it does not address all of the concerns and the additional cost associated with expanded fire and police services. Those costs will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

The new zoning will not promote public health, public safety and general welfare and we are opposed to the zoning changes. The proposed modifications will significantly increase the population density and will create additional public safety concerns. The safety concerns associated with large multi-dwelling units versus single and two family dwellings are well documented. There is a concern that higher crime rates will adversely affect the neighborhoods of Bell Estates, Legends West, and Twin Pines.

The new zoning does not facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements and we are opposed to the zoning changes. The high density population will place an additional burden on the already over extended SD#2 school system. There are improvements over the 2022 design in the area of parks but they are inadequate for development. The existing transportation infrastructure is not adequate to support this development. Although the developer is proposing providing primary access via Monad, a large percentage will be leaving/accessing the development from Central via Twin Pines and Legends Way. Additionally, traffic to the development from the North will turn onto Bell avenue to gain access. This will place a much higher traffic flow on existing streets. The additional cost associated with developing more schools, improved roads more sidewalks, more parks will be passed on to the nearby neighborhoods, the City of Billings, and the County of Yellowstone.

The proposed zoning change does not adversely affect the quality of light and air.

We are opposed to the new zoning as it will adversely affect motorized and nonmotorized transportation. Sanderson Stewart has stated they anticipate the new development will generate approximately 3000 vehicle trips per day and the majority of these trips will utilize Monad as the primary route. Sanderson Stewart has also stated they will extend to connect to Bell Ave and Obie Lane. This will create a secondary access to and from the development through the existing neighborhoods of Bell Estates, Legends West, and Twin Pines. The 2022 traffic study shows that 1038 the new vehicles will utilize Bell Ave that 116 vehicles that would "cut" through Legends Way and Twin Pines Townhomes. We recognize that this number is less than the designed capacity for these roads, however, it is a **significant** increase in the traffic of the neighborhoods. This significant increase in traffic will adversely affect the quality of life and the property values of Bell Estates, Legends West, and Twin Pines.

In anticipation of the negative impacts due to the increase in traffic, the residents of Twin Pines have announced their intention to gate off Twin Pines Lane and Big Pine Court. Twin Pines is a unit owner development and is well within their rights. The additional costs to control traffic

within Twin pines will be a burden to residents of Twin Pines caused by the proposed development.

Once the gates are installed at Twin Pines, all of the secondary traffic will be forced to Bell Ave and Legends Way. The section of Bell Ave between Twin Pines Lane and Legends Way currently has between 50 and 75 vehicles per day (as observed by local residents). If this zoning change is approved, Bell Ave will have 20 times as many vehicles as it currently carries. This increase in traffic will present many challenges. The additional costs to control traffic along Bell Ave will be at the expense of the nearby neighborhoods, the City of Billings, and the County of Yellowstone. The south side of Bell Ave (county subdivision) does not have sidewalks or curb and gutters. The paved section of Bell Ave is very narrow. Additionally, the Moring Star employees park along on the road which contributes to traffic issues. The northside of Bell Ave has sidewalks and curb and gutters. Another item to consider is the intersection of Bell Ave and Shiloh. With the speed of the southbound traffic on Shiloh and the additional traffic that will have to make a right hand turn on to Shiloh from Bell Ave, the probability of major traffic accident will be significantly increased.

Currently, Bell Ave is the “feeder” for nonmotorized traffic for the residents Bell Estates, Legends West, and Twin Pines to the pedestrian path along Shiloh. This translates to a large number of pedestrians and cyclists that utilize Bell Ave. Additionally, many of the residents from Morningstar walk along Bell Ave. Another important item is the pedestrian path at Shiloh that crosses Bell Ave before the Stop sign. There is a cross walk with signage along Bell Ave but this last year there was a bicycle / vehicle incident. With the addition of 1000 more vehicles per day, the probability of major incident will be significantly increased.

We are opposed to the new zoning as it is contradictory to compatible urban growth. The application states that the proposed zoning provides “a transition to single-family and twin home residential uses to the north and single family uses east”. This is largely overstated. The transition, based on the zoning requests, move very quickly and in a cumbersome way directly to the apartment complex (NX3). The developers force a small area of N2 and NX1 as what they consider a buffer, which will only give a small transition from high value single family large lot homes into very compressed population.

The new zoning does not consider the character of the district and the peculiar suitability of the property for the particular use, and we are opposed to the change. The proposed changes do not take into consideration the existing single and two family dwellings in the surrounding neighborhoods to the north and east and in fact, directly discount those established neighborhoods.

The new zoning does not conserve the value of buildings and property and therefore we are opposed to the zoning change. The development of large scale apartment buildings and the added traffic in the area will reduce the desirability of the neighborhood and reduce from the value of the homes in the neighborhood.

The new zoning does not encourage the most appropriate use of land throughout the City of Billings. The need for suitable housing is a concern for Billings and its residents. The development of additional of large multi-dwelling units in the location does not constitute the proper use of this land. There is a continued need for affordable single and two family homes and would be a more suitable use of the tracts in question.

**From:** [ROGER FUHRMAN](#)  
**To:** [Cromwell, Nicole](#)  
**Subject:** [EXTERNAL] Zone change Dorn Property and Homes  
**Date:** Tuesday, January 3, 2023 9:26:31 AM

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From: Roger Fuhrman, 191 Legends Way, Billings

I am writing an opposition to the zone changing for the Dorn property and homes request. I feel the zoning proposal is not significantly different from previous proposals and that it remains essentially a high density apartment development. I offered the following considerations.

Monad is a two-lane traffic street including the east west flow at the Monad/Shilo roundabout. Considering the expected traffic from the apartments yet to come online south of Monad, the medical school and the adjacent campus I feel Monad will be insufficient to effectively handle this increased traffic.

This area is already the highest density area in Montana and this development does nothing to address infrastructure needs it will further impact including police, fire, school and traffic.

These costs will be shifted to the city of billings and county of Yellowstone.

I feel it is short-sighted to focus on maximizing profits for developers and shifting burden for infrastructure development to Billings and Yellowstone County. I feel the so-called expected increase tax revenue will not come close to covering increased cost. I am there for opposed to this proposed development. Monad is The logical dividing line in this area between high density development and single to smaller condo units.

Thank you for your consideration.

Roger Fuhrman

December 30, 2022

Attn: City/County Planning Division  
RE: CITY Zone Change 1021  
Project Number: PZX-22-00289

We are vehemently opposed to the city zone change 1021, this development does not comply with many of the 10 criteria used for review of zoning changes.

As a current home owner at 4185 Obie Ln, building the home on an undeveloped lot in 2002, we have a vested interest in the zoning change requested. We built the home, at the time, at the edge of Billings, with beautiful views of the Beartooth Mountains and the Rims. Over time, development has changed the environment. We recognize that growth on the West End is inevitable, yet trust that the City of Billings will support growth that is in the best interest of current and future residents. This is the third attempt at zoning to NX3, and the two times prior it has not proceeded likely due to the development planned, safety, objection of the current residents, and the roadway access.

Using some of the criteria, we would like to clarify our opposition:

- **Whether the new zoning will promote public health, public safety and general welfare?** While we are confident that the building will adhere to city stated codes, the addition of 550 units and potentially 1100 residents or more will not promote public safety and general welfare. The traffic that will be pulled into Monad Road as a main thoroughfare, must be taken into consideration. With the addition of the immense apartment complexes on the South portion of Monad, and the pending opening of MCOM/RVU, there will be a large amount of traffic placed onto the same major artery (Monad/Shiloh). The more traffic on Monad, the more the residents of this proposed apartment complex will detour through the existing streets, mostly Bell Avenue, Legends Way, Twin Pines, and now Obie Lane, with the revised recommended compliant change from the city planning commission. None of those streets can safely handle the dramatic increase of traffic. This will put the current and future residents at risk. In addition, Obie Lane and 41<sup>st</sup> Street are unmaintained county roads with no traffic signs or easements for the volume of traffic, and snow maintenance in the winter.

Bell Avenue is a right in, right out, and current traffic who want to access Central cut through either Legends West or Morning Star. The volume of individuals will increase due to the traffic pressure that will increase with a left out onto Monad, and the amount of traffic at high pressure times. Bell Avenue is also not adequate to handle the traffic flow today. Morning Star employees park on the north side of the road, leaving, essentially, a single lane for traffic.

The right out onto Shiloh from Bell also crosses the ditch, there is a walking/biking path that crosses the road, limited visual access to the right and high potential for injury/accidents.

Since the development of the large apartment complexes, there have been three occasions where individuals, appearing impaired, at very late hours while out in the yard with our pets (11pm to 2am), have been found wandering through the adjacent field to our home, in the dark, looking for a boyfriend in one situation, a main road in another, and in the third a woman crying hysterically unable to be stopped. In all situations, the individuals were offered police involvement and all scampered away into the dark of the field quite quickly. This has always been a safe environment, and thoughtful development will keep it as such.

- **Whether the new zoning will affect motorized and nonmotorized transportation?** The existing roads, Bell Avenue/Obie Lane/41<sup>st</sup> Street, cannot sustain the proposed dramatic increase in traffic. This increase, because there is only one side developed with a sidewalk and drain, will increase a risk to the current residents on Bell Avenue, and any pedestrians using this road for access to the Shiloh walking path. We want to again state that Bell Avenue is essentially a single wide road and it is NOT appropriate to increase traffic on that road at the level that is proposed especially if the Big Pine Court road is gated. Again, with the proposed growth that will increase motor vehicle traffic on Shiloh will force vehicles to a different path. This will be further exacerbated if Twin Pines gates their community. Obie Lane and 41<sup>st</sup> Street are unmaintained county roads without traffic signage and sidewalks, intended for a minimal number of vehicles to drive throughout the subdivision.
- **Whether the new zoning considers the character of the district and peculiar suitability of the property for particular use?** The application states that the proposed zoning provides “a transition to single-family and twin home residential uses to the north and single family uses east”. This is largely overstated. The transition, based on the zoning requests, move very quickly and in a cumbersome way directly to the apartment complex (NX3). The developers force a small area of N2 and NX1 as what they consider a buffer, which will only give a small transition from high value single family large lot homes into very compressed population. **It is our recommendation that the character that exists currently (N2),** be continued North of the Bannister Drain and East of 48<sup>th</sup> Street. This will maintain the character of the current developments, and the character of the district. The Bannister Drain creates a natural barrier between these neighborhoods and the developments south of Monad.
- **Whether the new zoning will conserve the value of buildings?** There is no accommodation or assumption that the proposed zoning would conserve the value of current homes (buildings). The existing Bell Estates subdivision, where the bulk of the traffic will pass by design, will see a decrease in the value to the current owners, and likely decrease re-sale. Individuals, especially those with families, will not want to risk purchasing in a high traffic area that was not built with that intent. This is currently a subdivision with homes of value, spacious lots, and limited traffic. The proposed zoning and development plan will put all of that value at risk, therefore there is no reason to

assume the value will be conserved. While some studies state that multi-family dwellings increase single home values, in this situation, the traffic alone will create a perfect scenario for decrease in the ability to sell the existing homes.

- **Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings?** While it does not go unnoticed that affordable housing is needed in Billings, there are numerous options for providing affordable housing that are not large apartment complexes that deter from the existing communities. If development continues as proposed, NX3 will continue to 48<sup>th</sup> street (will foster similar development from this point forward). The traffic will continue, the congestion will continue, and it will deter from the value of the land and existing developments. In addition, the city definition of affordable housing is not what many individuals are seeking. They are seeking a home they can own, first home often, where they can establish some equity to subsequently sell and purchase the next home. Apartments, by design, generate transient individuals. Those who are primarily looking for temporary housing while they look for more affordable options, finish school, or are between more permanent residences.

We are opposed to the currently proposed zoning change and want to go on record with the opposition. Further, it is our recommendation that the planning division and city council consider the current surrounding property types when making a decision, use the Bannister Drain as a natural defining border between current development of N2/RR1 and the large PUD development which includes MCOM/RVU campus, St. Vincent Healthcare Medical Offices, and existing NX3 complexes. In addition, we would recommend retaining a consistent N2 zoning, with a maximum of NX2 zoning.

Generally, our request is to keep the NX3 apartment developments to the West of Monad, do not set a precedence for more NX3 large apartment complexes. We implore you deny this zoning request.

Kind Regards,  
Lincoln and Judi Powers  
4185 Obie Ln  
Billings, MT 59106  
406-855-5149  
[powersjudi@gmail.com](mailto:powersjudi@gmail.com)  
[lincolnpowers@gmail.com](mailto:lincolnpowers@gmail.com)

**From:** [Kim Welzenbach](#)  
**To:** [Council](#); [Cole, Bill](#)  
**Cc:** [Cromwell, Nicole](#); [Steve Simonson](#); [daniel@billingschamber.com](mailto:daniel@billingschamber.com)  
**Subject:** [EXTERNAL] Support for PND Project  
**Date:** Tuesday, January 3, 2023 1:47:10 PM  
**Attachments:** [image001.png](#)

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Good afternoon Mayor Cole, City Council members and City staff:

I am writing today to add our support to the upcoming building/development project being reviewed today and coming before Council on the February 13<sup>th</sup> agenda.

Thank you,  
Kimberly Welzenbach, CEO

*“In the middle of difficulty lies opportunity.”*

- *Albert Einstein*

**Kimberly Welzenbach, Executive Officer**

**Home Builders Association of Billings**

**1645 Avenue D, Suite F**

**Billings, MT 59102**

**406/252.7533 OFFICE**

**406/248.8611 FAX**

<https://hbabillings.net/>

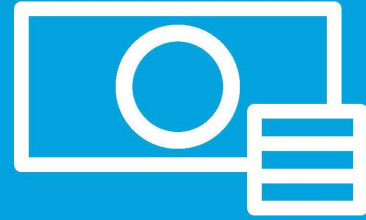


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## SAVINGS





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[www.Billings.org](http://www.Billings.org) ♦ [BoardOffice@Billings.org](mailto:BoardOffice@Billings.org)

December 28, 2022

City of Billings  
ATTN: Mayor Cole and City Council  
PO Box 1178  
Billings, MT 59103

Dear Mayor Cole and City Council Members,

At our recent West Billings Task Force meeting, John Halvorson, the planner from Sanderson Stewart on the Vista West C/S 2828 project presented to our group. With the changes suggested at the task force meeting to improve neighborhood traffic patterns, I would like to add our support for the project as amended.

On behalf of the Government Affairs and Economic Development Committees, I am adding our support for the proposed housing units that are associated with this development. While BAR's focus is on home ownership, we feel that increasing the housing supply will help our community.

Thank you all for your service and leadership to our community!

Sincerely,

**Steve Simonson**

Steve Simonson  
Government Affairs Director

**From:** [Terri Kaufman](#)  
**To:** [Cromwell, Nicole](#)  
**Subject:** [EXTERNAL] City Zone Change 1021-Vista West-PND  
**Date:** Thursday, December 29, 2022 11:34:13 AM

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Dear Billings Metropolitan Planning Organization:

The design of the project as presented at the Pre-application Neighborhood Meeting for Annexation and Planned Neighborhood Zone Change Certificate of Survey No. 2828, Tracts 1 and 2, is excessive on many levels. The total dwelling units is listed as 582. Planning to place 582 people, and more likely at least double that number, on those small tracts of land will not solve any of the problems Billings has. Fewer dwellings would allow for yards, rather than asphalt, and add to the quality as opposed to the quantity in the space.

At the October 25, 2022, Pre-Application Neighborhood Meeting, the developer stated that there were 4,300 jobs open in Billings. In the year since changes to this tract of land were introduced, the city council has stamped for approval apartment complexes very similar to the one proposed in this application in at least four other spots in the Billings area. These complexes will add approximately 2,000 new rentals. Considering these additions and additions of the numerous apartments that are already built to the west and south of this area, are we going to end up with many empty apartment buildings in Billings? How is the city planning for these abandoned spaces?

In addition, the excessive traffic and parking concerns with adding 582 dwellings in the area have not been sufficiently addressed. Please do not approve the plan as proposed.

Sincerely,  
Terri Kaufman  
110 Big Pine CT  
Billings, MT 59106

ORDINANCE 23-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS,  
PROVIDING THE ZONE CLASSIFICATION ON Tracts 1  
and 2 of Certificate of Survey No. 2828, BE AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

**Section 1. RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

**Section 2. DESCRIPTION.** Tracts 1 and 2 of Certificate of Survey No. 2828, is presently zoned **Agriculture (A)**, a county zone, and is shown on the official zoning map within this zone.

**Section 3. ZONE DISTRICT AMENDMENT.** The official zoning map is hereby amended and the zoning for Tracts 1 and 2 of Certificate of Survey No. 2828, is hereby changed from **Agriculture (A)**, a county zone, to **Neighborhood 1 (N1), Mixed Residential 2 and 3 (NX2-NX3) and Public 1 (P1)**, as shown on the attached exhibit, and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Neighborhood 1 (N1), Mixed Residential 2 and 3 (NX2-NX3) and Public 1 (P1)**, as set out in the Billings, Montana City Code.

**Section 4. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law, or upon effective date of Resolution 23-\_\_\_\_\_ approving the annexation of the above territory, whichever is later.

**Section 5. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 6. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 13<sup>th</sup> day of February, 2023.

