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

Citizens may submit public comment via the following methods:

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

Please contact Denise Bohlman, City Clerk, at bohlmand@billingsmt.gov, or at 406.657.8210, with any questions.

CITY OF Billings

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

WORK SESSION AGENDA

COUNCIL CHAMBERS | OCTOBER 2, 2023 | 5:30 P.M.

CALL TO ORDER: Mayor Cole

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

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

1. **YesterYears Site Update.**

   -Public Comment

2. **TDS Fiber Update.**

   -Public Comment

3. **Stormwater Program Update.**

   -Public Comment

4. **Resolution Modifying Special Improvement District Policy.**

   -Public Comment

5. **Sale, Exchange, or Donation of City Real Property.**

   -Public Comment

6. **Highlight Upcoming Agenda Items of Council Interest.**

   -Public Comment

COUNCIL DISCUSSION:

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.)*

ADJOURN:

Note:

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

City Council Work Session

Date:	10/02/2023
Title:	Stormwater Program Update
Presented by:	Debi Meling
Department:	Public Works
Presentation:	Yes
Legal Review:	Not Applicable
Project Number:	WO2037

RECOMMENDATION

No formal action is expected at this work session; however, staff is seeking direction from Council on stormwater fees rate structure, system development fees, and level of service.

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

In 2020, Public Works presented the "development of a dedicated stormwater utility" as one of the three Public Works' Priority Goals. After that initiative, Public Works contracted with a consulting firm to help evaluate the state of the City's stormwater program and infrastructure. In June 2021, Public Works presented the findings of that initial assessment at a Council Work Session. Staff then moved into the next phase of the project during which an Advisory Committee was formed. The purpose of the Advisory Committee was to help identify key programmatic components that need updating within the stormwater program, and then formulate appropriate responses to the program practices and rates. The four stormwater program components are: deferred maintenance backlog, city-wide capital infrastructure implementation, flood protection capital, and water quality improvements. The Advisory Committee met from August 2022 to March 2023 and identified three independent areas of focus that were then presented to the Council's Budget and Finance Committee in July and August 2023. These three focus areas require City Council action to proceed. The three focus areas are:

- Updating the stormwater rate structure
- Implementing a stormwater System Development Fee (SDF)
- Selecting an appropriate Level of Service (LOS) with corresponding rates

During the August Budget and Finance Committee meeting, the Budget and Finance Committee made two of the same recommendations as the Stormwater Advisory Committee. Those recommendations are: updating the stormwater rate structure and adopt an equivalent residential unit, impervious-based stormwater rate structure model, and approve the development of stormwater SDFs.

For the LOS with corresponding rates analysis, the Stormwater Advisory Committee recommended the "Best Practice" LOS for each of the four stormwater program components. The Budget and Finance Committee recommend that Council select the "Best Practice" LOS for deferred maintenance backlog, flood protection capital, and Water Quality Capital and select a LOS mid-way between the Proactive and Best Practice LOS for City-wide Capital.

A memo and presentation providing additional details is attached.

ALTERNATIVES

Council action will not be required at this meeting. Information presented at this meeting is for informational and discussion purposes.

FISCAL EFFECTS

There are no fiscal impacts associated at this time. Information presented at this meeting is for informational and discussion purposes.

Attachments

Stormwater program update
Presentation

Billings PUBLIC WORKS

Stormwater Program Update and Council Direction Needed

To: The Honorable Mayor and Billings City Council

From: Debi Meling, PE; Public Works Director

Date: September 26, 2023

Re: Public Works – Stormwater Program Update and Council Direction Needed

Executive Summary

Historically, the City of Billings has not approached management of our stormwater utility consistent with how we manage the water and sanitary sewer utilities. Over the past decade, additional focus has been on bringing the stormwater program up to a level that is both responsible and sustainable. The goal has been to ensure proper maintenance of existing infrastructure, address problem areas in the City, have the ability to serve new growth, and keep up with regulatory changes. A key factor in being able to improve how we manage our stormwater system is to ensure an appropriate rate system is in place to support this goal. As of now, our rate structure has little nexus between the rate and the impact; has too much burden on the residential property owners; does not capture the cost of new growth in the city; and is not based on an intentional level of service to the community. Currently, the City collects a stormwater fee through property taxes and completes maintenance and capital projects that fall within that budget. In other utilities, the needs of the system are determined and rates are set by those needs. The method that has been used for stormwater in the City of Billings for decades has created a system that is not being managed in a way that ensures it will be operational in the future.

Over the past three years, Public Works has been formalizing the stormwater program by completing and evaluating the following:

- Strengthening rules and regulations
- Conducting a rate structure evaluation that is more equitable
- Managing infrastructure through field maintenance and GIS support
- Focusing city resources to better support this critical infrastructure asset

In 2020, Public Works presented the "development of a dedicated stormwater utility" as one of the three Public Works' Priority Goals. After that initiative, Public Works contracted with a consulting firm to help evaluate the state of the City's stormwater program and infrastructure. In June 2021, Public Works presented the findings of that initial assessment at a Council Work Session. Staff then moved into the next phase of the project during which an Advisory Committee was formed. The purpose of the Advisory Committee was to help identify key programmatic components that need updating within the stormwater program, and then formulate appropriate responses

to the program practices and rates. The Advisory Committee met from August 2022 to March 2023 and identified three independent areas of focus that were then presented to the Council's Budget and Finance Committee in July and August 2023. These three focus areas require City Council action to proceed. The three focus areas presented were:

- Updating the Stormwater Rate Structure
- Implementing a Stormwater System Development Fee
- Selecting an Appropriate Level of Service with Corresponding Rates

After presentations to the Budget and Finance Committee, recommendations for updates to key components of the stormwater program were developed as detailed below. These recommendations will be presented to the full Council on October 2nd.

1) Stormwater Rate Structure

The current rate structure for Billings was created by Council in 1977. This rate structure assesses a fee to each property based upon the parcel's gross lot area and zoning designation. The fee is collected on property tax statements twice per year. The average residential customer is currently assessed $59.56 per year; an equivalent of $4.97 per month. The primary limitations of this rate structure model are:

- Representativeness: zoning may not align with actual land use
- Equitability: there is not a direct correlation between the stormwater contribution from individual properties and zoning

Six alternative rate structures were evaluated. A rate structure based on the impervious surface of individual parcels was selected as most equitable since impervious surfaces are a key driver of stormwater runoff (i.e., stormwater runoff from concrete or asphalt driveways and roofs is considerably greater than that from pervious surfaces such as lawns or undeveloped open space). Under this rate structure, the average single-family home's impervious surface area is calculated and all single-family residential properties, regardless of size, would be assessed the same stormwater rate based on the median representative single-family property. While the actual impervious area of each residential home could be measured and used for assessment, the administrative burden to determine the actual impervious area and to ensure that the area is updated regularly is too high given the small change to the residential rate. **The concept of assessing all residential properties based on a representative property is referred to as an *Equivalent Residential Unit* (ERU).** Based on land cover data for the City of Billings, a representative ERU of 2,600 square feet of impervious surface was measured. Each single-family property would be assessed 1.0 ERU.

The rate assigned to multi-family, commercial, governmental, and industrial properties is based on measured impervious surface area, expressed as a number of ERUs. As an example: if a commercial property has 15,000 square feet of impervious surface area, they would be assessed at the rate of 5.77 ERUs, (15,000 ÷ 2,600).

- **The Advisory Committee and the Council Budget and Finance Committee recommend that Council update the stormwater rate structure and adopt an ERU impervious-based stormwater rate structure model.**

2) Stormwater System Development Fee

The Advisory Committee evaluated the need for Stormwater System Development Fees (SDFs) similar to the City's water and sewer SDFs to help balance the cost of new growth against the stormwater infrastructure needs of this new growth. Currently, the City assesses both water and sewer SDFs for new development per the impact fee statutes outlined in the Montana Code Annotated (MCA). There is no stormwater SDF currently in place for Billings, but the MCA allows for its adoption.

SDFs are a one-time charge to provide revenue for capital improvements as new growth occurs. SDFs recover the proportionate cost share of capacity for future regional stormwater infrastructure; SDFs are not intended to recover the costs for individual subdivision stormwater improvements.

The initial SDF for new property development will be calculated in the next phase of the project if the practice of collecting SDFs is approved. The SDF is estimated to be approximately $1,000 per ERU based on projected capital needs to support new growth. Commercial and non-single-family residential properties would be assessed a proportionate SDF based upon how many square feet of impervious surface their property has relative to the ERU.

- **The Advisory Committee and the Council Budget and Finance Committee recommend that Council approve the development of Stormwater SDFs.**

3) Stormwater Levels of Service and Corresponding Rates

The final area of focus for the Advisory Committee was to evaluate the current physical condition and state of operations for the primary components of the City's stormwater program and calculate the needed rates to support different Levels of Service (LOS). The four primary program components are:

- Deferred Maintenance Backlog
- City-Wide Capital Infrastructure Implementation
- Local Flood Risk Mitigation
- Water Quality Improvements

Billings PUBLIC WORKS

Stormwater Program Update and Council Direction Needed

Currently, stormwater services are based upon available funding. By conducting a LOS approach to stormwater, the relationship between rates and services is switched. Under this LOS approach, stormwater funding will be based upon the services provided.