PASSED, ADOPTED and APPROVED on second reading this 27<sup>th</sup> day of February, 2023

CITY OF BILLINGS

BY: \_\_\_\_\_

William A. Cole, Mayor

Attest:

BY: \_\_\_\_\_


Denise R. Bohlman, City Clerk

Zone Change 1021 – Vista West – Agriculture to N1, NX2, NX3 and Public

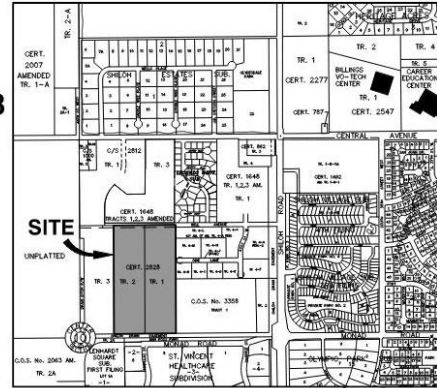
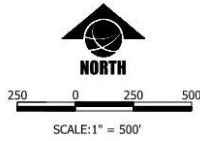
# Zone Change 1021

## Zoning Exhibit – Vista West

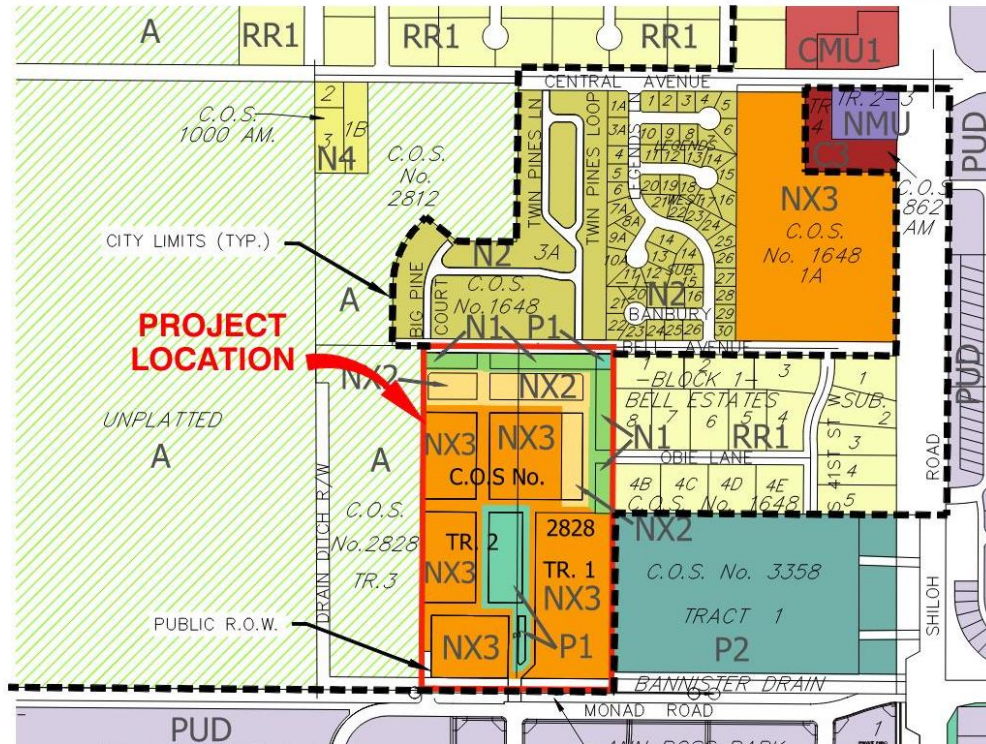
EXHIBIT A  
LAND USE AND ANNEXATION DETAILS  
**TRACTS 1 & 2, CERTIFICATE OF SURVEY No. 2828**

PREPARED FOR : DORN REAL ESTATE AND DEVELOPMENT  
PREPARED BY : **SANDERSON STEWART**   
BILLINGS, MONTANA      NOVEMBER, 2022

LAND USE SUMMARY  
P1 = 1.547 ACRES = 5.90%  
N1 = 2.022 ACRES = 7.71%  
NX3 = 14.155 ACRES = 53.98%  
NX2 = 2.349 ACRES = 8.96%



**VICINITY MAP**



**City Council Regular**

**Date:** 02/27/2023  
**Title:** Ward Boundary Expansion Ordinance Second Reading - Annexation 21-15  
**Presented by:** Monica Plecker  
**Department:** Planning & Community Services  
**Presentation:** No  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Staff recommends the City Council approve this ordinance on second reading, adding recently annexed property to Ward V.

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

Dorn Property and Homes, LLC and Dorn/Lowe, LLC have petitioned for annexation using the provisions of Section 7-2-4600, MCA. The property is located south of Central Avenue and West of Shiloh Road. The property is described as Parcel 1 and 2 of Certificate of Survey 2828. The land is legally described as Tracts of Land situated in the NE 1/4 of Section 10, T.1S., R.25E, P.M.M., Yellowstone County, Montana, more particularly described as follows: Tracts 1 and 2 of Certificate of Survey No. 2828, recorded December 20th, 1994, under Document No. 1767966. Including the Drain Ditch Right-Of-Way being 55 feet in width and lying adjacent and between the south line of said Tracts 1 and 2 and the east-west mid-section line of said Section 10. Said annexation containing 27.810 gross and net acres, more or less.

Upon Council approval, this annexation requires a change in the boundaries of Ward V. Two readings are required for this action. The first reading and public hearing was February 13.

**ALTERNATIVES**

City Council may:

- Approve adding the subject property to Ward V, or;
- Disapprove adding the subject property to Ward V. Disapproval will not modify the boundary of the ward and will create a problem where property inside the City Limits is not within a City Ward.

**FISCAL EFFECTS**

This application has no impact on the Planning Division Budget.

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**Attachments**

Ward Boundary Ordinance

**ORDINANCE NO. 23-\_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD V PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:**

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward V the following described real property:

Tracts of Land situated in the NE 1/4 of Section 10, T.1S., R.25E, P.M.M., Yellowstone County, Montana, more particularly described as follows:

Tracts 1 and 2 of Certificate of Survey No. 2828, recorded December 20th, 1994, under Document No. 1767966.

Including the Drain Ditch Right-Of-Way being 55 feet in width and lying adjacent and between the south line of said Tracts 1 and 2 and the east-west mid-section line of said Section 10.

Said annexation containing 27.810 gross and net acres, more or less.  
(# 21-15) See Exhibit "A" Attached

2. EFFECTIVE DATE. This ordinance shall be effective either thirty (30) days after second reading and final adoption as provided by law, or upon the effective date of Resolution No. 23-\_\_\_\_\_ approving the annexation of the above territory, whichever date is later.

3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

4. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.

PASSED by the City Council on the first reading this 13<sup>th</sup> day of February, 2023.

PASSED by the City Council on the second reading this 27<sup>th</sup> day of February, 2023.

THE CITY OF BILLINGS:

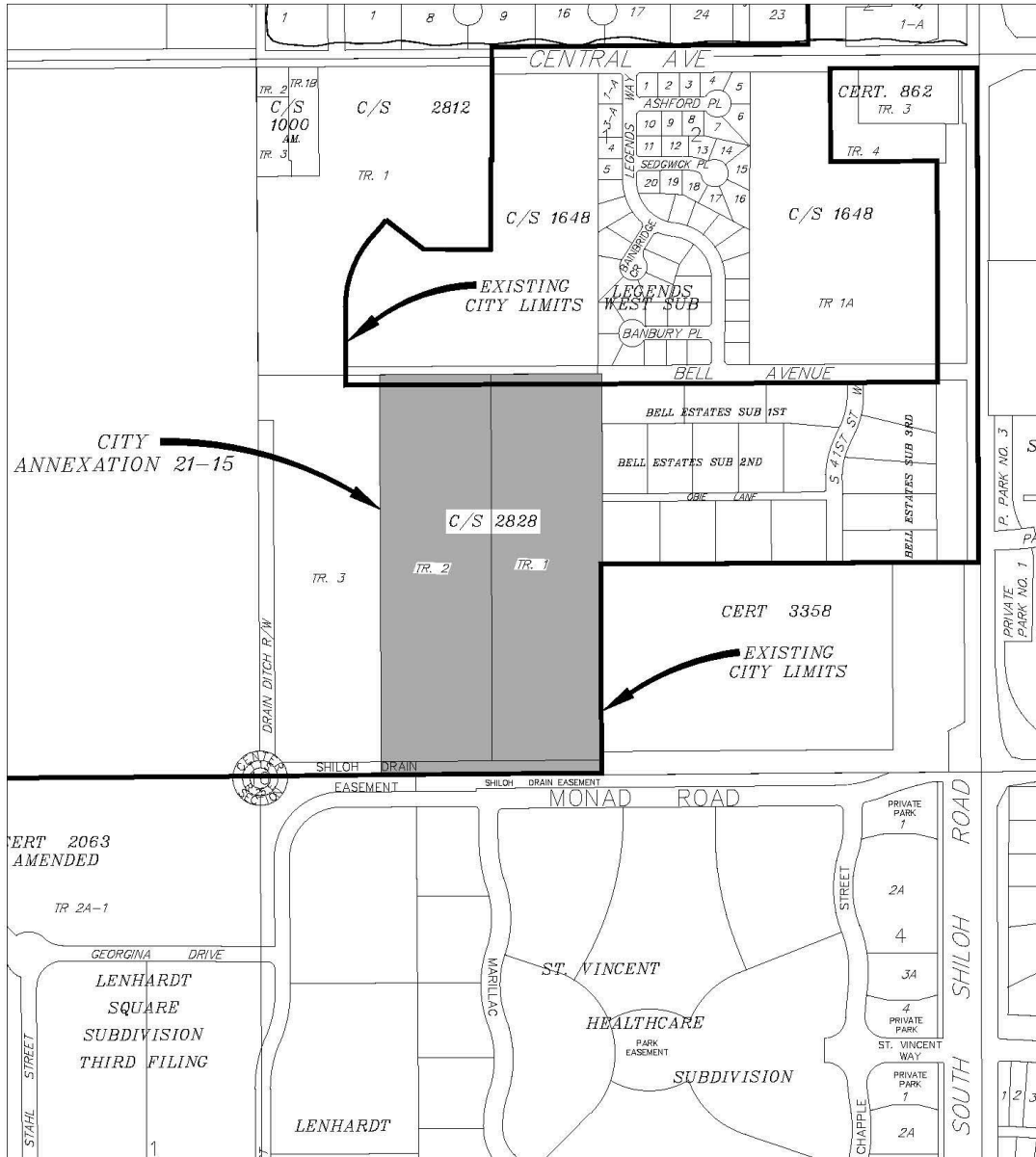
\_\_\_\_\_  
William A. Cole, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Denise Bohlman, CITY CLERK

(#21-15)

# EXHIBIT "A"



**City Council Regular**

**Date:** 02/27/2023  
**Title:** Ward Boundary Expansion Ordinance Second Reading - Annexation 22-08  
**Presented by:** Hunter Kelly, Planner 1  
**Department:** Planning & Community Services  
**Presentation:** No  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Staff Recommends the City Council approve this ordinance on second reading, adding recently annexed property to Ward III. Council conducted a public hearing and approved this ordinance on first reading on February 13.

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

Sanderson Stewart on behalf of School District #23 submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located south of Elysian Road and west of East Lane. The land being annexed is described as being Tracts 2B and 2C of Amended Certificate of Survey No. 3535, recorded August 31st, 2022, under Document No. 4028466, as forever merged with Tract 1A of Certificate of Survey No. 832 per Warranty Deed, recorded August 31st, 2022, under Document No. 4028468, including adjacent Right-Of-Way of East Lane. Said annexation containing 6.068 gross acres and 5.909 net acres, more or less.

Upon Council approval, this annexation requires a change in the boundaries of Ward III. Two readings are required for this action. The first reading and public hearing was held February 13, 2023 and approved by the Council. The second reading will occur at this meeting.

**ALTERNATIVES**

City Council may:

- Approve adding the subject property to Ward III, or;
- Disapprove adding the subject property to Ward III. Disapproval will not modify the boundary of Ward III and will create a problem where property inside the City Limits is not within a City Ward.

**FISCAL EFFECTS**

This application has no impact on the Planning Division Budget.

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**Attachments**

Ward Boundary Ordinance

**ORDINANCE NO. 23-\_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD III PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:**

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward III the following described real property:

Tracts of Land situated in the NE 1/4 of Section 24, T.1S., R.25E, P.M.M., and the NW 1/4 of Section 19, T.1S., R.26E, P.M.M., Yellowstone County, Montana, more particularly described as follows:

Tracts 2B and 2C of Amended Certificate of Survey No. 3535, recorded August 31st, 2022, under Document No. 4028466, as forever merged with Tract 1A of Certificate of Survey No. 832 per Warranty Deed, recorded August 31st, 2022, under Document No. 4028468.

Including adjacent Right-Of-Way of East Lane.

Said annexation containing 6.068 gross acres and 5.909 net acres, more or less.

(# 22-08) See Exhibit "A" Attached

2. EFFECTIVE DATE. This ordinance shall be effective either thirty (30) days after second reading and final adoption as provided by law, or upon the effective date of Resolution No. 23-\_\_\_\_\_ approving the annexation of the above territory, whichever date is later.
3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.
4. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets,

avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.

PASSED by the City Council on the first reading this 13<sup>th</sup> day of February, 2023.

PASSED by the City Council on the second reading this 27<sup>th</sup> day of February, 2023.

THE CITY OF BILLINGS:

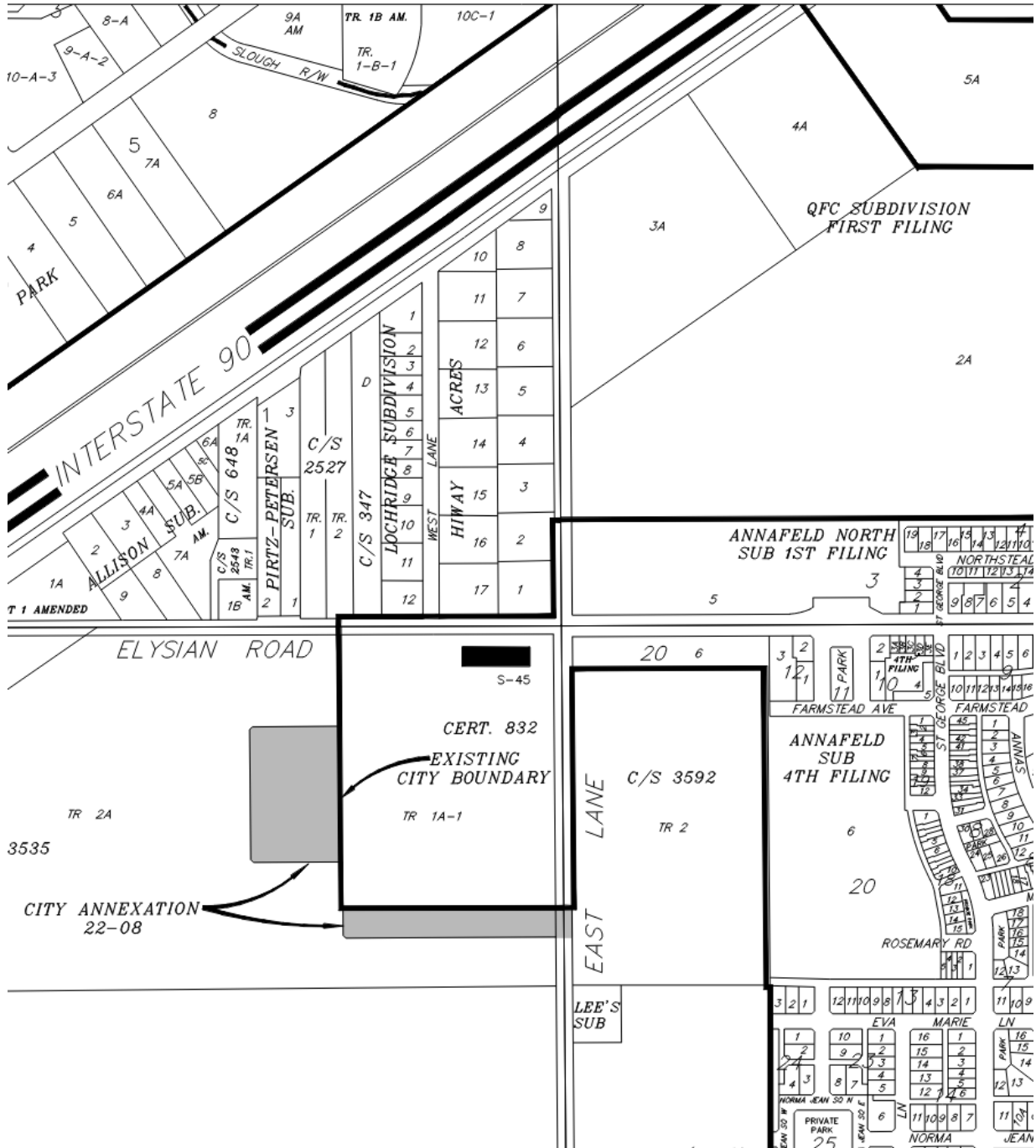
\_\_\_\_\_  
William A. Cole, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Denise Bohlman, CITY CLERK

(#22-08)

# EXHIBIT "A"



**City Council Regular**

**Date:** 02/27/2023  
**Title:** Payment of Claims for week of January 17,2023  
**Presented by:** Andy Zoeller, Finance Director  
**Department:** Finance  
**Presentation:** No  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Staff recommends Council approve the Payment of Claims

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

Claims in the amount of \$2,702,903.78 have been reviewed and are presented for City Council payment approval. A complete listing of the claims for the week are available in the Finance Department.

**Payment Approval Process**

Every invoice for payment is entered into the City's accounting system and the backup documentation is scanned in and attached (physical invoices, additional e-mails explaining payments, bids, contracts, etc.). Each invoice goes through a multi-step approval process depending upon the amount of the payment.

First, invoices are entered by the department requesting the payment and the department director or designee must perform an initial review and approval of the purchase. The number of approvals within the department can vary based upon the size of the department, but no less than one approver within each department must verify the payment.

Second, all payments, regardless of size, must be approved by the Purchasing Agent or designee. The Purchasing Agent will review the payment to ensure purchasing procedures are followed and appropriate documentation is attached.

If the payment is greater than \$1,000, then it must be approved by the Finance Director or designee. If that payment is greater than \$10,000, then it must be approved by the City Administrator or Assistant City Administrator.

Once all approvals are completed, the payment is able to be made and the Accounts Payable Clerk can print the check. After all checks are printed, a list of all checks in excess of \$2,500 is generated and placed on the next City Council meeting for review.