The time frame for addressing these needs and costs is the key variable in defining the LOS. This translates into a variable annual cost and associated fee. The defined levels of service are "Best Practice", "Proactive", or "Minimum". Below is a matrix of LOS options for each individual stormwater program component:

	Total Amount	Best Practice	Proactive	Minimum
Deferred Maintenance	$73.8 million	15-yr. completion ($4.9 million / yr.)	20-yr. completion ($3.7 million / yr.)	25-yr. completion ($3.0 million / yr.)
City-wide Capital	$99.3 million	20-yr. completion ($5.0 million / yr.)	30-yr. completion ($3.3 million / yr.)	40-yr. completion ($2.5 million / yr.)
Flood Protection Capital	$7.3 million (local only)	15-yr. completion ($0.5 million / yr.)	20-yr. completion ($0.4 million / yr.)	25-yr. completion ($0.3 million / yr.)
Water Quality Capital	Varies	$500,000 / yr.	$500,000 / yr.	$250,000 / yr.

The matrix of options allows Council to select any combination of LOS for the individual stormwater program components.

- **The Advisory Committee selected the *Best Practice* LOS for each of the four individual stormwater program components. The Council Budget and Finance Committee recommend that Council select the *Best Practice* LOS for Deferred Maintenance, Flood Protection Capital, and Water Quality Capital and select a LOS mid-way between the *Proactive and Best Practice* LOS for City-wide Capital.**

Each LOS option, for each individual program component, has a corresponding rate impact. The Budget and Finance Committee recommended LOS package has the following rate profile for residential customers over the next 10 years. Please note that this rate profile has a seven-year ramp-up period with inflationary increases thereafter.

Fiscal Year: 7/1 – 6/30 (per month)	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
A.C. Recommendation	$4.97	$7.00	$10.00	$11.10	$12.30	$13.60	$14.90	$16.40	$16.90	$17.40

Billings PUBLIC WORKS

Stormwater Program Update and Council Direction Needed

As stated previously, Council is being asked to provide direction and act upon on three independent stormwater utility programmatic changes:

- Updating the Stormwater Rate Structure
- Implementing a Stormwater System Development Fee
- Selecting a Stormwater Level of Service with Corresponding Rates

A more detailed presentation of this information is provided in the following sections.

Project Purpose, History And Findings

Billings PUBLIC WORKS

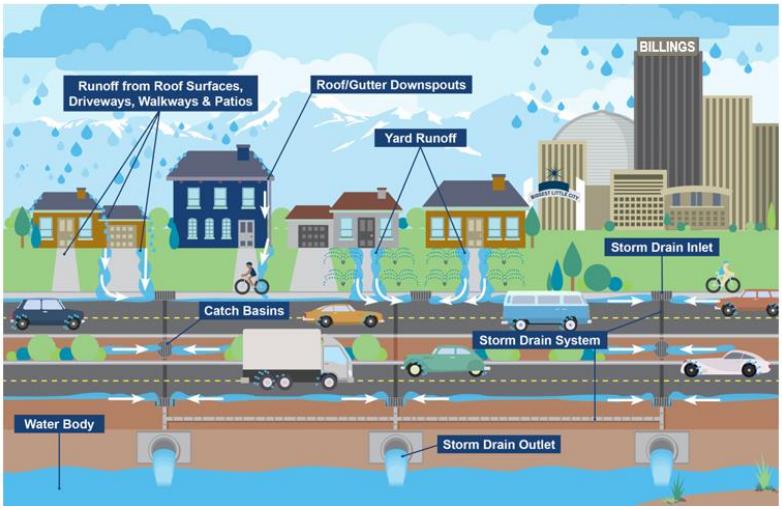
Stormwater Program Update and Council Direction Needed

Project Purpose

The stormwater system in Billings is a critical infrastructure component that serves the public in ways similar to the water and sewer systems. However, the stormwater system has not received the same focus as the other utilities, which results in a storm program that is operational, but largely reactionary and not sustainable in the long term.

Stormwater is being evaluated now because:

- The stormwater system is a critical $1 billion asset
- Much of the existing system has unknown elements (pipe size, material, condition and lifespan)
- Public roads and homes flood in storm events
- Development is outpacing the existing infrastructure network
- Water quality regulations continue to change
- There is a large backlog of deferred maintenance
- The cost of inaction to too great to do nothing



Components of a Municipal Stormwater System

In response, staff has been working to formalize the programmatic aspect of the stormwater utility and strengthening gaps by:

- Providing focused attention on critical infrastructure
- Providing a manageable plan for deferred maintenance
- Providing a reasonable timeframe to construct capital improvements
- Addressing permit requirements and improving local water quality
- Addressing risk management while being good stewards of taxpayer funds

Stormwater Program Update and Council Direction Needed

Evaluations and Findings: Project History (Phase I and Phase II)

In 2020, Public Works started the process of strategically evaluating gaps in the stormwater program. The purpose of the evaluation was to create a baseline index for the state of the City's stormwater network. This work included:

- Interviewing department leads in Engineering, Street/Traffic, Environmental Affairs and Administration
- Determining the needs of people, equipment and budgets
- Assessing the limitation of the GIS data
- Performing limited evaluations of deferred maintenance
- Reviewing previous master plan recommendations
- Identifying data gaps for a Phase II evaluation

Below are findings of how much storm drain infrastructure the City maintains:

300 miles of storm pipe and 5,200 manholes

9,300 inlets

52 miles of open drains

50 acres of ponds

Additionally, the City also maintains and performs services on:

8 miles of culverts

10,800 hours of street sweeping (8 sweepers)

16 key outfalls

9 stormwater pump stations

Billings PUBLIC WORKS

Stormwater Program Update and Council Direction Needed

The Phase II analysis performed a comprehensive analysis of the four major components of the stormwater network.

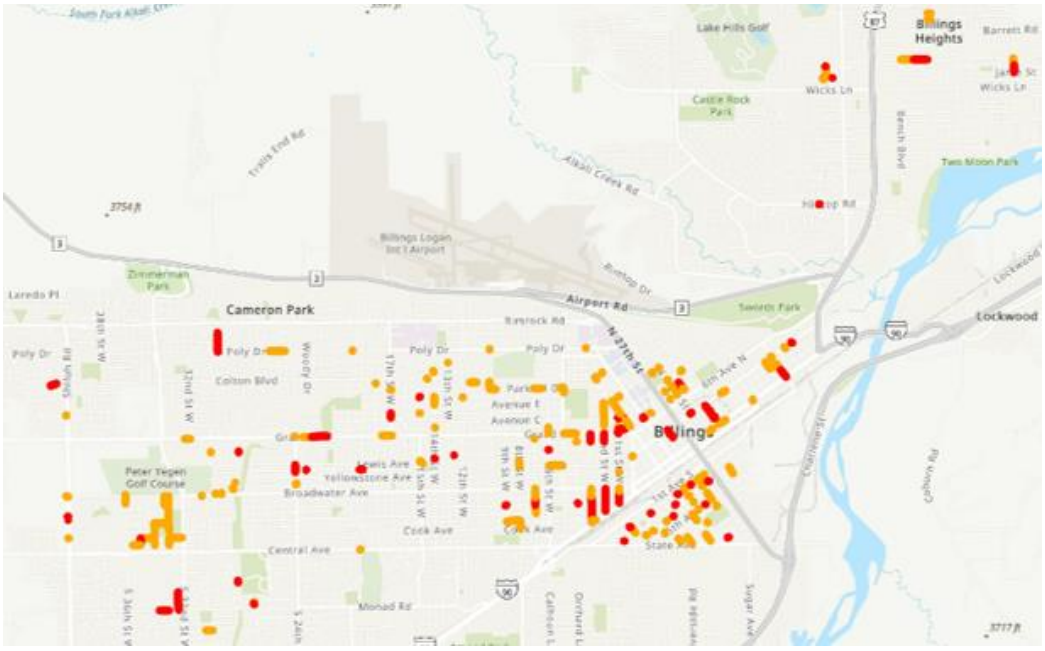
- Deferred Maintenance Backlog
- City-Wide Capital Infrastructure Implementation
- Local Flood Risk Mitigation
- Water Quality Improvements

Deferred Maintenance Backlog

During the Phase I evaluation, it was determined that the City had little to no information on 65% of the existing storm drain system. Additionally, as CCTV data was gathered on the system it was found that many pipe segments have reached or exceeded their useful lifespan. The pictures to the right are taken from the City's CCTV camera investigation initiative. These pictures show existing pipes that are greatly impacted by sediment, pipe protrusions or are in the early stages of failure. All these pipes need to be cleaned, repaired and in some cases, replaced. It is estimated that the City currently has 29 miles of storm drain pipes and culverts to replace.

Each of the orange and red areas in the exhibit below are existing storm drain mains that need to be replaced. **The overall estimated cost of deferred maintenance for existing stormwater infrastructure is estimated to be $73.8 million.**