**ALTERNATIVES**

- No other alternatives were analyzed

**FISCAL EFFECTS**

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

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**Attachments**

| Check Date | Check# | Name              | Fund Name      | Amount      | Item Desc                                                  |
|------------|--------|-------------------|----------------|-------------|------------------------------------------------------------|
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 562.39   | 3875428                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 102.14   | 3875428                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 1,636.26 | 3875428                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 562.39   | 3877690                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 833.25   | 3877690                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 1,392.87 | 3877690                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 26.72    | 3880164                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 1,392.86 | 3880164                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 230.53   | 3880164                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 818.13   | 3880164                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 53.63    | 3880832                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 2,454.39 | 3881979                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 1,997.05 | 3881979                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Fleet          | \$ 701.93   | 3882306                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Public Safety  | \$ 137.50   | FIRE 1: DEF (55 gallon drum)                               |
| 01/17/2023 | ACH    | A & I Distributor | Solid Waste    | \$ 54.37    | 3880832                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Solid Waste    | \$ 18.19    | 24/1 Carfresh Spice Air Freshners. Collections.            |
| 01/17/2023 | ACH    | A & I Distributor | Solid Waste    | \$ 1,650.00 | 330 GAL DEF Tote (2). Collections.                         |
| 01/17/2023 | ACH    | A & I Distributor | Street/Traffic | \$ 217.25   | 3875780                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Street/Traffic | \$ 53.63    | 3880832                                                    |
| 01/17/2023 | ACH    | A & I Distributor | Street/Traffic | \$ (400.00) | return of empty tote                                       |
| 01/17/2023 | ACH    | A & I Distributor | Street/Traffic | \$ 825.00   | 330 gal def tote                                           |
| 01/17/2023 | ACH    | A & I Distributor | Street/Traffic | \$ 400.00   | tote deposit                                               |
| 01/17/2023 | ACH    | A & I Distributor | Transit        | \$ 6.53     | 3879887. 5W-40 Oil.                                        |
| 01/17/2023 | ACH    | A & I Distributor | Transit        | \$ 1,127.85 | 3879887. 5W-40 Oil. 220 QTS                                |
| 01/17/2023 | ACH    | A & I Distributor | Transit        | \$ 1,650.00 | 3879889. DEF. 3640 Qts.                                    |
| 01/17/2023 | ACH    | A & I Distributor | Water          | \$ 50.23    | walter Pumps, grease                                       |
| 01/17/2023 | 858461 | A-1 Landscape     | Building       | \$ 275.00   | Snow Plow Services for December, 2022; Planning            |
| 01/17/2023 | 858461 | A-1 Landscape     | CDBG           | \$ 275.00   | Snow Plow Services for December, 2022; Planning            |
| 01/17/2023 | 858461 | A-1 Landscape     | Facilities     | \$ 2,425.00 | Snow Plow Service for December, 2022; Operations Center    |
| 01/17/2023 | 858461 | A-1 Landscape     | Facilities     | \$ 650.00   | Snow Plow Services for December, 2022; Stillwater Building |
| 01/17/2023 | 858461 | A-1 Landscape     | Facilities     | \$ 1,425.00 | Snow Plow Services for December, 2022; Animal Shelter      |
| 01/17/2023 | 858461 | A-1 Landscape     | General        | \$ 275.00   | Snow Plow Services for December, 2022; Planning            |
| 01/17/2023 | 858461 | A-1 Landscape     | Library        | \$ 750.00   | Snow Plow Service for December, 2022; Library              |

| Check Date | Check# | Name                    | Fund Name      | Amount        | Item Desc                                                       |
|------------|--------|-------------------------|----------------|---------------|-----------------------------------------------------------------|
| 01/17/2023 | 858461 | A-1 Landscape           | Library        | \$ 892.50     | Snow Plow Service for December, 2022; Library                   |
| 01/17/2023 | 858461 | A-1 Landscape           | Parking        | \$ 297.50     | Snow Plow Service for December, 2022; Library                   |
| 01/17/2023 | 858461 | A-1 Landscape           | Parking        | \$ 1,887.50   | Snow Plow Services for December, 2022; Parking                  |
| 01/17/2023 | 858461 | A-1 Landscape           | Parking        | \$ 1,675.00   | Snow Plow Services for December, 2022; Parking                  |
| 01/17/2023 | 858461 | A-1 Landscape           | Parking        | \$ 875.00     | Snow Plow Services for December, 2022; Parking                  |
| 01/17/2023 | 858461 | A-1 Landscape           | Parking        | \$ 1,880.00   | Snow Plow Services for December, 2022; Parking                  |
| 01/17/2023 | 858461 | A-1 Landscape           | Parking        | \$ 1,330.00   | Snow Plow Services for December, 2022; Parking                  |
| 01/17/2023 | 858461 | A-1 Landscape           | Planning       | \$ 275.00     | Snow Plow Services for December, 2022; Planning                 |
| 01/17/2023 | 858461 | A-1 Landscape           | Urban Renewal  | \$ 1,200.00   | Snow Plow Service for December, 2022; Community Development     |
| 01/17/2023 | 858471 | Alternatives            | CDBG           | \$ 5,432.40   | CDBG-CV Grant / Alternatives, Inc                               |
| 01/17/2023 | 858473 | Americlean              | Water          | \$ 24,738.81  | Clean & Disinfect Attic Area at Water Plant Operations Building |
| 01/17/2023 | 858477 | Askin Const             | Gas Tax        | \$ 3,201.76   | Retainage Release                                               |
| 01/17/2023 | 858477 | Askin Const             | SID Const      | \$ 940.05     | Retainage Release                                               |
| 01/17/2023 | 858480 | Bcs Scrip               | City Ins Fund  | \$ 4,400.00   | Wellness Incentive 2022 remaining December                      |
| 01/17/2023 | 858481 | Beartooth Resource      | General        | \$ 13,202.79  | 2023 Membership dues                                            |
| 01/17/2023 | 858486 | Blgs Community Cable    | General        | \$ 49,172.50  | January - March 2023 Quarterly Disbursement                     |
| 01/17/2023 | 858490 | Blgs Precast Enterprise | Wastewater     | \$ 7,005.00   | Orchard Sewer Imp                                               |
| 01/17/2023 | 858491 | Billings Tourism        | Tourism BID #2 | \$ 144,559.91 | Paid December Distributed January 2023                          |
| 01/17/2023 | 858495 | Business Tax Section    | Airport        | \$ 2,974.81   | AIP-73 Restaurant Build To GMP - Eligible For Reimbursement     |
| 01/17/2023 | 858495 | Business Tax Section    | Airport        | \$ 251.66     | AIP-73 Restaurant Build To GMP - Ineligible Cost                |
| 01/17/2023 | 858495 | Business Tax Section    | Airport        | \$ 3,693.13   | Terminal Expansion - AIP76 Eligible for Reimbursement           |
| 01/17/2023 | 858495 | Business Tax Section    | Airport        | \$ 410.35     | Terminal Expansion - AIP76 Eligible Local Costs                 |
| 01/17/2023 | 858495 | Business Tax Section    | Airport        | \$ 347.15     | Terminal Expansion - Ineligible Local Cost                      |
| 01/17/2023 | 858495 | Business Tax Section    | Facilities     | \$ 50.50      | Maintenance and Repair at the Stillwater Building               |
| 01/17/2023 | 858495 | Business Tax Section    | Gas Tax        | \$ 32.33      | Retainage Release                                               |
| 01/17/2023 | 858495 | Business Tax Section    | SID Const      | \$ 9.50       | Retainage Release                                               |
| 01/17/2023 | 858495 | Business Tax Section    | Tax Incrmnt S  | \$ 3.62       | Retainage Release Correction                                    |
| 01/17/2023 | 858495 | Business Tax Section    | Water          | \$ 249.89     | Clean & Disinfect Attic Area at Water Plant Operations Building |
| 01/17/2023 | 858495 | Business Tax Section    | Water          | \$ 4.76       | Retainage Release                                               |
| 01/17/2023 | 858495 | Business Tax Section    | Water          | \$ 178.00     | WATER SERVICE REPAIRS 5/27/22 #2 ; Payment 1 FINAL              |
| 01/17/2023 | 858496 | C BAR J MECHANICAL      | Water          | \$ 17,622.00  | WATER SERVICE REPAIRS 5/27/22 #2 ; Payment 1 FINAL              |
| 01/17/2023 | 858505 | Coral Sales Company     | Street/Traffic | \$ 4,080.00   | 74556 PO NUM 315409                                             |
| 01/17/2023 | 858514 | Dakota Supply Group     | Water          | \$ 6,144.00   | 3/4" METER LOOPS AKA YOKE                                       |
| 01/17/2023 | 858514 | Dakota Supply Group     | Water          | \$ 69.08      | MT Gland pack for fire hydrant replaceme                        |

| Check Date | Check# | Name                   | Fund Name        | Amount       | Item Desc                                                         |
|------------|--------|------------------------|------------------|--------------|-------------------------------------------------------------------|
| 01/17/2023 | 858514 | Dakota Supply Group    | Water            | \$ 3,342.86  | TYLER 6860 #69 HD ADJUSTABLE RISER                                |
| 01/17/2023 | 858515 | Dana Safety Supply Inc | Public Safety    | \$ 162.00    | 799499                                                            |
| 01/17/2023 | 858515 | Dana Safety Supply Inc | Public Safety    | \$ 14,486.00 | 807558                                                            |
| 01/17/2023 | 858515 | Dana Safety Supply Inc | Public Safety    | \$ 14,486.00 | 807559                                                            |
| 01/17/2023 | 858515 | Dana Safety Supply Inc | Public Safety    | \$ 14,486.00 | 807560                                                            |
| 01/17/2023 | 858515 | Dana Safety Supply Inc | Public Safety    | \$ 2,754.00  | 810947                                                            |
| 01/17/2023 | 858515 | Dana Safety Supply Inc | Public Safety    | \$ 580.47    | 826509                                                            |
| 01/17/2023 | 858517 | Denny Menholt Chev     | Public Safety    | \$ 2,198.50  | 414233                                                            |
| 01/17/2023 | 858517 | Denny Menholt Chev     | Public Safety    | \$ 123.00    | 424865                                                            |
| 01/17/2023 | 858517 | Denny Menholt Chev     | Public Safety    | \$ 1,487.27  | 424981                                                            |
| 01/17/2023 | 858518 | Desert Mt Corp         | Street/Traffic   | \$ 5,223.60  | ice slicer                                                        |
| 01/17/2023 | 858520 | Dorsey & Whitney       | Solid Waste      | \$ 2,522.50  | Legal Services Rendered through December 31, 2022                 |
| 01/17/2023 | 858521 | DOWL                   | Tax Incrmnt N27  | \$ 4,292.97  | WO 23-11 Downtown 2-Way Street Conversion                         |
| 01/17/2023 | 858521 | DOWL                   | Wastewater       | \$ 4,160.11  | WO 22-01 Schedules 1 & 2: Water & Sanitary Sewer Main Replacement |
| 01/17/2023 | 858521 | DOWL                   | Water            | \$ 3,602.74  | WO 22-01 Schedules 1 & 2: Water & Sanitary Sewer Main Replacement |
| 01/17/2023 | 858521 | DOWL                   | Water            | \$ 37,915.60 | WO 22-44 Zone 1 Water Storage Improvements                        |
| 01/17/2023 | 858521 | DOWL                   | Water            | \$ 42,729.38 | WO 23-01 2023 Water and Sewer Main Replacement                    |
| 01/17/2023 | 858522 | Downtown Blgs BID      | Downtown BID     | \$ 45,902.58 | BID Assessment; Paid December Distributed January 2023            |
| 01/17/2023 | 858522 | Downtown Blgs BID      | Downtown BID     | \$ 1,638.60  | Tax Year 2022; Housing Authority of Billings Internal Taxes       |
| 01/17/2023 | 858523 | Downtown Blgs Partners | Tax Incrmnt N27  | \$ 3,000.00  | Signage Project through DBA - 30K budgeted for FY22               |
| 01/17/2023 | 858523 | Downtown Blgs Partners | Tax Incrmnt N27  | \$ 3,000.00  | Signage Project through DBA - 30K budgeted for FY22               |
| 01/17/2023 | 858523 | Downtown Blgs Partners | Tax Incrmnt N27  | \$ 1,242.00  | Signage Project through DBA - 30K budgeted for FY22               |
| 01/17/2023 | 858525 | EBMS                   | City Ins Fund    | \$ 900.00    | February 1, 2023 EBMS Billing                                     |
| 01/17/2023 | 858525 | EBMS                   | City Ins Fund    | \$ 1,253.00  | February 1, 2023 EBMS Billing                                     |
| 01/17/2023 | 858525 | EBMS                   | City Ins Fund    | \$ 1,486.50  | February 1, 2023 EBMS Billing                                     |
| 01/17/2023 | 858525 | EBMS                   | City Ins Fund    | \$ 5,666.95  | February 1, 2023 EBMS Billing                                     |
| 01/17/2023 | 858525 | EBMS                   | City Ins Fund    | \$ 32,865.78 | February 1, 2023 EBMS Billing                                     |
| 01/17/2023 | 858525 | EBMS                   | City Ins Fund    | \$ 61,040.51 | February 1, 2023 EBMS Billing                                     |
| 01/17/2023 | 858525 | EBMS                   | Payroll Clearing | \$ 11,498.30 | February 1, 2023 EBMS Billing                                     |
| 01/17/2023 | 858532 | Ferguson               | Water            | \$ 7,400.00  | 7' FIRE HYDRANT                                                   |
| 01/17/2023 | 858532 | Ferguson               | Water            | \$ 757.62    | CURB BOX LID W/PLUG 1-1/4"                                        |
| 01/17/2023 | 858537 | Gallagher Benefit      | City Ins Fund    | \$ 32,250.00 | January - June 2023 Consulting Services                           |
| 01/17/2023 | 858538 | Grainger Parts         | Fleet            | \$ 761.88    | 1468481174                                                        |
| 01/17/2023 | 858538 | Grainger Parts         | Wastewater       | \$ 2,245.92  | Storage shelving for shipping container                           |

| Check Date | Check# | Name                    | Fund Name        | Amount       | Item Desc                                                         |
|------------|--------|-------------------------|------------------|--------------|-------------------------------------------------------------------|
| 01/17/2023 | 858538 | Grainger Parts          | Wastewater       | \$ 53.72     | Wall Clock WRF Shop                                               |
| 01/17/2023 | 858538 | Grainger Parts          | Wastewater       | \$ 34.57     | WRF elect shop supplies                                           |
| 01/17/2023 | 858539 | Graphic Imprint         | General          | \$ 3,064.75  | basketball shirts for youth programs                              |
| 01/17/2023 | 858539 | Graphic Imprint         | General          | \$ 687.50    | miracle league hats -07193                                        |
| 01/17/2023 | 858540 | Great Plains Towers     | Wastewater       | \$ 6,373.93  | Tower at City landfill for Radio Communication                    |
| 01/17/2023 | 858540 | Great Plains Towers     | Water            | \$ 6,373.94  | Tower at City landfill for Radio Communication                    |
| 01/17/2023 | 858541 | Great W Eng             | Solid Waste      | \$ 2,221.14  | retainage release                                                 |
| 01/17/2023 | 858541 | Great W Eng             | Solid Waste      | \$ 3,039.57  | Retainage Release                                                 |
| 01/17/2023 | 858541 | Great W Eng             | Solid Waste      | \$ 8,851.54  | WO 23-13 Landfill Class IV Expansion Permit: Payment 3            |
| 01/17/2023 | 858542 | Guardian Security       | Library          | \$ 10,139.41 | 959 December 2022                                                 |
| 01/17/2023 | ACH    | HDR                     | Arterial Streets | \$ 9,828.54  | WO 22-07 Mullowney Lane, Consultant Agreement; Payment 12         |
| 01/17/2023 | ACH    | HDR                     | Arterial Streets | \$ 39,262.53 | WO 22-07 Mullowney Lane, Consultant Agreement; Payment 13         |
| 01/17/2023 | ACH    | HDR                     | Gas Tax          | \$ 202.71    | WO2224 Park PI Retaining Wall; Payment 6 FINAL                    |
| 01/17/2023 | ACH    | HDR                     | Solid Waste      | \$ 1,660.02  | WO 22-37 Landfill Drop-off Bldg Repairs; Payment 7                |
| 01/17/2023 | ACH    | HDR                     | Solid Waste      | \$ 937.36    | WO 23-28 Landfill DOB Mech Room Heater U                          |
| 01/17/2023 | ACH    | HDR                     | Solid Waste      | \$ 253.46    | WO 23-28 No Contract, Consultingservie,                           |
| 01/17/2023 | 858546 | High Point Network      | Library          | \$ 245.00    | 217661 Firewall monthly service                                   |
| 01/17/2023 | 858546 | High Point Network      | Phone System     | \$ 3,122.50  | Multiple switches losing connectivity                             |
| 01/17/2023 | 858546 | High Point Network      | Phone System     | \$ 95.00     | Project update installing new voice appliance                     |
| 01/17/2023 | 858546 | High Point Network      | Stillwater Const | \$ 48,088.00 | NASPO AR3232 -SWB Juniper Switches                                |
| 01/17/2023 | 858548 | Hughes Fire Equipt      | Public Safety    | \$ 606.87    | 585593                                                            |
| 01/17/2023 | 858548 | Hughes Fire Equipt      | Public Safety    | \$ 2,653.40  | 585680                                                            |
| 01/17/2023 | 858550 | Iaff                    | Payroll Clearing | \$ 5,063.88  | Payroll Summary                                                   |
| 01/17/2023 | 858554 | Integrity Pump          | Water            | \$ 28,357.00 | Purchase Parts for Low Service Pump Station Pump #2 Bearing Block |
| 01/17/2023 | 858554 | Integrity Pump          | Water            | \$ 340.19    | SHipping costs for PO 23-000219                                   |
| 01/17/2023 | 858558 | Invoice Cloud           | Building         | \$ 311.36    | Invoice Cloud Services for 12/01/22-12/3                          |
| 01/17/2023 | 858558 | Invoice Cloud           | City Ins Fund    | \$ 331.99    | Invoice Cloud Services for 12/01/22-12/3                          |
| 01/17/2023 | 858558 | Invoice Cloud           | Parking          | \$ 525.41    | Invoice Cloud Services for 12/01/22-12/3                          |
| 01/17/2023 | 858558 | Invoice Cloud           | Solid Waste      | \$ 11,700.99 | Invoice Cloud Services for 12/01/22-12/3                          |
| 01/17/2023 | 858558 | Invoice Cloud           | Wastewater       | \$ 11,887.29 | Invoice Cloud Services for 12/01/22-12/3                          |
| 01/17/2023 | 858558 | Invoice Cloud           | Water            | \$ 15,733.18 | Invoice Cloud Services for 12/01/22-12/3                          |
| 01/17/2023 | 858560 | Jares Fence             | Transit          | \$ 2,575.00  | Gate Repair & Barbed Wire Repair                                  |
| 01/17/2023 | 858562 | Johnson Laffen Galloway | Stillwater Const | \$ -         | Phase 1 Stillwater Bldg - develop comprehensive master plan       |
| 01/17/2023 | 858562 | Johnson Laffen Galloway | Stillwater Const | \$ 45,554.10 | Phase I Stillwater Bldg - comprehensive design plan               |

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|------------|--------|------------------------|------------------|--------------|----------------------------------------------------------------|
| 01/17/2023 | 858563 | Justice Systems        | General          | \$ 5,400.00  | Court Ticket Import Module FCE                                 |
| 01/17/2023 | 858566 | KLJ Engineering        | Water            | \$ 4,114.89  | Bureau of Reclamation Small Storage Consultant Agreement       |
| 01/17/2023 | 858571 | Laurel Trading Post    | Street/Traffic   | \$ 16,500.00 | 14ft dump trailer                                              |
| 01/17/2023 | 858574 | Mail Tech Service      | Central Services | \$ 4,154.93  | Postage for December, 2022                                     |
| 01/17/2023 | 858574 | Mail Tech Service      | General          | \$ 1,177.70  | Postage for December, 2022                                     |
| 01/17/2023 | 858574 | Mail Tech Service      | Parking          | \$ 33.41     | Postage for December, 2022                                     |
| 01/17/2023 | 858574 | Mail Tech Service      | Water            | \$ 340.80    | Postage for December, 2022                                     |
| 01/17/2023 | 858576 | McDonald Law Office    | General          | \$ 2,557.25  | Mediation Services Houser/McDaniel v City of Billings          |
| 01/17/2023 | 858577 | Midland Implement      | Parks Maint      | \$ 3,792.02  | irrigation parts-183809001                                     |
| 01/18/2023 | 858660 | MT CSED                | Payroll Clearing | \$ 4,595.21  | Payroll Summary                                                |
| 01/17/2023 | 858580 | MT Dakota Utilities    | General          | \$ 864.62    | 902 360 1000 6                                                 |
| 01/17/2023 | 858580 | MT Dakota Utilities    | Public Safety    | \$ 1,410.31  | 307 111 5825 0                                                 |
| 01/17/2023 | 858580 | MT Dakota Utilities    | Public Safety    | \$ 23.05     | 357 004 5071 7                                                 |
| 01/17/2023 | 858580 | MT Dakota Utilities    | Public Safety    | \$ 3,380.88  | 819 360 1000 8                                                 |
| 01/17/2023 | 858580 | MT Dakota Utilities    | Public Safety    | \$ 600.55    | 958 650 1000 3                                                 |
| 01/17/2023 | 858580 | MT Dakota Utilities    | Public Safety    | \$ 665.89    | 971 487 8549 2                                                 |
| 01/17/2023 | 858580 | MT Dakota Utilities    | Wastewater       | \$ 173.67    | 017 739 3911 9                                                 |
| 01/17/2023 | 858580 | MT Dakota Utilities    | Wastewater       | \$ 89.12     | 470 750 1000 0                                                 |
| 01/17/2023 | 858580 | MT Dakota Utilities    | Wastewater       | \$ 24.01     | 559 250 1000 5                                                 |
| 01/17/2023 | 858580 | MT Dakota Utilities    | Water            | \$ 741.81    | 825 150 1000 5                                                 |
| 01/17/2023 | 858581 | MT Dept Enviro Quality | Solid Waste      | \$ 32,173.50 | Landfill annual Licensing fee.January 2023 - March 2023.       |
| 01/17/2023 | 858582 | MFPE                   | Payroll Clearing | \$ 21.38     | Payroll Summary                                                |
| 01/17/2023 | 858582 | MFPE                   | Payroll Clearing | \$ 2,736.64  | Payroll Summary                                                |
| 01/17/2023 | 858584 | MMIA                   | Payroll Clearing | \$472,333.40 | Workers' Compensation for October 1, 2022 to December 31, 2022 |
| 01/17/2023 | 858583 | MMIA                   | Property Ins     | \$ 21,682.06 | December Liability Self Insurance 2022                         |
| 01/17/2023 | 858585 | MMIA                   | Property Ins     | \$ 31,452.42 | DR1005348                                                      |
| 01/17/2023 | 858587 | MT State Firemen       | Payroll Clearing | \$ 4,614.87  | Payroll Summary                                                |
| 01/17/2023 | 858589 | Morrison Maierle       | Airport          | \$ 4,594.10  | AIP-73 Terminal Expansion - Eligible for Reimbursement         |
| 01/17/2023 | 858589 | Morrison Maierle       | Airport          | \$ 510.46    | AIP-73 Terminal Expansion - Ineligible for Reimbursement       |
| 01/17/2023 | 858589 | Morrison Maierle       | Airport          | \$ 431.84    | AIP-76 Terminal Expansion - eligible for local                 |
| 01/17/2023 | 858589 | Morrison Maierle       | Airport          | \$ 31,218.24 | Amendment #13 Terminal Expansion Project - Federal             |
| 01/17/2023 | 858589 | Morrison Maierle       | Airport          | \$ 2,934.47  | Amendment #13 Terminal Expansion Project - Ineligible          |
| 01/17/2023 | 858589 | Morrison Maierle       | Airport          | \$ 3,468.69  | Amendment #13 Terminal Expansion Project - Local               |
| 01/17/2023 | 858589 | Morrison Maierle       | Transit          | \$ 2,225.41  | Transit Training Parking Lot - Construction Admin              |

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| 01/17/2023 | 858589 | Morrison Maierle    | Wastewater       | \$ 4,108.28 | WO 22-10 Alkali Creek Water and Sewer Extension     |
| 01/17/2023 | 858589 | Morrison Maierle    | Water            | \$ 2,116.38 | WO 22-10 Alkali Creek Water and Sewer Extension     |
| 01/17/2023 | 858592 | Mt W Holding        | Street/Traffic   | \$ 4,650.00 | guardrail repair on skyway dr near alkali crk       |
| 01/17/2023 | 858592 | Mt W Holding        | Street/Traffic   | \$ 1,400.00 | guardrail repair at alk creek and morningside       |
| 01/17/2023 | 858593 | MPPA                | Payroll Clearing | \$ 3,908.80 | Payroll Summary                                     |
| 01/17/2023 | 858594 | MSDOnline, Inc      | Property Ins     | \$ 3,896.95 | Online subscription for 04/24/2023 - 04/23/2024     |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 14.08    | 0712534-7. Entrance to Gate 16 Light. December 2022 |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 153.78   | 0712535-4. Employee Parking. December 2022          |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 49.96    | 0712791-3. Gate 16. December 2022                   |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 53.03    | 0712795-4. Gate 17. December 2022                   |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 48.20    | 0712797-0. Gate 9. December 2022                    |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 6.00     | 0712805-1. IP-10. December 2022                     |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 7.32     | 0712813-5. Burn Pit. December 2022                  |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 53.91    | 0719759-3. Gate 12. December 2022                   |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 109.71   | 0719760-1. Gate 14. December 2022                   |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 51.12    | 0719761-9. Gate 15. December 2022                   |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 56.25    | 0719762-7. Gate 13. December 2022                   |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 45.99    | 0720296-3. Gate 29. December 2022                   |
| 01/17/2023 | 858602 | NorthWestern Energy | Airport          | \$ 35.00    | 2114868-9. Runway Weather System. December 2022     |
| 01/17/2023 | 858602 | NorthWestern Energy | Building         | \$ 31.78    | 1569631-3                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Facilities       | \$ 6.00     | 3866815-8                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Facilities       | \$ 188.11   | 3922089-2                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | General          | \$ 133.37   | 0720841-6                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 6.15     | 0722253-2                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 201.86   | 0722256-5                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 6.00     | 0722258-1                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 13.38    | 0722259-9                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 9.63     | 0722272-2                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 232.53   | 0722273-0                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 9.77     | 0722274-8                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 94.32    | 0722275-5                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 32.11    | 0722277-1                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 32.69    | 0722278-9                                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1      | \$ 14.08    | 0722279-7                                           |

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| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.15     | 0722280-5 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.15     | 0722281-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.15     | 0722283-9 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.15     | 0722284-7 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 14.08    | 0722808-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 7.75     | 0722852-1 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 8.68     | 0722862-0 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 67.54    | 0722901-6 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.44     | 0722976-8 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 1,478.22 | 0722995-8 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 86.63    | 0723005-5 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.15     | 0723025-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ -        | 0723039-4 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.00     | 0723046-9 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.00     | 0723049-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 20.29    | 0723064-2 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 20.29    | 0723065-9 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 4.14     | 0723391-9 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 91.54    | 0723884-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 20.29    | 0723887-6 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 39.99    | 0813489-2 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 31.51    | 0978917-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 53.32    | 0999807-1 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.29     | 1156527-2 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 70.01    | 1160780-1 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.00     | 1588262-4 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 1.09     | 1692666-9 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 10.30    | 1849408-8 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 7.60     | 1902257-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 31.09    | 1904944-4 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 39.73    | 1941243-6 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.00     | 3178260-0 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 7.03     | 3241436-9 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 6.00     | 3477233-5 |

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| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 10.69  | 3771457-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Park Dist 1 | \$ 29.73  | 3999603-8 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parking     | \$ 198.68 | 3835890-9 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.43   | 0722272-2 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.15   | 0723384-4 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.00   | 0723385-1 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.00   | 0723386-9 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.00   | 0723387-7 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.00   | 0723388-5 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 2.75   | 0723391-9 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 0.94   | 0723392-7 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 7.03   | 0723393-5 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.15   | 0723394-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.15   | 0723395-0 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.15   | 0723396-8 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.15   | 0723397-6 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.15   | 0723398-4 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.15   | 0723835-5 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 8.68   | 0723836-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.29   | 0723840-5 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ -      | 0723879-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 5.53   | 0723883-5 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 0.69   | 0723885-0 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.89   | 0881455-0 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 0.95   | 0971824-8 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 0.54   | 1045813-1 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 1.35   | 1265177-4 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 0.54   | 1312707-1 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ -      | 1513796-1 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 53.91  | 1513800-1 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 10.10  | 1513802-7 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 19.49  | 1513804-3 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 7.32   | 1514388-6 |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint | \$ 6.89   | 1564209-3 |

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| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint    | \$ 1.35     | 1948667-9                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint    | \$ 1.36     | 2041362-1                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint    | \$ 5.43     | 2055817-7                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint    | \$ 0.81     | 3707234-5                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint    | \$ 0.69     | 3707235-2                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Parks Maint    | \$ 0.69     | 3707236-0                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Public Safety  | \$ 35.30    | 0712532-1                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Public Safety  | \$ 492.62   | 0720817-6                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Public Safety  | \$ 1,545.72 | 1183483-5                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 7.91     | 0855404-0                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 49.52    | 1045820-6                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 135.09   | 1738989-1                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 0.94     | 1797828-9                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 7.91     | 2047007-6                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 7.03     | 2047010-0                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 7.03     | 2047013-4                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 7.60     | 2047017-5                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 7.75     | 2047018-3                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 7.03     | 2047019-1                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 0.94     | 3590004-2                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 108.86   | 3648861-7                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Street/Traffic | \$ 6.00     | 3660075-7                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Transit        | \$ 3,029.02 | 0100473-8. Monad Road. January 2023 |
| 01/17/2023 | 858602 | NorthWestern Energy | Wastewater     | \$ 122.62   | 0723383-6                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Wastewater     | \$ 347.60   | 0723878-5                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Wastewater     | \$ 18.30    | 1704025-4                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Wastewater     | \$ 127.91   | 1704030-4                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Wastewater     | \$ 229.68   | 389 62nd St Lift Entrance Dec 2022  |
| 01/17/2023 | 858602 | NorthWestern Energy | Water          | \$ 6.00     | 0722249-0                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Water          | \$ 8,337.56 | 0722270-6                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Water          | \$ 6.00     | 1160807-2                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Water          | \$ 4.34     | 1346673-5                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Water          | \$ 6.00     | 1867265-9                           |
| 01/17/2023 | 858602 | NorthWestern Energy | Water          | \$ 4,061.54 | 5809 Canyonwoods Dr Dec 2022        |

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|------------|--------|---------------------|----------------|--------------|------------------------------------------------------------|
| 01/17/2023 | 858602 | NorthWestern Energy | Water          | \$ 508.59    | 805 Constitution Ave - Dec 2022                            |
| 01/17/2023 | 858607 | Playspace Designs   | Park Dist 1    | \$ 3,817.19  | playground parts - 13174                                   |
| 01/17/2023 | 858608 | Polydyne            | Wastewater     | \$ 5,096.00  | chemical supplies                                          |
| 01/17/2023 | 858610 | Pride of Montana    | Facilities     | \$ 2,415.39  | Stillwater general cleaning for the month of December 2022 |
| 01/17/2023 | 858610 | Pride of Montana    | Facilities     | \$ 2,451.24  | Stillwater general cleaning for the month of November 2022 |
| 01/17/2023 | 858611 | Priority Dispatch   | EOC 911        | \$ 1,500.00  | ONE TIME SET UP FEE                                        |
| 01/17/2023 | 858611 | Priority Dispatch   | EOC 911        | \$ 24,700.00 | Q-PLUS FOR EMS                                             |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 75.17     | 250828-Alpine Air-Maintenance                              |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 104.97    | 250831-Zone Dispatch-IP6 & IP7                             |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 52.12     | 250832-Corp Air/Alpine                                     |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 187.22    | 250834-QTA                                                 |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 93.61     | 250836-West End T-Hangars                                  |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 127.29    | 250840-Edwards Jet Center West                             |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 97.97     | 250842-Executive Hangars                                   |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 7.00      | 250842-Executive Hangars USDA APHIS                        |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 158.27    | 250843-Airfield Maintenance Compactor                      |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 126.62    | 250845-Airfield Maintenance                                |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 478.28    | 250847-UPS Gate 21                                         |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 104.24    | 250848-Edwards Jet Center 1871 Aviation Place              |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 104.97    | 250849-Rocky Mountain College-EJC                          |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 127.29    | 250850-US Postal Service Gate 15                           |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 149.34    | 250851-Edwards Jet Center 1691 Aviation Place              |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 74.67     | 250853-Aerotronics                                         |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 127.29    | 250854-Marchi Hangar                                       |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 63.69     | 250855-Marchi Office                                       |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 104.97    | 250857-MT State Lands DEQ/DNRC                             |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 104.97    | 250858-Billings Fire Center-BLM                            |
| 01/17/2023 | 858612 | Public Utilities    | Airport        | \$ 52.12     | 250859-TSA                                                 |
| 01/17/2023 | 858612 | Public Utilities    | Parking        | \$ 87.59     | 102086                                                     |
| 01/17/2023 | 858612 | Public Utilities    | Parking        | \$ 434.36    | 102980                                                     |
| 01/17/2023 | 858612 | Public Utilities    | Parking        | \$ 10.85     | 102981                                                     |
| 01/17/2023 | 858613 | Ratco LLC           | Street/Traffic | \$ 65.50     | inv#124934pintle eye for unit 1355                         |
| 01/17/2023 | 858613 | Ratco LLC           | Street/Traffic | \$ 10,496.00 | service body for new truck unit #1130                      |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste    | \$ 56.58     | P0471612                                                   |

| Check Date | Check# | Name                | Fund Name   | Amount        | Item Desc                                         |
|------------|--------|---------------------|-------------|---------------|---------------------------------------------------|
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 16.21      | P0497912                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 1,113.81   | P0497912                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 747.44     | P0512212                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 4.46       | P0521112                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 11.63      | P0525412                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 142.02     | P0531412                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 28.98      | P0535912                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 25.49      | W3561812                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 2,531.10   | W3561812                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 554.45     | W3561812                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 192.09     | W3711212                                          |
| 01/17/2023 | ACH    | RDO Equipt          | Solid Waste | \$ 664.95     | W3711212                                          |
| 01/17/2023 | 858614 | Reliable Mechanical | Facilities  | \$ 4,999.50   | Maintenance and Repair at the Stillwater Building |
| 01/17/2023 | 858614 | Reliable Mechanical | Wastewater  | \$ 1,938.75   | Primary Dlgester Boiler Service call              |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 29.25      | diag cut tool for Newell LaBolle                  |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 98.26      | Electrical Supplies                               |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 95.04      | Electrical Supplies for Brownlee Truck            |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 47.14      | HMI Project Supplies                              |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ (1,764.35) | Invoice paid twice. Pcard and ck # 84939          |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 61.95      | replacement blades                                |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 296.08     | septage kiosk installation supplies               |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 97.53      | Supplies for WRF Camera Project                   |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 70.33      | Tools for Electrical StaFF                        |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 20.05      | WRF Camera Project Supplies                       |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 52.11      | WRF Camera Project supplies                       |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 43.10      | WRF Camera Project supplies                       |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 68.00      | WRF elect shop supplies                           |
| 01/17/2023 | ACH    | Rexel USA           | Wastewater  | \$ 2.84       | WRF HMI Project, supplies                         |
| 01/17/2023 | ACH    | Rexel USA           | Water       | \$ 473.37     | Admin and Filter Gallery Lights                   |
| 01/17/2023 | ACH    | Rexel USA           | Water       | \$ 3,902.09   | Electrical Boxes and Wireways                     |
| 01/17/2023 | ACH    | Rexel USA           | Water       | \$ 53.50      | electrical Supplies                               |
| 01/17/2023 | ACH    | Rexel USA           | Water       | \$ 314.82     | Emergency Exit Lights _Admin Bldg                 |
| 01/17/2023 | ACH    | Rexel USA           | Water       | \$ 62.00      | LIGHTS FOR POLE BARN                              |
| 01/17/2023 | ACH    | Rexel USA           | Water       | \$ 366.00     | Low Servie Pump Station #2 Lights                 |