Stormwater Program Update and Council Direction Needed

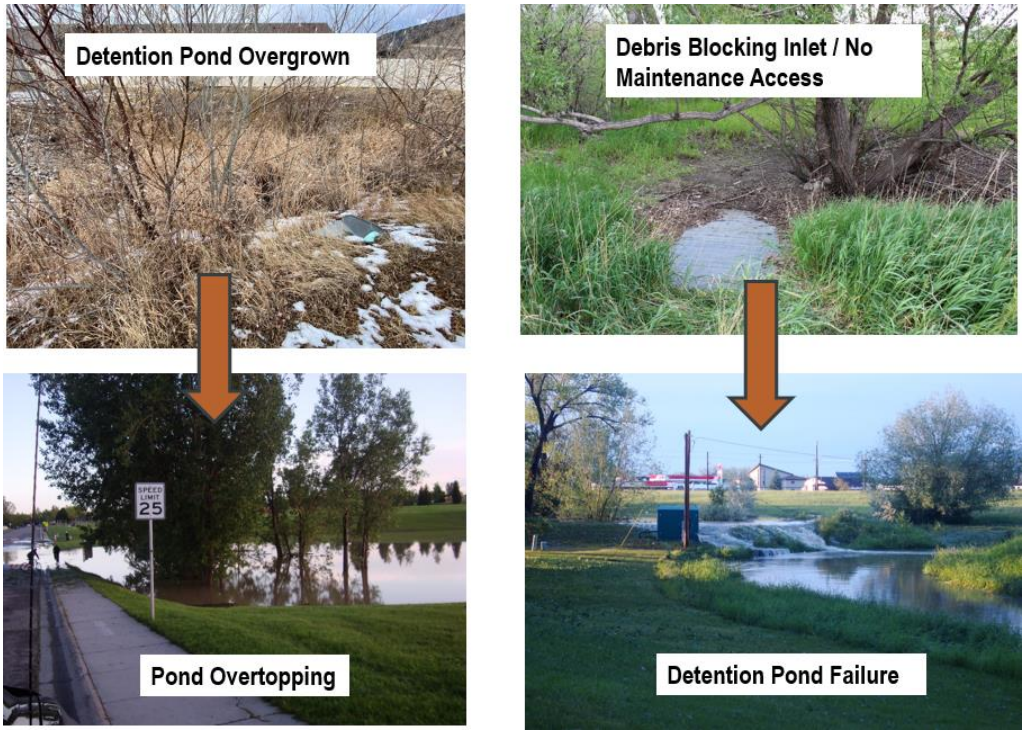


Deferred Maintenance Backlog – Reactionary Maintenance Consequences

Currently, approximately 50% of the City's storm drain system has received CCTV video inspection. In some cases, the City is able to identify pipes and culverts that are impacted before they fail. However, as not all of the system has been routinely inspected, there are still culverts and pipe segments that fail before an evaluation can be completed. Below is an example of a failed culvert that resulted in a reactive capital replacement project. Unfortunately, the cost of a project when it is done after a failure instead of during planned maintenance is oftentimes significantly more expensive.

Stormwater Program Update and Council Direction Needed

The City maintains 50 acres of detention and retention ponds. When stormwater ponds do not receive adequate maintenance, vegetation clogging occurs. Below is an example of failed ponds that resulted in reactive maintenance, which resulted in flooding to roadways and canals.

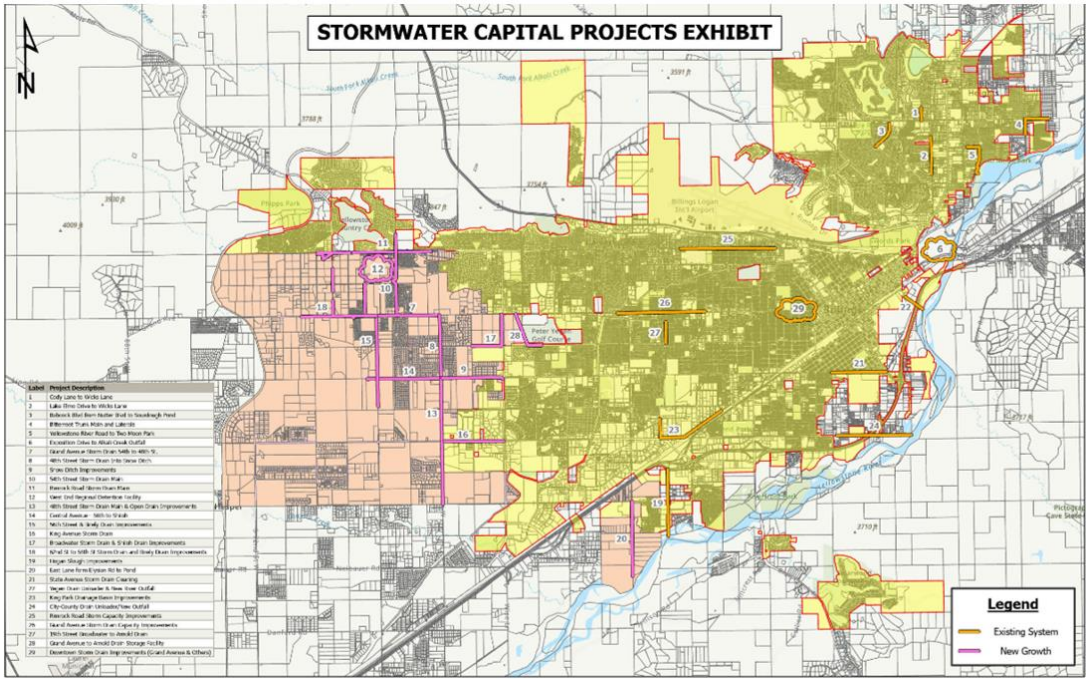


Stormwater Program Update and Council Direction Needed

City-Wide Capital Infrastructure Implementation

The City has completed a number of localized stormwater planning studies dating back to the early 1980s. Some of the projects recommended through those planning studies have been completed, but many have not. Public Works and our consultant compiled a list of all previous planning studies and evaluated which projects have been completed and which projects still need to be completed. The estimated project costs identified in each specific local planning study were updated to current costs to arrive at the needed overall city-wide capital improvement costs. **From this evaluation, 29 stormwater projects were identified totaling $99.3 million in city-wide projects.**

Below is a visual representation of each project's location.