| Check Date | Check# | Name                 | Fund Name      | Amount        | Item Desc                                                            |
|------------|--------|----------------------|----------------|---------------|----------------------------------------------------------------------|
| 01/17/2023 | ACH    | Rexel USA            | Water          | \$ 28.39      | Willett Pump #2 Feeders for Motor                                    |
| 01/17/2023 | 858619 | Routeware            | Solid Waste    | \$ 2,156.25   | EasyRoute Professional Services - December 2022.                     |
| 01/17/2023 | 858619 | Routeware            | Solid Waste    | \$ 9,580.00   | Five (5) Heavy duty tablets 10" v2 - Windows - with full install kit |
| 01/17/2023 | 858622 | Sanderson Stewart    | Str Maint Dist | \$ 12,894.90  | WO 22-03 City Overlay/ChipSeal Projects; Payment 2 FINAL             |
| 01/17/2023 | 858623 | School Dist No 2     | CDBG           | \$ 9,225.00   | CDBG-CV Grant / School District 2                                    |
| 01/17/2023 | 858628 | Sletten Const        | Airport        | \$ 294,505.73 | AIP-73 Restaurant Build Out- Eligible For Reimbursement              |
| 01/17/2023 | 858628 | Sletten Const        | Airport        | \$ 24,914.80  | AIP-73 Restaurant Build Out- Ineligible Costs                        |
| 01/17/2023 | 858628 | Sletten Const        | Airport        | \$ 365,620.14 | Terminal Expansion - AIP76 Eligible For Reimbursement                |
| 01/17/2023 | 858628 | Sletten Const        | Airport        | \$ 40,624.46  | Terminal Expansion - AIP76 Eligible Local                            |
| 01/17/2023 | 858628 | Sletten Const        | Airport        | \$ 34,367.77  | Terminal Expansion - Ineligible Costs                                |
| 01/17/2023 | 858629 | Sluder               | Public Safety  | \$ 3,000.00   | FIRE 8: ROGUE FITNESS EQUIPMENT                                      |
| 01/17/2023 | 858634 | SRF Consulting Group | Transit        | \$ 2,593.05   | 5 Year Transit Development Plan Consultant                           |
| 01/17/2023 | 858634 | SRF Consulting Group | Transit        | \$ 1,275.00   | 5 Year Transit Development Plan Consultant                           |
| 01/17/2023 | 858636 | St of MT DPHHS/IHSB  | Solid Waste    | \$ 14,989.41  | MAR/CIS Refund St of MT LIHWAP Program                               |
| 01/17/2023 | 858637 | St V Occupational    | Airport        | \$ 95.00      | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | City Ins Fund  | \$ 450.00     | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Facilities     | \$ 50.00      | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Fleet          | \$ 95.00      | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | General        | \$ 1,795.00   | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Public Safety  | \$ 795.00     | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Public Safety  | \$ 20.00      | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Solid Waste    | \$ 290.00     | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Solid Waste    | \$ 95.00      | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Street/Traffic | \$ 190.00     | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Transit        | \$ 190.00     | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Wastewater     | \$ 96.00      | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Water          | \$ 144.00     | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858637 | St V Occupational    | Water          | \$ 260.00     | Drug Testing, On-Site Nursing, DOT Physicals Hepatitis B             |
| 01/17/2023 | 858638 | Steiner Thuesen      | Park Dist 1    | \$ 8,409.60   | consult on improvement to the south end of Coulson Park              |
| 01/17/2023 | 858639 | Stevens Brothers     | Facilities     | \$ 4,751.50   | Boiler materials ordered from Webster burner company.                |
| 01/17/2023 | 858639 | Stevens Brothers     | Public Safety  | \$ 666.90     | FIRE 1 & 2: CHECKED URINALS, REPLD CORRODED PARTS                    |
| 01/17/2023 | 858639 | Stevens Brothers     | Public Safety  | \$ 377.50     | FIRE 4: REPLD OUTSIDE FAUCET, VALVES, FITTINGS                       |
| 01/17/2023 | 858643 | Thomas Appraisals    | Water          | \$ 2,500.00   | Neibauer Land Easement Appraisal.Neibauer Rd & 48th St W             |
| 01/17/2023 | ACH    | Town & Co Supply     | Fleet          | \$ 3,206.63   | 432553                                                               |

| Check Date | Check# | Name                 | Fund Name      | Amount       | Item Desc                                            |
|------------|--------|----------------------|----------------|--------------|------------------------------------------------------|
| 01/17/2023 | ACH    | Town & Co Supply     | Fleet          | \$ 10,079.73 | 432553                                               |
| 01/17/2023 | ACH    | Town & Co Supply     | Fleet          | \$ 2.46      | 432553                                               |
| 01/17/2023 | ACH    | Town & Co Supply     | Fleet          | \$ 4,366.79  | 432553                                               |
| 01/17/2023 | ACH    | Town & Co Supply     | Fleet          | \$ 4,084.48  | 432553                                               |
| 01/17/2023 | ACH    | Town & Co Supply     | Fleet          | \$ 15,133.65 | 432556                                               |
| 01/17/2023 | ACH    | Town & Co Supply     | Fleet          | \$ 7,283.43  | 432556                                               |
| 01/17/2023 | ACH    | Town & Co Supply     | Transit        | \$ 10,892.73 | 432489. 3001 Gallons Dyed #1                         |
| 01/17/2023 | ACH    | Town & Co Supply     | Transit        | \$ 9,730.44  | 432489. 3001 Gallons Dyed #2                         |
| 01/17/2023 | ACH    | Tractor & Equipt     | Solid Waste    | \$ 34.26     | BLCS0796604                                          |
| 01/17/2023 | ACH    | Tractor & Equipt     | Solid Waste    | \$ 1,180.08  | BLCS0799299                                          |
| 01/17/2023 | ACH    | Tractor & Equipt     | Solid Waste    | \$ 101.00    | BLCS0799299                                          |
| 01/17/2023 | ACH    | Tractor & Equipt     | Solid Waste    | \$ 384.84    | BLCS0799422                                          |
| 01/17/2023 | ACH    | Tractor & Equipt     | Solid Waste    | \$ 1,061.00  | BLWO0221295                                          |
| 01/17/2023 | ACH    | Tractor & Equipt     | Solid Waste    | \$ 603.74    | BLWO0221295                                          |
| 01/17/2023 | ACH    | Tractor & Equipt     | Solid Waste    | \$ 1,761.05  | BLWO0221376                                          |
| 01/17/2023 | ACH    | Tractor & Equipt     | Solid Waste    | \$ 2,452.00  | BLWO0221376                                          |
| 01/17/2023 | ACH    | Tractor & Equipt     | Street/Traffic | \$ 1,218.96  | BLCS0796173                                          |
| 01/17/2023 | ACH    | Tractor & Equipt     | Street/Traffic | \$ 199.90    | BLCS0796173                                          |
| 01/17/2023 | ACH    | Tractor & Equipt     | Street/Traffic | \$ 34.26     | BLCS0796604                                          |
| 01/17/2023 | 858645 | TraffiCalm System    | Street/Traffic | \$ 7,095.40  | RRFB supplies, sign controller, batter, push buttons |
| 01/17/2023 | 858657 | Yellowstone Electric | Airport        | \$ 4,622.58  | Invoice #BIL6797. Repair Fire Alarm System           |
| 01/17/2023 | 858659 | Zoll Medical Corp    | Fire Grants    | \$ 8,452.50  | LIFE BAND3 SINGLE USE CHEST COMPRESSION BANDS.       |

**City Council Regular**

**Date:** 02/27/2023  
**Title:** Payment of Claims for week of January 23, 2023  
**Presented by:** Andy Zoeller, Finance Director  
**Department:** Finance  
**Presentation:** No  
**Legal Review** Not Applicable

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**RECOMMENDATION**

Staff recommends Council approve the Payment of Claims

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

Claims in the amount of \$1,278,469.09 have been reviewed and are presented for City Council payment approval. A complete listing of the claims for the week are available in the Finance Department.

**Payment Approval Process**

Every invoice for payment is entered into the City's accounting system and the backup documentation is scanned in and attached (physical invoices, additional e-mails explaining payments, bids, contracts, etc.). Each invoice goes through a multi-step approval process depending upon the amount of the payment.

First, invoices are entered by the department requesting the payment and the department director or designee must perform an initial review and approval of the purchase. The number of approvals within the department can vary based upon the size of the department, but no less than one approver within each department must verify the payment.

Second, all payments, regardless of size, must be approved by the Purchasing Agent or designee. The Purchasing Agent will review the payment to ensure purchasing procedures are followed and appropriate documentation is attached.

If the payment is greater than \$1,000, then it must be approved by the Finance Director or designee. If that payment is greater than \$10,000, then it must be approved by the City Administrator or Assistant City Administrator.

Once all approvals are completed, the payment is able to be made and the Accounts Payable Clerk can print the check. After all checks are printed, a list of all checks in excess of \$2,500 is generated and placed on the next City Council meeting for review.

**ALTERNATIVES**

- No other alternatives were analyzed

**FISCAL EFFECTS**

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

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**Attachments**

| Check Date | Check# | Name                | Fund Name       | Amount       | Item Desc                                                                 |
|------------|--------|---------------------|-----------------|--------------|---------------------------------------------------------------------------|
| 01/23/2023 | 858665 | Advncd Eng & Enviro | Wastewater      | \$ 4,015.06  | Professional Service Agreement for Water & Wastewater Rate Study FY22/23  |
| 01/23/2023 | 858665 | Advncd Eng & Enviro | Wastewater      | \$ 113.50    | Professional Services Agreement for Water & Wastewater Rate Study FY24/25 |
| 01/23/2023 | 858665 | Advncd Eng & Enviro | Water           | \$ 4,001.50  | Professional Services Agreement for Water & Wastewater Rate Study FY22/23 |
| 01/23/2023 | 858665 | Advncd Eng & Enviro | Water           | \$ 5,178.70  | Professional Services Agreement for Water & Wastewater Rate Study FY22/23 |
| 01/23/2023 | 858665 | Advncd Eng & Enviro | Water           | \$ 113.50    | Professional Services Agreement for Water & Wastewater Rate Study FY24/25 |
| 01/23/2023 | 858670 | Altitude Signal     | Street/Traffic  | \$ 32,700.00 | Emergency Pre-Emp detection for signals per attached quote                |
| 01/23/2023 | 858670 | Altitude Signal     | Street/Traffic  | \$ 3,547.00  | radar speed sign                                                          |
| 01/23/2023 | 858672 | Archie Cochrane     | Fleet           | \$ 38.73     | 5451966                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Fleet           | \$ 39.00     | 5451966                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 50.02     | 5447910                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 14.62     | 5448252                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 11.74     | 5448252                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 35.15     | 5448300                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 177.27    | 5448300                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 17.59     | 5448743                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 1.54      | 5448747                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 185.00    | 5448747                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 30.47     | 5448873                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 1,341.25  | 5448893                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 3.15      | 5448918                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 66.76     | 5448918                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ (3.15)    | 5448939                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 377.06    | 5448969                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 145.70    | 5449034                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 158.96    | 5449070                                                                   |
| 01/23/2023 | 858672 | Archie Cochrane     | Public Safety   | \$ 112.48    | 5451966                                                                   |
| 01/23/2023 | 858675 | Automatic Doors     | Airport         | \$ 4,025.00  | Invoice #5681. Door Repairs IP-9                                          |
| 01/23/2023 | 858678 | Badger Meter        | Wastewater      | \$ 11,781.00 | WO 22-36 WRF Bioreactor Flowmeter; Payment 2 Final                        |
| 01/23/2023 | 858680 | Big Sky Eco Develop | Tax Incrmnt N27 | \$ 45,376.05 | 2023 Facade Grant                                                         |
| 01/23/2023 | 315    | Border States       | Wastewater      | \$ 319.24    | clamp meter, for PSP building hot water                                   |
| 01/23/2023 | 315    | Border States       | Wastewater      | \$ 228.77    | DUCK Coat. FR Coat PPE                                                    |
| 01/23/2023 | 315    | Border States       | Wastewater      | \$ 18.09     | electrical tool, screwdriver/nut                                          |
| 01/23/2023 | 315    | Border States       | Wastewater      | \$ 39.73     | FR Coat Hood PPE                                                          |
| 01/23/2023 | 315    | Border States       | Wastewater      | \$ 11.85     | WRF Electrical supplies (outlet)                                          |

| Check Date | Check# | Name                | Fund Name      | Amount      | Item Desc                                |
|------------|--------|---------------------|----------------|-------------|------------------------------------------|
| 01/23/2023 | 315    | Border States       | Water          | \$ 122.16   | Breakers for High Service Lighting Panel |
| 01/23/2023 | 315    | Border States       | Water          | \$ 428.28   | High Service Pump Control Standarization |
| 01/23/2023 | 315    | Border States       | Water          | \$ 856.56   | Indicator Lights for High Service Transf |
| 01/23/2023 | 315    | Border States       | Water          | \$ 3,489.75 | Thin Client Software Support and Upgrade |
| 01/23/2023 | 858686 | Bright & Beautiful  | Solid Waste    | \$ 6,000.00 | Annual Support                           |
| 01/23/2023 | 858686 | Bright & Beautiful  | Str Maint      | \$ 6,000.00 | Annual Support                           |
| 01/23/2023 | 858698 | Cop Construction    | Water          | \$ 3,339.43 | Retainage Release                        |
| 01/23/2023 | 858703 | Data Imaging System | Building       | \$ 4,999.01 | 2016 plans converted to PDF              |
| 01/23/2023 | 858705 | Desert Mt Corp      | Street/Traffic | \$ 4,785.75 | inv#22-103401ice slicer                  |
| 01/23/2023 | 858707 | DOWL                | Planning       | \$ 6,756.03 | Billings ByPass Corridor Study Final     |
| 01/23/2023 | 858707 | DOWL                | Planning       | \$ 1,605.00 | BILLINGS CTSP UPDATE                     |
| 01/23/2023 | 858714 | First MT Title      | CDBG           | \$15,000.00 | FTHB Cynthia Johnson 517 S. 37th St.     |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 9.78     | P1-19760-02                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 20.97    | P1-19894-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 84.96    | P1-19894-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 64.64    | P1-19894-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 468.72   | P1-19894-02                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 7.42     | P1-19955-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 33.68    | P1-19955-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 6.42     | P1-19955-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 111.88   | P1-19955-02                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 3.36     | P1-20027-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 20.31    | P1-20027-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 11.72    | P1-20027-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 61.44    | P1-20027-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 15.60    | P1-20191-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 6.72     | P1-20191-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 15.28    | P1-20191-02                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 30.72    | P1-20191-02                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 67.89    | P1-20293-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 4.83     | P1-20293-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 15.12    | P1-20293-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 63.18    | P1-20293-01                              |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 3.32     | P1-20293-02                              |

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|------------|--------|---------------------|----------------|--------------|------------------------------------------------------------------|
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 12.29     | P1-20421-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 68.60     | P1-20421-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 23.82     | P1-20421-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 9.78      | P1-20500-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 38.39     | P1-20500-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 23.44     | P1-20500-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 3.58      | P1-20500-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 27.96     | P1-20855-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 3.44      | P1-20855-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 10.68     | P1-20855-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 4.20      | P1-20855-01                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 38.39     | P1-20855-02                                                      |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 22.10     | U-05594                                                          |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 49.74     | U-05594                                                          |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 22.26     | U-05670                                                          |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 22.26     | U-05761                                                          |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 44.52     | U-05818                                                          |
| 01/23/2023 | 316    | Galles Filter       | Fleet          | \$ 41.94     | U-06095                                                          |
| 01/23/2023 | 316    | Galles Filter       | Public Safety  | \$ 91.58     | 20080.009999999998                                               |
| 01/23/2023 | 316    | Galles Filter       | Solid Waste    | \$ 975.02    | Outer Air Element                                                |
| 01/23/2023 | 316    | Galles Filter       | Solid Waste    | \$ 286.74    | Outer Air Element                                                |
| 01/23/2023 | 316    | Galles Filter       | Solid Waste    | \$ 371.19    | Outer Air Element                                                |
| 01/23/2023 | 316    | Galles Filter       | Solid Waste    | \$ 449.32    | Outer Air Element                                                |
| 01/23/2023 | 316    | Galles Filter       | Solid Waste    | \$ 564.59    | Outer Air Element                                                |
| 01/23/2023 | 316    | Galles Filter       | Street/Traffic | \$ 24.74     | 5729                                                             |
| 01/23/2023 | 316    | Galles Filter       | Street/Traffic | \$ 24.74     | 19970.009999999998                                               |
| 01/23/2023 | 316    | Galles Filter       | Water          | \$ 10.06     | NONSTOCKING ITEMS-P.U.D.                                         |
| 01/23/2023 | 858720 | Good Earth Works    | Park Dist 1    | \$ 56,403.86 | WO 22-08 Central Park Tennis Court replacement                   |
| 01/23/2023 | 858724 | Gratitude in Action | CDBG           | \$ 2,500.00  | CDBG-CV Grant / Gratitude in Action - Housing Project            |
| 01/23/2023 | 858726 | H&E Equipt          | Solid Waste    | \$ 10,000.00 | Mobile/Portable Light Towers for the Billings Regional Landfill. |
| 01/23/2023 | 317    | HDR                 | Wastewater     | \$ 3,025.77  | WO 19-21 WRF Influent Lift Station                               |
| 01/23/2023 | 317    | HDR                 | Wastewater     | \$ 25,832.29 | WO 20-44 WRF Nutrient Recovery Improvements Project              |
| 01/23/2023 | 317    | HDR                 | Wastewater     | \$ 6,322.77  | Yellowstone River Water Quality Study                            |
| 01/23/2023 | 317    | HDR                 | Water          | \$ 19,548.15 | WO 19-12 West End Reservoir                                      |