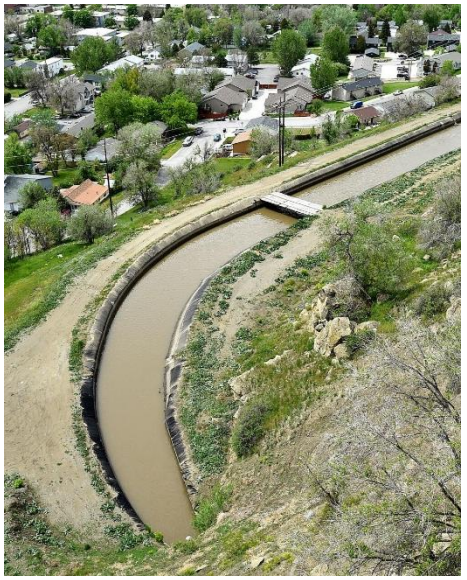


Each of the yellow and pink highlighted segments are proposed city-wide capital trunk main projects. Additionally, the projects were separated by rough geographical location to identify which projects mostly serve existing developed areas and which projects mostly serve new growth areas. This geographic evaluation and project breakdown was utilized in the evaluation of the proposed System Development Fees.

It is important to note that the City's core storm drain infrastructure is designed around the 2-year and 10-year, 24-hour representative storm events. These are standard drainage design parameters common through municipal stormwater design. The City of Billings will continue to experience severe storms, above design

criteria, that will cause localized flooding. The capital program and associated costs that were developed under this project will not alleviate these problems. If the City Council wants staff to reassess the design storm, it can be done, but rates would need to be raised drastically to accommodate larger design storms.

Local Flood Risk Mitigation



Flood protection as discussed in this section has not been included with the stormwater program previously. While there is flooding associated with large rain events, the flooding referred to in this section is due to irrigation facility failure or river level flooding and not due to storm events. To date, the City has not addressed protection from irrigation facility failures and any planning that has been done assumes the cost to address the problem would come from the General Fund. If the City Council wants to include this type of flooding in stormwater rates, it can be done but the rates would need to be reflective of this added scope as it cannot be added without specific funding under the stormwater umbrella without resulting in loss of service to the remaining system.

A number of large irrigation supply canals flow through Billings. A breach of the largest of these canals, the BBWA canal, was the major contributor to the historic flood of 1937. This canal breached again in 2016, but due to the breach location, there was no impact to the public. Additionally, in June 2023, the Birely Drain breached at the Big Ditch crossing. After discussions with the Advisory Committee, it is recommended that ditch unloaders be added to the storm drain system at key locations throughout the City be installed to unload significant portions of irrigation flows such that impacts to public infrastructure and property is reduced from flooding and canal breach events. **The cost of these flood-risk mitigation canal unloading structures is estimated at $2.85 million.**

Recent flooding of the Yellowstone River showed that the City does not have significant vulnerabilities related to the level of the river. However, Yellowstone River flood events can compromise the City's primary stormwater outfalls. Projects at the river outfalls are needed to prevent failures and secure the City's outfalls. **The cost of outfall protection at the Yellowstone River is estimated at $4.4 million.**

Stormwater Program Update and Council Direction Needed

Water Quality Improvements

The City operates under a Municipal Separate Storm Sewer (MS4) permit regulated by the Montana DEQ to satisfy EPA regulations associated with the Clean Water Act. The City's current MS4 permit with DEQ has six minimum control measures that the City must maintain to remain in good standing with the permit. As part of the permit requirements, Billings must demonstrate that incremental water quality improvements, in terms of policy, enforcement and infrastructure, with the system are occurring each year. Public Works already conducts policy and enforcement work; however, incremental water quality infrastructure is needed to remain in good standing with the permit. After discussion, **the Advisory Committee decided to add an annual water quality infrastructure improvement project to the Level of Service matrix.**

Stormwater Program Update and Council Direction Needed

Advisory Committee

The Advisory Committee was formed to provide awareness and transparency to the stormwater program development and to help staff clarify the City's stormwater objectives and determine appropriate levels of service and rate structures to match those objectives.

The Advisory Committee was made of up members with varying community perspectives representing City Council, Public Works Board, citizens, developers, real estate, land development, the agricultural community, consulting staff and City staff from Public Works and Parks and Recreation. The Advisory Committee members are listed in the table to the right.

Committee Member	Title	Organization
Debi Meling	Director of Public Works	City of Billings Public Works
Jennifer Duray	Deputy Director of Public Works	City of Billings Public Works
John Ghilarducci	Utility Rate and Fee Consultant	FCS Group
Wade Irion	Engineering Consultant	DOWL
Aaron Redland	Board Member	Public Works Board
Derick Miller	Street/Traffic Superintendent	City of Billings Public Works
Mike Whitaker	Director	City of Billings Parks and Recreation
Mike Pigg	Director	City of Billings Parks and Recreation
Ed Gulick	City Council Member, Ward 1	Billings City Council
Rick Leuthold	Engineering Development Consultant	Sanderson Stewart
Dan Wells	Owner/Developer	Wells Built Homes
Charlie Yegen	Real Estate Broker/ Developer	Peter Yegen Jr., Inc.
Todd Brown	Owner/Developer	Brown Builders

The Advisory Committee met seven times throughout 2022 and 2023 and provided the following recommendations:

- Move to an impervious area rate structure, equivalent residential unit (ERU)
- Adopt a Stormwater System Development Fee
- Adopt *Best Practice* Level of Service for deferred maintenance, city-wide capital, flood protection and water quality capital
    - As noted previously, the **Budget and Finance Committee recommended *Best Practice* LOS for deferred maintenance, flood protection and water quality capital, and a LOS mid-way between *Best Practice* and *Proactive* for city-wide capital.**

The Advisory Committee made the recommendations because doing so brought:

- Focused attention to this critical infrastructure
- Manageable plan to address deferred maintenance
- Reasonable timeframe to complete capital improvements
- Addresses permit requirements and improving local water quality
- Significant increase in service for relatively small increase in rate
- Balance between citizen services and rates
- Satisfies risk management objectives and targeted goals
- Brings a rate-based approach to managing a billion-dollar asset

Rate Structure Analysis and Proposed Changes

Billings PUBLIC WORKS

Stormwater Program Update and Council Direction Needed

Rate Structure Analysis and Proposed Changes

The current rate structure utilized by Billings was created by Council in 1986. This rate structure assesses a fee to each property based upon the parcel's gross lot area and zoning designation. The fee is collected on property tax statements twice per year. The current rate structure is shown in the table on the right. For reference, the single-family zoning classifications are:

- N1 – "First Neighborhood
- N2 – "Mid-Century Neighborhood"
- N3 – "Suburban Neighborhood"

For single-family residential lots under the current model, each parcel is assigned the same rate when calculating the stormwater fee. The rate is then multiplied against the lot's gross square footage to calculate the parcels annual stormwater charge. **The annual FY 2024 stormwater assessment for an average residential customer is currently $59.56 per year.** Further details of the standard single-family residential lot are listed below.

- Monthly equivalent: $4.97
- 9,691 square foot lot
- $0.006146 per square foot per year

STORM SEWER FEE

ZONE	RATE	
VACANT	1,110.00	Cap
AT RATE	0.001901	per sq. ft.
CBD	0.019462	per sq. ft.
CMU1	0.013401	per sq. ft.
CMU2	0.013749	per sq. ft.
CX	0.014615	per sq. ft.
DX	0.013401	per sq. ft.
EBCW	0.013401	per sq. ft.
EBIS	0.014615	per sq. ft.
EBMS	0.019462	per sq. ft.
EBRMS	0.019462	per sq. ft.
EBRSV	0.012524	per sq. ft.
I1	0.014615	per sq. ft.
I2	0.016252	per sq. ft.
N1	0.006146	per sq. ft.
N2	0.006146	per sq. ft.
N3	0.006146	per sq. ft.
NMU	0.012524	per sq. ft.
NO	0.010549	per sq. ft.
NX1	0.011004	per sq. ft.
NX2	0.011183	per sq. ft.
NX3	0.011352	per sq. ft.
P1	0.003231	per sq. ft.
P2	0.003231	per sq. ft.
P3	0.012925	per sq. ft.
PD	0.008902	per sq. ft.
RMH	0.007255	per sq. ft.

The advantages of the current rate structure are that delinquencies and non-payments are typically lower as fees are collected on the property tax statements and the current rate structure and billings method have been challenged legally and upheld as a valid method to assess for stormwater. Another advantage is that the current billing and collection process is in place and requires no staff time to perpetuate the assessments in this manner. However, this rate structure does have numerous limitations that impact both the City and lot owners. The primary limitation of this rate structure model is fairness, because gross lot area does not provide a good functional nexus between property-specific conditions and stormwater program activities nor does zoning necessarily equate to land use and stormwater runoff. Additionally, charging stormwater as an assessment on the property tax statements means that revenues are only received twice a year and results in increased reserve requirements.