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| 01/23/2023 | 317    | HDR                  | Water          | \$ 4,238.60 | WO 23-19 High Service Pump Station Piping Modifications |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Fleet          | \$ 19.20    | 1733918                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | General        | \$ 141.16   | 1733391                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Public Safety  | \$ 53.76    | 1734548                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Solid Waste    | \$ 118.16   | 1737016                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Solid Waste    | \$ 124.88   | 1737688                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Solid Waste    | \$ 45.99    | 1737735                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Solid Waste    | \$ 89.52    | 1738612                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Solid Waste    | \$ 120.24   | 1738812                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Solid Waste    | \$ 351.80   | 1738874                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Solid Waste    | \$ 73.53    | 1738878                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Solid Waste    | \$ 137.02   | 1739041                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Solid Waste    | \$ 63.23    | 1739131                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Solid Waste    | \$ 173.70   | 1739192                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Street/Traffic | \$ 296.35   | 1736810                                                 |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Wastewater     | \$ 12.00    | NONSTOCKING ITEMS-P.U.D.                                |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Wastewater     | \$ 1,045.14 | UV Rebuild                                              |
| 01/23/2023 | 858735 | Hose & Rubber Supply | Water          | \$ 34.66    | Hose for Drill Pump                                     |
| 01/23/2023 | 858738 | I-State Truck        | Public Safety  | \$ 119.10   | C251346963.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 163.44   | C251346249.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 357.32   | C251346253.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 66.52    | C251346304.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 32.16    | C251346368.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 570.97   | C251346387.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 61.05    | C251346387.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 56.59    | C251346387.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 167.73   | C251346530.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 50.00    | C251346530.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 136.20   | C251346847.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 717.48   | C251347247.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ 244.37   | C251347247.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Solid Waste    | \$ (244.37) | C251347710.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Street/Traffic | \$ 127.78   | C251345673.01                                           |
| 01/23/2023 | 858738 | I-State Truck        | Street/Traffic | \$ 107.81   | C251345673.01                                           |

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| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 156.06   | C251345673.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 163.50   | C251345673.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 48.33    | C251345673.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 209.11   | C251345673.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 43.15    | C251345673.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 34.94    | C251345673.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 697.52   | C251345673.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 33.37    | C251345673.02        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 64.48    | C251345673.02        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 64.64    | C251345673.02        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 259.79   | C251346102.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 126.93   | C251346419.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 126.93   | C251346419.02        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 52.93    | C251346511.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 50.00    | C251346559.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 16.80    | C251346559.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 244.37   | C251346631.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 540.66   | C251346631.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 717.48   | C251346631.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 636.19   | C251346631.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ (141.98) | C251346676.01/8022.1 |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 101.78   | C251346790.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 80.49    | C251346799.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 21.94    | C251346953.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 287.50   | C251347408.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ 1,286.80 | C251347408.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ (244.37) | C251347710.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ (287.50) | C251347710.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ (33.37)  | C251348022.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ (127.78) | C251348022.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ (48.33)  | C251348022.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ (34.94)  | C251348022.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ (43.15)  | C251348022.01        |
| 01/23/2023 | 858738 | I-State Truck | Street/Traffic | \$ (64.64)  | C251348022.01        |

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|------------|--------|--------------------|----------------|--------------|-------------------------------------------------------|
| 01/23/2023 | 858738 | I-State Truck      | Street/Traffic | \$ 79.38     | C251348022.01                                         |
| 01/23/2023 | 858738 | I-State Truck      | Street/Traffic | \$ (64.48)   | C251348022.01                                         |
| 01/23/2023 | 858738 | I-State Truck      | Wastewater     | \$ 89.09     | C251346087.01                                         |
| 01/23/2023 | 858743 | Jacobs Engineering | Solid Waste    | \$ 22,583.75 | WO 22-27 Landfill Gas Emissions Compliance            |
| 01/23/2023 | 858750 | Kittelson & Assoc  | Planning       | \$ 29,962.21 | 2023 Billings Urban Area LRTP                         |
| 01/23/2023 | 858750 | Kittelson & Assoc  | Planning       | \$ 28,503.15 | 2023 Billings Urban Area LRTP                         |
| 01/23/2023 | 858751 | Knife River        | SID Const      | \$ 14,404.75 | SID 1417 Elysian Road                                 |
| 01/23/2023 | 318    | Kois Brothers      | Solid Waste    | \$ 7,176.07  | 56743                                                 |
| 01/23/2023 | 318    | Kois Brothers      | Solid Waste    | \$ 2,290.91  | 127865                                                |
| 01/23/2023 | 318    | Kois Brothers      | Solid Waste    | \$ 108.30    | 128037                                                |
| 01/23/2023 | 318    | Kois Brothers      | Solid Waste    | \$ 155.42    | 128058                                                |
| 01/23/2023 | 318    | Kois Brothers      | Solid Waste    | \$ 1,230.18  | 128079                                                |
| 01/23/2023 | 318    | Kois Brothers      | Solid Waste    | \$ 240.97    | 128093                                                |
| 01/23/2023 | 318    | Kois Brothers      | Solid Waste    | \$ 48,100.00 | 10 - 6 cubic yard front load dumpsters                |
| 01/23/2023 | 318    | Kois Brothers      | Solid Waste    | \$ 8,937.50  | Freight.                                              |
| 01/23/2023 | 318    | Kois Brothers      | Street/Traffic | \$ 65.83     | 127800                                                |
| 01/23/2023 | 318    | Kois Brothers      | Street/Traffic | \$ 922.44    | 127800                                                |
| 01/23/2023 | 318    | Kois Brothers      | Street/Traffic | \$ 345.76    | 127800                                                |
| 01/23/2023 | 318    | Kois Brothers      | Street/Traffic | \$ 36.76     | mudflap mounting brackets for unit 1150               |
| 01/23/2023 | 318    | Kois Brothers      | Street/Traffic | \$ 81.48     | front cover/seal ring/retainer ring for unit 1116     |
| 01/23/2023 | 858753 | Kone               | Library        | \$ 11,113.68 | 962408228 Library annual maintenance 1/2023 - 12/2023 |
| 01/23/2023 | 858753 | Kone               | Parking        | \$ 420.00    | 962416661_Maintenance Period 12/1/2022-12/31/2022     |
| 01/23/2023 | 858753 | Kone               | Parking        | \$ 420.00    | 962416661_Maintenance Period 12/1/2022-12/31/2022     |
| 01/23/2023 | 858753 | Kone               | Parking        | \$ 420.00    | 962416661_Maintenance Period 12/1/2022-12/31/2022     |
| 01/23/2023 | 858758 | Land Design        | Park Dist 1    | \$ 5,096.95  | master plan for cottonwood park-016499                |
| 01/23/2023 | 858777 | Motorola Solutions | Public Safety  | \$ 1,908.00  | 8230330241, Crime stoppers July 2021-July2022         |
| 01/23/2023 | 858777 | Motorola Solutions | Public Safety  | \$ 1,908.00  | 8230371402, crime stoppers July2022-July 2023         |
| 01/23/2023 | 858773 | MT Peterbilt       | Fleet          | \$ 85.47     | 63499B                                                |
| 01/23/2023 | 858773 | MT Peterbilt       | Fleet          | \$ 129.96    | 63499B                                                |
| 01/23/2023 | 858773 | MT Peterbilt       | Fleet          | \$ 115.22    | 63499B                                                |
| 01/23/2023 | 858773 | MT Peterbilt       | Solid Waste    | \$ 2,033.20  | 56341B                                                |
| 01/23/2023 | 858773 | MT Peterbilt       | Solid Waste    | \$ 71.64     | 56341B                                                |
| 01/23/2023 | 858773 | MT Peterbilt       | Solid Waste    | \$ 164.00    | 56341B                                                |
| 01/23/2023 | 858773 | MT Peterbilt       | Solid Waste    | \$ 355.81    | 59921B                                                |

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|------------|--------|---------------------|----------------|-------------|--------------------------------------------------------------------|
| 01/23/2023 | 858773 | MT Peterbilt        | Solid Waste    | \$ 364.78   | 60712B                                                             |
| 01/23/2023 | 858773 | MT Peterbilt        | Solid Waste    | \$ 69.05    | 60859B                                                             |
| 01/23/2023 | 858773 | MT Peterbilt        | Solid Waste    | \$ 82.00    | 60859B                                                             |
| 01/23/2023 | 858773 | MT Peterbilt        | Solid Waste    | \$ 557.41   | 60859B                                                             |
| 01/23/2023 | 858773 | MT Peterbilt        | Solid Waste    | \$ 356.03   | 60916B                                                             |
| 01/23/2023 | 858773 | MT Peterbilt        | Solid Waste    | \$ 5.03     | CM60116B                                                           |
| 01/23/2023 | 858773 | MT Peterbilt        | Solid Waste    | \$ (71.64)  | CM60116B                                                           |
| 01/23/2023 | 858773 | MT Peterbilt        | Solid Waste    | \$ (69.05)  | CM60859B                                                           |
| 01/23/2023 | 858773 | MT Peterbilt        | Street/Traffic | \$ 161.68   | 60829B                                                             |
| 01/23/2023 | 858773 | MT Peterbilt        | Street/Traffic | \$ 161.68   | 60830B                                                             |
| 01/23/2023 | 858778 | Mt W Medical & Lab  | Water          | \$ 975.00   | WTP - Lab, Tuttnauer Service call                                  |
| 01/23/2023 | 858778 | Mt W Medical & Lab  | Water          | \$ 7,223.00 | WTP Lab - Tuttnauer EZ10K                                          |
| 01/23/2023 | 858781 | Network Info System | Parking        | \$ 800.00   | Computer or Network Service for all Parking Garages                |
| 01/23/2023 | 858781 | Network Info System | Parking        | \$ 800.00   | Computer or Network Service for all Parking Garages                |
| 01/23/2023 | 858781 | Network Info System | Parking        | \$ 800.00   | Computer or Network Service for all Parking Garages                |
| 01/23/2023 | 858781 | Network Info System | Parking        | \$ 800.00   | Computer or Network Service for all Parking Garages                |
| 01/23/2023 | 858781 | Network Info System | Solid Waste    | \$ 790.00   | Computer and network service. Misc cable parts & radios. Landfill. |
| 01/23/2023 | 319    | Northwest Pipe      | Street/Traffic | \$ 1,065.07 | hot dawg heater for sign room                                      |
| 01/23/2023 | 319    | Northwest Pipe      | Wastewater     | \$ 86.91    | 6' PVC Sewer Solvent FIP adapter, plug,                            |
| 01/23/2023 | 319    | Northwest Pipe      | Wastewater     | \$ 82.99    | adapters, plugs                                                    |
| 01/23/2023 | 319    | Northwest Pipe      | Wastewater     | \$ 898.00   | heater fittings                                                    |
| 01/23/2023 | 319    | Northwest Pipe      | Wastewater     | \$ 259.52   | Northwest Pipe 7852023                                             |
| 01/23/2023 | 319    | Northwest Pipe      | Wastewater     | \$ 116.79   | Primary Pumping supplies                                           |
| 01/23/2023 | 319    | Northwest Pipe      | Wastewater     | \$ 305.12   | supplies                                                           |
| 01/23/2023 | 319    | Northwest Pipe      | Water          | \$ 314.10   | 1" COMPRESSION COUPLING SLIP                                       |
| 01/23/2023 | 319    | Northwest Pipe      | Water          | \$ 31.08    | 1" PVC SCH 80 SXS - COUPLING                                       |
| 01/23/2023 | 319    | Northwest Pipe      | Water          | \$ 644.70   | 1-1/2" TD T-10 MEASURING CHAMBER COMPLETE                          |
| 01/23/2023 | 319    | Northwest Pipe      | Water          | \$ 331.66   | 2" MEASURING CHAMBER COMPLETE                                      |
| 01/23/2023 | 319    | Northwest Pipe      | Water          | \$ 84.80    | 2-1/2" LIQUID FILLED 0 TO 160 - 1/4" GAUGE                         |
| 01/23/2023 | 319    | Northwest Pipe      | Water          | \$ 679.38   | 4" X 20" CI-FC REPAIR CLAMP - F1-514 X 20 SH                       |
| 01/23/2023 | 319    | Northwest Pipe      | Water          | \$ 1,039.60 | 8" X 20" CI-FC REPAIR CLAMP - F1-939 X20-SH                        |
| 01/23/2023 | 319    | Northwest Pipe      | Water          | \$ 83.88    | adapters for WTP chem bldg                                         |
| 01/23/2023 | 319    | Northwest Pipe      | Water          | \$ 144.20   | BLACK NIPPLE 1-1/4" X 12"                                          |
| 01/23/2023 | 319    | Northwest Pipe      | Water          | \$ 9,150.00 | coupling to repair 24" water main                                  |

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| 01/23/2023 | 319    | Northwest Pipe      | Water       | \$ 1,057.92  | CURB BOX LID W/PLUG 1-1/4"                |
| 01/23/2023 | 319    | Northwest Pipe      | Water       | \$ 848.91    | K81 UPPER STEM WITH FERRULE - K81 HYDRANT |
| 01/23/2023 | 319    | Northwest Pipe      | Water       | \$ 389.64    | LSPS #1 Heater Replacement parts          |
| 01/23/2023 | 319    | Northwest Pipe      | Water       | \$ 6,328.20  | Meter                                     |
| 01/23/2023 | 319    | Northwest Pipe      | Water       | \$ 135.19    | PW Water Plant H1, gaskets                |
| 01/23/2023 | 319    | Northwest Pipe      | Water       | \$ 50.19     | PW Water Plant H1-adapters, bushing       |
| 01/23/2023 | 319    | Northwest Pipe      | Water       | \$ 39,642.00 | R-900 ENHANCED WALL RR - MIU 13341-200    |
| 01/23/2023 | 319    | Northwest Pipe      | Water       | \$ 2,208.92  | smart meter,metal mounting bracket        |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,210.51  | SILMD 10 Acct# 0712546-1                  |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 2,264.32  | SILMD 100 Acct# 0712559-4                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,908.74  | SILMD 107 Acct# 0712560-2                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 4,786.98  | SILMD 109 Acct# 0712561-0                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 228.72    | SILMD 113 Acct# 0712562-8                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,030.11  | SILMD 114 Acct# 0712563-6                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 242.39    | SILMD 115 Acct# 0712564-4                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 636.24    | SILMD 116 Acct# 0712565-1                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 3,462.17  | SILMD 117 Acct# 0712566-9                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 222.07    | SILMD 118 Acct# 0712567-7                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 135.28    | SILMD 119 Acct# 0712568-5                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 2,726.76  | SILMD 121 Acct# 0712570-1                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 204.39    | SILMD 122 Acct# 0712571-9                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 363.57    | SILMD 123 Acct# 0712572-7                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,060.43  | SILMD 124 Acct# 0712573-5                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 424.15    | SILMD 125 Acct# 0712574-3                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 212.09    | SILMD 126 Acct# 0712575-0                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 766.41    | SILMD 127 Acct# 0712576-8                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 536.49    | SILMD 128 Acct# 0712577-6                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 363.57    | SILMD 129 Acct# 0712578-4                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 5,225.27  | SILMD 13 Acct# 0721276-4                  |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 129.98    | SILMD 130 Acct# 0712579-2                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 939.21    | SILMD 131 Acct# 0712580-0                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 241.36    | SILMD 133 Acct# 0712581-8                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 557.04    | SILMD 134 Acct# 0712582-6                 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 562.03    | SILMD 135 Acct# 0712583-4                 |

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| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 406.88   | SILMD 137 Acct# 0712585-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 818.03   | SILMD 138 Acct# 0712586-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 272.68   | SILMD 139 Acct# 0712587-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 2,550.69 | SILMD 14 Acct# 0721277-2  |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 636.24   | SILMD 143 Acct# 0712588-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 30.28    | SILMD 144 Acct# 0712589-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 510.95   | SILMD 145 Acct# 0712590-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 393.85   | SILMD 146 Acct# 0712591-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 478.85   | SILMD 147 Acct# 0712592-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,783.52 | SILMD 149 Acct# 0712593-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 817.51   | SILMD 150 Acct# 0712594-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 696.83   | SILMD 151 Acct# 0712595-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 4,702.68 | SILMD 152 Acct# 0712596-6 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 587.58   | SILMD 153 Acct# 0712597-4 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,328.48 | SILMD 154 Acct# 0712598-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 545.36   | SILMD 155 Acct# 0712599-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 996.34   | SILMD 157 Acct# 0712600-6 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 878.64   | SILMD 158 Acct# 0712601-4 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,058.27 | SILMD 159 Acct# 0712602-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 787.74   | SILMD 160 Acct# 0712603-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,149.65 | SILMD 161 Acct# 0712604-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 51.65    | SILMD 162 Acct# 0712605-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 851.78   | SILMD 163 Acct# 0712606-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 408.76   | SILMD 164 Acct# 0712607-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 969.51   | SILMD 165 Acct# 0712608-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 255.46   | SILMD 167 Acct# 0712609-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,257.65 | SILMD 17 Acct# 0712553-7  |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 613.15   | SILMD 171 Acct# 0712610-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 557.01   | SILMD 172 Acct# 0712611-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,277.36 | SILMD 173 Acct# 0712612-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,072.98 | SILMD 174 Acct# 0712613-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 357.65   | SILMD 175 Acct# 0712614-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 36.89    | SILMD 176 Acct# 0712615-4 |

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| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 281.02   | SILMD 178 Acct# 0712616-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 562.03   | SILMD 179 Acct# 0712617-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 111.55   | SILMD 18 Acct# 0712554-5  |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 383.22   | SILMD 180 Acct# 0712618-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,848.15 | SILMD 181 Acct# 0712619-6 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 638.69   | SILMD 182 Acct# 0712620-4 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,277.35 | SILMD 183 Acct# 0712621-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 408.76   | SILMD 184 Acct# 0712622-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 153.29   | SILMD 185 Acct# 0712623-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 771.14   | SILMD 186 Acct# 0712624-6 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 255.46   | SILMD 187 Acct# 0712625-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 306.57   | SILMD 188 Acct# 0712626-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 255.46   | SILMD 189 Acct# 0712627-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,328.48 | SILMD 190 Acct# 0712628-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 455.97   | SILMD 191 Acct# 0712629-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 332.10   | SILMD 192 Acct# 0712630-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 817.51   | SILMD 193 Acct# 0712631-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 338.22   | SILMD 194 Acct# 0712632-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 270.59   | SILMD 195 Acct# 0712633-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 86.51    | SILMD 196 Acct# 0712634-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 86.51    | SILMD 197 Acct# 0712635-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 127.74   | SILMD 198 Acct# 0712636-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 125.76   | SILMD 200 Acct# 0712637-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 536.49   | SILMD 201 Acct# 0712638-6 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 23.06    | SILMD 203 Acct# 0712640-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 512.16   | SILMD 204 Acct# 0712641-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 29.51    | SILMD 205 Acct# 0712642-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 357.65   | SILMD 206 Acct# 0712643-6 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 408.76   | SILMD 207 Acct# 0712644-4 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 314.44   | SILMD 208 Acct# 0712645-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 587.58   | SILMD 209 Acct# 0712646-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 103.81   | SILMD 210 Acct# 0712647-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 57.68    | SILMD 211 Acct# 0712648-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 57.68    | SILMD 212 Acct# 0712649-3 |

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| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 34.60    | SILMD 213 Acct# 0712650-1 |
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| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 153.29   | SILMD 216 Acct# 0712652-7 |
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| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 322.37   | SILMD 220 Acct# 0712654-3 |
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| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 91.41    | SILMD 222 Acct# 0712656-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 138.40   | SILMD 223 Acct# 0712657-6 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,566.54 | SILMD 224 Acct# 0712658-4 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 490.78   | SILMD 225 Acct# 0712659-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 263.53   | SILMD 226 Acct# 0712660-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 747.58   | SILMD 227 Acct# 0712661-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 878.64   | SILMD 228 Acct# 0712662-6 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 454.47   | SILMD 229 Acct# 0712663-4 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,060.41 | SILMD 230 Acct# 0712664-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 636.24   | SILMD 231 Acct# 0712665-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 2,757.06 | SILMD 232 Acct# 0712666-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,009.80 | SILMD 233 Acct# 0712667-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 570.96   | SILMD 234 Acct# 0712668-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 638.61   | SILMD 235 Acct# 0712669-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 202.92   | SILMD 236 Acct# 0712670-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 434.31   | SILMD 237 Acct# 0712671-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 14.75    | SILMD 238 Acct# 0712672-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 102.19   | SILMD 239 Acct# 0712673-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 487.03   | SILMD 240 Acct# 0712674-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 638.50   | SILMD 241 Acct# 0712675-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 90.89    | SILMD 242 Acct# 0712676-6 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 121.19   | SILMD 244 Acct# 0712677-4 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 81.02    | SILMD 245 Acct# 0712678-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 363.57   | SILMD 246 Acct# 0712679-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,075.01 | SILMD 247 Acct# 0712680-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 2,999.43 | SILMD 249 Acct# 0718734-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 243.54   | SILMD 250 Acct# 0719001-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 4,248.50 | SILMD 251 Acct# 0718801-4 |

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| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 605.95   | SILMD 252 Acct# 0719162-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,995.08 | SILMD 253 Acct# 0719644-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 182.81   | SILMD 254 Acct# 0719763-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 206.08   | SILMD 255 Acct# 0720813-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,086.38 | SILMD 257 Acct# 0720360-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 2,863.91 | SILMD 258 Acct# 0720606-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,726.57 | SILMD 259 Acct# 0720810-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 545.36   | SILMD 261 Acct# 0720705-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 3,390.52 | SILMD 262 Acct# 0720937-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,206.42 | SILMD 263 Acct# 0720716-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 199.42   | SILMD 264 Acct# 0721427-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 397.72   | SILMD 265 Acct# 0721556-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 70.92    | SILMD 266 Acct# 0721684-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 532.02   | SILMD 270 Acct# 0906944-4 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,048.28 | SILMD 271 Acct# 0995095-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 3,104.21 | SILMD 272 Acct# 0905005-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 225.11   | SILMD 273 Acct# 0926386-4 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 579.59   | SILMD 276 Acct# 0961926-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 934.75   | SILMD 277 Acct# 1058710-3 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 257.04   | SILMD 278 Acct# 1087619-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 64.97    | SILMD 279 Acct# 1124127-0 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 703.49   | SILMD 280 Acct# 1045653-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 569.36   | SILMD 283 Acct# 1172743-5 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 358.08   | SILMD 285 Acct# 1206985-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 267.86   | SILMD 286 Acct# 1296582-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 2,035.81 | SILMD 288 Acct# 1303978-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 271.47   | SILMD 289 Acct# 1685375-6 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 178.39   | SILMD 290 Acct# 1433921-2 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 666.53   | SILMD 292 Acct# 1481532-8 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 255.46   | SILMD 293 Acct# 1481534-4 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 510.95   | SILMD 294 Acct# 1481535-1 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 121.19   | SILMD 295 Acct# 1481536-9 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 1,354.01 | SILMD 296 Acct# 1481537-7 |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint | \$ 229.93   | SILMD 297 Acct# 1481539-3 |

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| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 204.39    | SILMD 298 Acct# 1481540-1     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 448.53    | SILMD 300 Acct# 1662840-6     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 6,220.53  | SILMD 301 Acct# 1687005-7     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 416.71    | SILMD 302 Acct# 1607534-3     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 1,306.40  | SILMD 305 Acct# 1695873-8     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 263.36    | SILMD 306 Acct# 1740353-6     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 3,996.27  | SILMD 307 Acct# 2049005-8     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 297.62    | SILMD 308 Acct# 2072459-7     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 497.97    | SILMD 309 Acct# 2001311-6     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 319.35    | SILMD 310 Acct# 2060519-2     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 389.54    | SILMD 311 Acct# 3014475-2     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 337.77    | SILMD 312 Acct# 3146127-0     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 611.06    | SILMD 315 Acct# 3305804-1     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 1,334.48  | SILMD 316 Acct# 3291842-7     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 132.68    | SILMD 317 Acct# 3253826-6     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 905.82    | SILMD 318 Acct# 3372018-6     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 66.57     | SILMD 320 Acct# 0712569-3     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 688.61    | SILMD 321 Acct# 3338917-2     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 131.54    | SILMD 322 Acct# 3402033-9     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 1,139.30  | SILMD 323 Acct# 3597170-4     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 476.32    | SILMD 324 Acct# 1246537-3     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 357.43    | SILMD 325 Acct# 3587598-8     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 158.92    | SILMD 326 Acct# 3840455-4     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 204.39    | SILMD 327 Acct# 3810801-5     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 969.65    | SILMD 328 Acct# 3894879-0     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 121.39    | SILMD 329 Acct# 3939032-3     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 352.56    | SILMD 330 Acct# 3951594-5     |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 422.49    | SILMD 8 Acct# 0712544-6       |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 391.17    | SILMD 9 Acct# 0712545-3       |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 602.26    | SILMD 95 Acct# 0712556-0      |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 10,722.20 | SILMD 97 Acct# 0712557-8      |
| 01/23/2023 | 858788 | NorthWestern Energy | Light Maint    | \$ 1,209.26  | SILMD 99 Acct# 0712558-6      |
| 01/23/2023 | 858788 | NorthWestern Energy | Street/Traffic | \$ 15,297.29 | Signal Bills 1.17.2023        |
| 01/23/2023 | 858790 | Petty Cash CCSIU    | PD Program     | \$ 2,946.30  | Reimbursement of PE/PI money. |

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| 01/23/2023 | 858792 | Precise MRM        | Building        | \$ 3,260.48  | Annual LIGO Subscription 02/28/23 - 02/2                          |
| 01/23/2023 | 858792 | Precise MRM        | CDBG            | \$ 271.71    | Annual LIGO Subscription 02/28/23 - 02/2                          |
| 01/23/2023 | 858792 | Precise MRM        | Engineering     | \$ 1,901.94  | Annual LIGO Subscription 02/28/23 - 02/2                          |
| 01/23/2023 | 858792 | Precise MRM        | General         | \$ 1,901.94  | Annual LIGO Subscription 02/28/23 - 02/2                          |
| 01/23/2023 | 858792 | Precise MRM        | Planning        | \$ 271.71    | Annual LIGO Subscription 02/28/23 - 02/2                          |
| 01/23/2023 | 858792 | Precise MRM        | Street/Traffic  | \$ 20,377.97 | Annual LIGO Subscription 02/28/23 - 02/2                          |
| 01/23/2023 | 858792 | Precise MRM        | Street/Traffic  | \$ 892.33    | LMU-2630, wired, W/ Internal battery & P                          |
| 01/23/2023 | 858792 | Precise MRM        | Street/Traffic  | \$ 1,020.00  | Subscription for 5 new devices (1 year)                           |
| 01/23/2023 | 858792 | Precise MRM        | Wastewater      | \$ 1,521.56  | Annual LIGO Subscription 02/28/23 - 02/2                          |
| 01/23/2023 | 858792 | Precise MRM        | Water           | \$ 2,445.36  | Annual LIGO Subscription 02/28/23 - 02/2                          |
| 01/23/2023 | 858792 | Precise MRM        | Water           | \$ 2,282.33  | Annual LIGO Subscription 02/28/23 - 02/2                          |
| 01/23/2023 | 858796 | Rimrock Foundation | Court Grants    | \$ 5,381.46  | 22 Dec. Rimrock Treatment                                         |
| 01/23/2023 | 858796 | Rimrock Foundation | Court Grants    | \$ 2,111.07  | 22 Dec. Rimrock Treatment                                         |
| 01/23/2023 | 858800 | Sanderson Stewart  | Tax Incrmnt N27 | \$ 7,303.90  | WO 23-09 5th Ace Corridor - Phase 1 Preliminary Design            |
| 01/23/2023 | 858809 | Solid Waste System | Fleet           | \$ 935.57    | 0151914-IN                                                        |
| 01/23/2023 | 858809 | Solid Waste System | Fleet           | \$ 470.40    | 0151914-IN                                                        |
| 01/23/2023 | 858809 | Solid Waste System | Solid Waste     | \$ 1,604.80  | 148166                                                            |
| 01/23/2023 | 858809 | Solid Waste System | Solid Waste     | \$ 8,069.35  | 150782                                                            |
| 01/23/2023 | 858811 | St MT- Bldng Codes | Building        | \$ 6,436.00  | July-December 2022 Education Fund Assessment Payment              |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ -         | 24/7 SUPPORT FOR AS LONG AS YOU OWN THE EQUIPMENT                 |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 24,000.00 | 2ND INSTRUCTOR INCLUDED FOR EACH OF THE SIX (6) LOCATIONS.        |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 9,000.00  | 4-DAYS TRAINING & ONSITE SETUP                                    |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 5,994.00  | DJI ENTERPRISE SHEILD BASIC RENEW PROTECTION FOR H20T CAMERA      |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 5,394.00  | DJI ENTERPRISE SHIELD BASIC RENEW PROTECTION PLAN FOR MATRICE 300 |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 5,913.00  | HPRC MATRICE 300 CASE                                             |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 79,194.00 | M300 PACKAGE W/MATRICE 300 RTK KIT                                |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 1,500.00  | MATRICE 300 DUAL GIMBAL MOUNT                                     |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 7,500.00  | MATRICE 300 SMART CONTROLLER (2ND)                                |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ -         | SOP-PLICY DEVELOPMENT ASSISTANCE                                  |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 25,200.00 | TB 60 Intelligent flight batteries- 8 total/Aircraft              |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 7,500.00  | UNIVERSAL GAS-RADIATION METER MOUNT CAPATIBLE W/M300 SERIES       |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ -         | UNLIMITED ACCESS MATRICE 300 ONLING TRAINING                      |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ -         | UNLIMITED ACCESS TOSTEEL CITY DRONES PART 107 ONLINE COURSE       |
| 01/23/2023 | 858812 | Steel City Drones  | Fire Grants     | \$ 58,854.00 | ZENMUSE H20T 4in1 CAMERA W/1-YR BASIC SHIELD CRASH PROTECTION.    |

| Check Date | Check# | Name             | Fund Name     | Amount       | Item Desc                                               |
|------------|--------|------------------|---------------|--------------|---------------------------------------------------------|
| 01/23/2023 | 858813 | Stevens Brothers | Facilities    | \$ 2,744.85  | Filters for Stillwater                                  |
| 01/23/2023 | 858813 | Stevens Brothers | Public Safety | \$ 427.25    | DISPATCH 1944: URINAL & UTILITY SINK - FLUSH VALVE      |
| 01/23/2023 | 858813 | Stevens Brothers | Public Safety | \$ 3,953.70  | REGISTER LEAKS IN CAPTAIN OFFICE & BEDROOM              |
| 01/23/2023 | 858818 | T-O ENGINEERS    | Airport       | \$ 2,800.00  | Invoice #220761-1. Mid Field Access Road IFE            |
| 01/23/2023 | 858818 | T-O ENGINEERS    | Airport       | \$ 2,800.00  | Invoice #220762-1. Commercial Apron Schedule 4 IFE      |
| 01/23/2023 | 323    | Town & Co Supply | Airport       | \$ 23,315.49 | Invoice #432058. Unleaded for QTA Car Rental            |
| 01/23/2023 | 323    | Town & Co Supply | Fleet         | \$ 7,965.88  | 433894                                                  |
| 01/23/2023 | 323    | Town & Co Supply | Fleet         | \$ 3.12      | 433894                                                  |
| 01/23/2023 | 323    | Town & Co Supply | Fleet         | \$ 5,309.48  | 433894                                                  |
| 01/23/2023 | 323    | Town & Co Supply | Fleet         | \$ 4,641.65  | 433894                                                  |
| 01/23/2023 | 323    | Town & Co Supply | Fleet         | \$ 4,588.90  | 433894                                                  |
| 01/23/2023 | 323    | Town & Co Supply | Public Safety | \$ 3,015.06  | 433868 FIRE 5, 1, 2                                     |
| 01/23/2023 | 323    | Town & Co Supply | Transit       | \$ 5,274.60  | 433855. 2000 Gallons Unleades                           |
| 01/23/2023 | 323    | Town & Co Supply | Wastewater    | \$ 2,422.02  | WWTP FUEL                                               |
| 01/23/2023 | 323    | Town & Co Supply | Water         | \$ 15,771.86 | WATER PARTS AND SUPPLIES PO NUM 315381                  |
| 01/23/2023 | 324    | Tractor & Equipt | Wastewater    | \$ 5,700.30  | NONSTOCKING ITEMS-P.U.D.                                |
| 01/23/2023 | 858822 | Tru Pipe         | Storm Sewer   | \$ 6,234.94  | WO2225 CCTV City Storm Drain Contract                   |
| 01/23/2023 | 858823 | Tyler Tech       | Public Safety | \$ 3,760.00  | Qty. 4 Mobile licenses for CSO -Police                  |
| 01/23/2023 | 858826 | Uniforms2gear    | Public Safety | \$ 1,267.80  | 2022101103, fleece pullovers                            |
| 01/23/2023 | 858826 | Uniforms2gear    | Public Safety | \$ 3,308.20  | U2G 2022110065, gun lights                              |
| 01/23/2023 | 858827 | Verizon Wireless | Airport       | \$ 51.58     | Airport                                                 |
| 01/23/2023 | 858827 | Verizon Wireless | Engineering   | \$ 27.32     | PW-Engineering                                          |
| 01/23/2023 | 858827 | Verizon Wireless | Fleet         | \$ 107.10    | Motor Pool                                              |
| 01/23/2023 | 858827 | Verizon Wireless | General       | \$ 723.84    | City Administrator 0100-13130-403450 -Iffland new phone |
| 01/23/2023 | 858827 | Verizon Wireless | General       | \$ 40.01     | Tina Hoeger Laptop                                      |
| 01/23/2023 | 858827 | Verizon Wireless | General       | \$ 27.32     | Victoria Hill -Laptop                                   |
| 01/23/2023 | 858827 | Verizon Wireless | Park Dist 1   | \$ 52.30     | PRPL-PARKS                                              |
| 01/23/2023 | 858827 | Verizon Wireless | Parking       | \$ (18.20)   | PRKING Enforcement (Parking)                            |
| 01/23/2023 | 858827 | Verizon Wireless | PD Program    | \$ 80.49     | CCSIU Cell/PTT                                          |
| 01/23/2023 | 858827 | Verizon Wireless | PD Program    | \$ 415.00    | CCSIU Cell/PTT                                          |
| 01/23/2023 | 858827 | Verizon Wireless | PD Program    | \$ 80.02     | CCSIU RAVEN                                             |
| 01/23/2023 | 858827 | Verizon Wireless | Phone System  | \$ 40.01     | Test Cradle Point -IT 406.694.2003                      |
| 01/23/2023 | 858827 | Verizon Wireless | Public Safety | \$ 111.02    | Fire MDT                                                |
| 01/23/2023 | 858827 | Verizon Wireless | Public Safety | \$ 40.01     | Fire MDT                                                |

| Check Date | Check# | Name               | Fund Name      | Amount       | Item Desc                                              |
|------------|--------|--------------------|----------------|--------------|--------------------------------------------------------|
| 01/23/2023 | 858827 | Verizon Wireless   | Public Safety  | \$ 268.32    | Fire MDT                                               |
| 01/23/2023 | 858827 | Verizon Wireless   | Public Safety  | \$ 520.17    | MDT Toughbooks                                         |
| 01/23/2023 | 858827 | Verizon Wireless   | Public Safety  | \$ 80.02     | Police iPads                                           |
| 01/23/2023 | 858827 | Verizon Wireless   | Public Safety  | \$ 10.02     | Police MiFi                                            |
| 01/23/2023 | 858827 | Verizon Wireless   | Solid Waste    | \$ -         | PW Dozer Trimble Dozer                                 |
| 01/23/2023 | 858827 | Verizon Wireless   | Solid Waste    | \$ 109.28    | PW-Solid Waste                                         |
| 01/23/2023 | 858827 | Verizon Wireless   | Solid Waste    | \$ 111.58    | PW-SW-ON CALL Solid Waste On Call                      |
| 01/23/2023 | 858827 | Verizon Wireless   | Solid Waste    | \$ 23.93     | PW-SW-ON CALL Solid Waste On Call                      |
| 01/23/2023 | 858827 | Verizon Wireless   | Solid Waste    | \$ 524.52    | Solid Waste Tablets -Routware                          |
| 01/23/2023 | 858827 | Verizon Wireless   | Street/Traffic | \$ 174.67    | PW-Streets iPads                                       |
| 01/23/2023 | 858827 | Verizon Wireless   | Street/Traffic | \$ -         | PW-Streets City Works                                  |
| 01/23/2023 | 858827 | Verizon Wireless   | Street/Traffic | \$ 196.42    | PW-STRT TRFC Streets                                   |
| 01/23/2023 | 858827 | Verizon Wireless   | Transit        | \$ 309.02    | MET AVL                                                |
| 01/23/2023 | 858827 | Verizon Wireless   | Transit        | \$ 970.26    | MET Max Transit                                        |
| 01/23/2023 | 858827 | Verizon Wireless   | Transit        | \$ 1,120.28  | MET Max Transit                                        |
| 01/23/2023 | 858827 | Verizon Wireless   | Wastewater     | \$ 400.10    | MET Tablets                                            |
| 01/23/2023 | 858827 | Verizon Wireless   | Water          | \$ 27.32     | PW Belknap Meter Shop                                  |
| 01/23/2023 | 858827 | Verizon Wireless   | Water          | \$ 27.32     | PWBLKNP Water Treatment                                |
| 01/23/2023 | 858827 | Verizon Wireless   | Water          | \$ 40.01     | PWBLNP Comm-Meter CityWorks/Neptune                    |
| 01/23/2023 | 858827 | Verizon Wireless   | Water          | \$ 94.67     | PWBLNP Comm-Meter CityWorks/Neptune                    |
| 01/23/2023 | 858832 | Yellowstone Co     | Public Safety  | \$ 2,500.00  | Donation for the 2023 Big Sky Drug & Alcohol Symposium |
| 01/23/2023 | 858834 | Yellowstone Co GIS | EOC 911        | \$ 27,500.00 | 911 CENTER - GIS SERVICES                              |

**City Council Regular**

**Date:** 02/27/2023  
**Title:** Public Hearing & Resolution for Nuisance Property Abatement Assessment  
**Presented by:** Andy Zoeller, Finance Director  
**Department:** Finance  
**Presentation:** Yes  
**Legal Review** No

**RECOMMENDATION**

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

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

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

C09303 For the property located at 3294 Windmill Circle in Billings, MT. A case for open storage, trailer stored and unattached on the street and parking inoperable/junk vehicle in neighborhood residential districts. The case was opened on 12/8/21 and a notice sent on that date. The 1st notice was sent back undelivered, hand delivered the 1st notice to the manager at Marriot Residence Inn 956 S. 25th St W. The manager confirmed that James Mill was a long term resident. There was no change to the property, on 1/5/22 a second notice was hand delivered to 956 S. 25th St W. Continued to make contact with James Mill via phone calls, text messages and in person. On 7/14/22 no progress visible, issued a notice to appear in court on August 3rd at 10:30. Appeared in court proved the case in abstention. On 8/4/22 hand delivered the court ordered abatement to James Mill at 3294 Windmill Circle. On 8/31/22 presented photos in Municipal Court of the unchanged status of 3294 Windmill Circle, the judge signed the court ordered abatement. On 10/5/22 the open storage was abated. The amount of \$258.56 is still unpaid.

C00309 For the property located at 824 Dorothy Lane in Billings, MT. A case was started on 8/02/2022 for open storage, junk vehicle, and living in a camper. First notice was also sent out on that date. No progress or compliance was met by next inspection date on 8/15/2022. A second and final notice was sent on 8/17/2022. After the next inspection date there was still no change, so a citation was issued to Robert Morris on 8/29/2022 for a court date on 9/28/2022. Abatement was issued in court on that date and after the 30 day grace period for abatements a walkthrough of the property was done on 10/31/2022 to assess needs for the abatement. An abatement was commenced and finished on 11/02/2022 with the whole entire property cleaned up and multiple trips to recycle metal, and a couple of roll offs going to the landfill. The amount of \$1,156.80 is still unpaid.

**ALTERNATIVES**

City Council may:

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

**FISCAL EFFECTS**

The assessment total is \$1,415.36 and will reimburse the General Fund.

**Attachments**

Resolution Nuisance Abatement

**RESOLUTION NO. 23 \_\_\_\_\_**

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

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

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

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

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

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

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

4. NOTICE OF HEARING. On Monday, February 27, 2023, at 5:30 p.m., or as soon thereafter as the matter could be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council heard objections to the adoption of this resolution. The City Clerk published notice twice, at least five (5) days prior to the hearing, in the Yellowstone County News, as provided in Section 7-1-4127, MCA.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 27<sup>th</sup> day of **February, 2023.**

CITY OF BILLINGS:

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

ATTEST:

BY: \_\_\_\_\_  
Denise R. Bohlman, CITY CLERK

*Exhibit A*

| Owner Name     | Address              | Tax Code | Assessed Amount |
|----------------|----------------------|----------|-----------------|
| Mill, James B  | 3294 Windmill Circle | C09303   | \$258.56        |
| Morris, Robert | 824 Dorothy Lane     | C00309   | \$1,156.80      |

**City Council Regular**

**Date:** 02/27/2023  
**Title:** Public Hearing & Resolution for Weed Assessments  
**Presented by:** Andy Zoeller, Finance Director  
**Department:** Finance  
**Presentation:** Yes  
**Legal Review** Not Applicable

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**RECOMMENDATION**

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

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

Pursuant to the Billings, Montana City Code (BMCC), Section 25-304, property owners are notified in writing and given ten (10) days from the date of the notice of noncompliance to exterminate weeds or tall grass from their property. If owners fail to cut the vegetation, the City may cut it and assess the costs to the real property, together with an additional administrative fee of 25% of the cost of removal, plus a \$25 penalty. If the charges are not paid within a given time, the costs and penalties constitute a lien on the property and special assessments may be levied. The General Fund initially pays the costs, so the collected assessments reimburse those expenses.

The properties on the attached list had weeds removed from them during the growing season, the owners did not pay the charges and the properties may be assessed to recover the costs, penalty and fee.

**ALTERNATIVES**

City Council may:

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

**FISCAL EFFECTS**

The assessments total \$5,877.50 and the payments will reimburse the General Fund.

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**Attachments**

Resolution Weed Abatement

**RESOLUTION NO. 23\_\_\_\_\_**

**A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY WITHIN THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE COST OF CUTTING AND/OR EXTERMINATING WEEDS.**

WHEREAS, Billings, Montana City Code, Section 25-307, provides that the City Clerk shall prepare and present a resolution containing a list of all parcels of land in the City, from which and adjacent to which, the weeds were cut, exterminated and/or removed, and such list shall contain opposite the number of such lots or description of such parcels of land, the name of the owner, if known, and the amount of cost for cutting and removing such weeds.

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

1. LEVYING OF SPECIAL ASSESSMENT. That for the purpose of collecting funds to defray the cost of cutting and removing of weeds, there is hereby levied an assessment upon the owners and the lots or parcels described on the list attached hereto.
2. ASSESSMENT AND COLLECTION. Said assessment shall be placed upon the assessment rolls and collected in the same manner as other assessments.
3. DISPOSITION OF COLLECTIONS. All monies collected from the assessment shall be paid to the General Fund of the City of Billings.

4. NOTICE OF HEARING. On Monday, February 27<sup>th</sup>, 2023, at 5:30 p.m., or as soon thereafter as the matter was considered on the agenda. The City Clerk published notice twice, at least five (5) days prior to the hearing, in the Yellowstone County News.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 27<sup>th</sup> day of February, 2023.

CITY OF BILLINGS:

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

ATTEST:

BY: \_\_\_\_\_  
Denise R. Bohlman, CITY CLERK

## Exhibit A

| <u>NAME</u>                       | <u>MOWING ADDRESS</u>   | <u>TAX CODE</u> | <u>AMOUNT</u>      |
|-----------------------------------|-------------------------|-----------------|--------------------|
| ALBERTSONS LLC                    | 5321 GRAND AVE.         | A33007          | \$ 593.75          |
| ARMPFIELD, SHAWNTELL              | 902 CUSTER AVE          | A03400          | \$ 177.50          |
| BULL, ELKINS AMANDA & ELKINS COLE | 514 S. LAKEVIEW DRIVE   | A28949          | \$ 177.50          |
| FAMILY DOLLAR #1231               | 4188 STATE AVENU        | A20297          | \$ 202.50          |
| FOX, BONNIE M & RYAN L            | 2021 YELLOWSTONE AVENUE | A02748          | \$ 177.50          |
| GONZALES, STEVEN & ALLYSA         | 148 TAM OSHANTER RD     | A22285          | \$ 177.50          |
| HOGAN, TULLY                      | 3507 POLY DR            | A16849          | \$ 177.50          |
| LADSON, ZACHARY E.                | 500 19TH ST W           | A07741          | \$ 177.50          |
| LUNT, IAN C                       | 1714 AVENUE C           | A09694          | \$ 177.50          |
| NORWOOD, CRAIG                    | 1042 BROADWATER AVENUE  | A03318          | \$ 177.50          |
| NYGAARD BUILDERS LLC              | 3524 DUNLOP AVE         | C03385          | \$ 177.50          |
| PAULBECK, BRANDI & CHAD           | 571 CHINOOK PLACE       | C09720          | \$ 177.50          |
| PETERSON, JEREMY D & TIFFANY J    | 119 S 12TH ST W         | A06992A         | \$ 177.50          |
| PETRO NORTH INC                   | 530 S. 24TH ST W.       | A23860B         | \$ 177.50          |
| PRICE, AMY                        | 2611 TULANE             | A35544          | \$ 202.50          |
| PRICE, AMY                        | 2607 TULANE             | A35545          | \$ 202.50          |
| PRICE, AMY                        | 2603 TULANE             | A35546          | \$ 202.50          |
| PRICE, AMY                        | 5107 AMHERST            | A35547          | \$ 202.50          |
| ROBIN L. MORTON TRUST             | 2220 GRANT ROAD         | A24999          | \$ 290.00          |
| ROCKIN IN THE EBURD LLC           | 1625 2ND AVE NORTH      | A00490          | \$ 203.75          |
| SAUNDERS, WILLIAM RICHARD III     | 625 N 15TH ST           | A12072          | \$ 177.50          |
| SELVIG, MARIA                     | 19 ADAMS ST             | A14676          | \$ 177.50          |
| SHAW, KENI LEANNA                 | 961 CALICO AVENUE       | A204042         | \$ 177.50          |
| SHEPHERD, MICHAEL & SURBER TROY   | 849 EL RANCHO           | A27029          | \$ 177.50          |
| SHEPHERD, MICHAEL & SURBER TROY   | 845 EL RANCHO           | A27030          | \$ 177.50          |
| SLEVIRA, VICTORIA                 | 751 CLARK AVENUE        | A15615          | \$ 177.50          |
| STEFFES, WILLIAM                  | 1102 AVENUE D           | A17280          | \$ 177.50          |
| SULLIVAN, SEAN M & KIMBERLEE J    | 2008 CENTRAL AVENUE     | A04548          | \$ 177.50          |
| SWIFT, JACK M & KRISTEN A         | 328 14TH ST W           | A11431          | \$ 227.50          |
|                                   |                         |                 |                    |
| <b>Total Weed Abatement</b>       |                         |                 | <b>\$ 5,877.50</b> |

**City Council Regular**

**Date:** 02/27/2023  
**Title:** FY2023 Budget Amendments  
**Presented by:** Andy Zoeller, Finance Director  
**Department:** Finance  
**Presentation:** Yes  
**Legal Review** Not Applicable

**RECOMMENDATION**

Staff recommends approval of FY23 budget amendments.

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

Staff presented the following budget amendments to the Council's Budget and Finance Committee on 2/15/23. The committee voted in favor of the first two amendments (Parking and MET transit and asked for more information before taking action on the Police MDT's.

**Parking**

The Park 2 southwest elevator across from the DoubleTree Hotel requires a piston replacement. This project, totaling \$78,688, was not included in the FY23 budget. The Parking Department is requesting a budget amendment of \$78,688 to fund the repair using existing working capital for the purchase.

**MET Transit**

Met Transit was successfully awarded an FTA grant to purchase four electric buses. The purchase of the four buses will be executed using a combination of Federal and Local funding at approximately 78% Federal and 22% Local. MET Transit has adequate local capital reserves for this project and is requesting additional budget authority of \$1,011,414 for the Local share. The City Administrator has approved the \$3,622,600 of spending for the Federal share.

The following budget amendments were presented to the committee, but additional information was requested.

**Public Safety ERP - Police MDT's**

City Council is being asked to approve a contract (2/27/23) to purchase 40 MDTs for a total of \$277,466 on 2/27/23. The City has set aside \$418,000 for the anticipated purchase of replacement MDTs in FY24. Software licensing for all MDTs is not included in the original contract but will be needed. As such, the budget amendment requested is \$418,000. Estimated software license cost for 40 MDTs is \$75,000 - \$100,000. These funds were set aside for this purpose, but original replacement was planned in FY24.

**Equipment Replacement Fund**

On 1/23/23 City Council approved a contract to purchase six new vehicles for the Parks Department. The purchase was funded through a combination of ERP funds and PD1 funds. In the staff memo authorizing the purchase, Council was made aware that 2 two vehicles were originally budgeted in FY22, but were never ordered, as such a budget amendment reestablishing budget authority would be needed. The funds were retained in the Equipment Replacement Fund, and are being requested for use in FY23.

**Park District 1**

On 1/23/23 City Council approved a contract to purchase six new vehicles for the Parks Department. The purchase was funded through a combination of ERP funds and PD1 funds. In the staff memo authorizing the purchase, Council was made aware that PD1 reserves would need to be used to cover the additional costs of \$49,279. This budget amendment will allow for the use of PD1 reserves to cover the additional costs.

This budget amendment was not presented to the Budget and Finance committee, as such, has not been recommended by the committee, but is being recommended by the Finance Department.

**General Fund - Finance Department**

The City of Billings is currently using a tax and assessment software that has been in place since 2004. The City of Billings no longer has software support, and the software resides on an AS400 server that is past replacement. The City has been working to move off of this server for all applications. For years, we have been working with our current accounting software to develop a custom tax and assessment module, but it does not appear to be moving forward at a pace that will work for the City. The Finance department is requesting budget authority to procure an existing software from Tyler Technologies, the same system that Yellowstone County uses. This purchase was not budgeted in FY23. Due to the critical nature of software support and server maintenance, we are requesting General Funds be used for the purchase this fiscal year. In FY23, the General Fund budget included \$125,000 for anticipated county election fees, as we assumed there may be an election for parks and recreation. This election will not occur until FY24, as such, these funds could be reallocated for the purchase of new tax and assessment software.

## ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve

## FISCAL EFFECTS

The budget amendments, if approved, will be paid from the following funds

| Fund                          | Budget Amendment | Expenditure Category           |
|-------------------------------|------------------|--------------------------------|
| Parking                       | 78,688           | Capital Outlay                 |
| ERP - Public Safety<br>6410   | 418,000          | Capital Outlay                 |
| MET Transit                   | 2,022,828        | Capital<br>Outlay/Transfer Out |
| Equipment Replacement<br>Fund | 61,111           | Capital Outlay                 |
| Park District 1               | 49,279           | Capital Outlay                 |
| General Fund - Finance        | 125,000          | Capital Outlay                 |
| General Fund - Non-<br>dept   | (125,000)        | Operation &<br>Maintenance     |

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## Attachments

Budget Adoption Resolution and Exhibit A

RESOLUTION 23-

A RESOLUTION ADOPTING FISCAL YEAR 2023 ADJUSTMENTS TO APPROPRIATIONS PURSUANT TO M.C.A. 7-6-4006 AS AMENDED, AND PROVIDING TRANSFERS AND REVISIONS WITHIN THE GENERAL CLASS OF SALARIES AND WAGES, MAINTENANCE AND SUPPORT AND CAPITAL OUTLAY.

WHEREAS, M.C.A. 7-6-4006 provides that the City Council, upon proper resolution, adopted by said Council at a regular meeting and entered into its Minutes, may transfer or revise appropriations within the general class of salaries and wages, maintenance and support, and capital outlay, and

WHEREAS, based upon a Budget Review (**FY 2023**), it is necessary to alter and change said appropriations.

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

That the attached transfers or revisions are hereby adopted.

(SEE EXHIBIT A)

PASSED AND APPROVED by the City Council, this 27th day of February 2023

THE CITY OF BILLINGS:

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

ATTEST:

BY: \_\_\_\_\_  
Denise R. Bohlman, CITY CLERK