Stormwater Program Update and Council Direction Needed

Considering these limitations, an alternative rate structure is being considered that better aligns rates and impacts to the system. Six rate structures were evaluated:

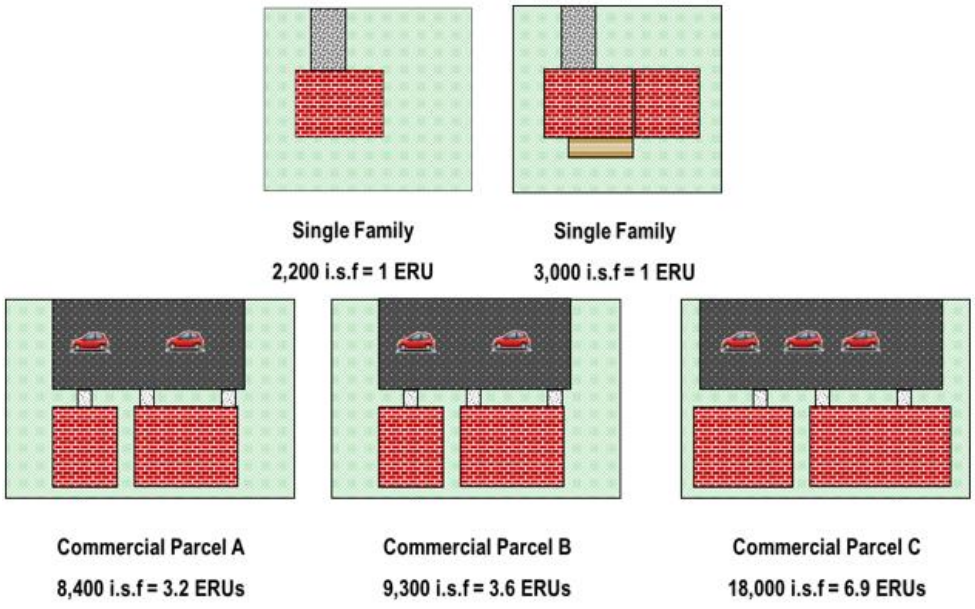
Rate Structure Basis / Feature	Fair	Legal	Admin	Feasible
Impervious Surface Area	✓	✓	✓	✓
Density of Development	✓	✓	✓	✓
Runoff Coefficients		✓	✓	
Land Use		✓	✓	✓
Trip Generation		✓		✓
Geographic Location	✓	✓		✓

As shown in the graph, the only structures that meet all of the criteria are impervious area and density. There are many ways to implement either of those structures so the committee evaluated each one. Through this evaluation, an impervious-based rate structure model was selected by the Advisory Committee as the most appropriate rate model that equitably matches impacts to the overall stormwater system with rates. Impervious surface area is a generally accepted measure of runoff contribution, providing the basis for rates in most stormwater utilities. Additionally, there is a strong and supportable functional nexus among impervious surface area, runoff contribution, increased flooding and water quality degradation, and damage to habitat.

Under this rate structure model, the statistical median residential home impervious surface area was calculated. Each residential home, regardless of size, will be assessed the same stormwater rate. **The concept of assessing all residential homes equally is referred to as an *Equivalent Residential Unit* (ERU).** Each residential home will be assessed 1.0 ERUs. The rate assigned to commercial properties is based upon how many ERU's of impervious surface that commercial property has developed. While the actual area can be used for each residential property, the administrative burden would be extremely high and the committee determined any benefits of that method did not warrant the increased cost of administration.

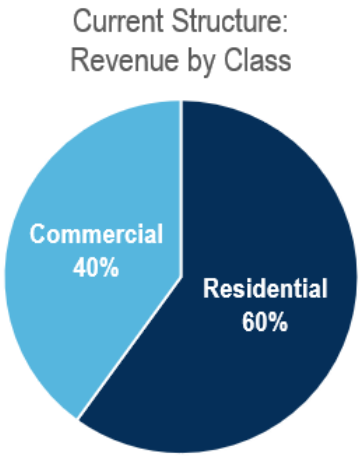
During a statistical evaluation, one ERU was calculated at 2,600 square feet of impervious surface. An example of the ERU model is shown below:

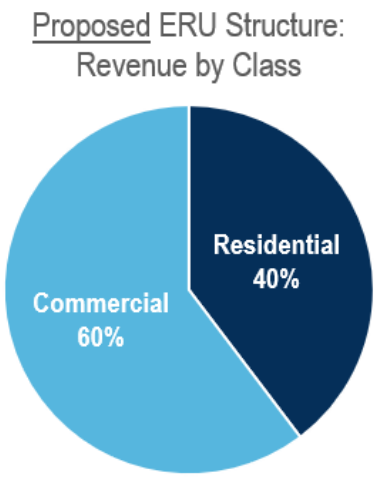
Stormwater Program Update and Council Direction Needed



Please note the calculated median impervious surface of 2,600 square feet needs refinement before formal implementation based upon additional data processing.

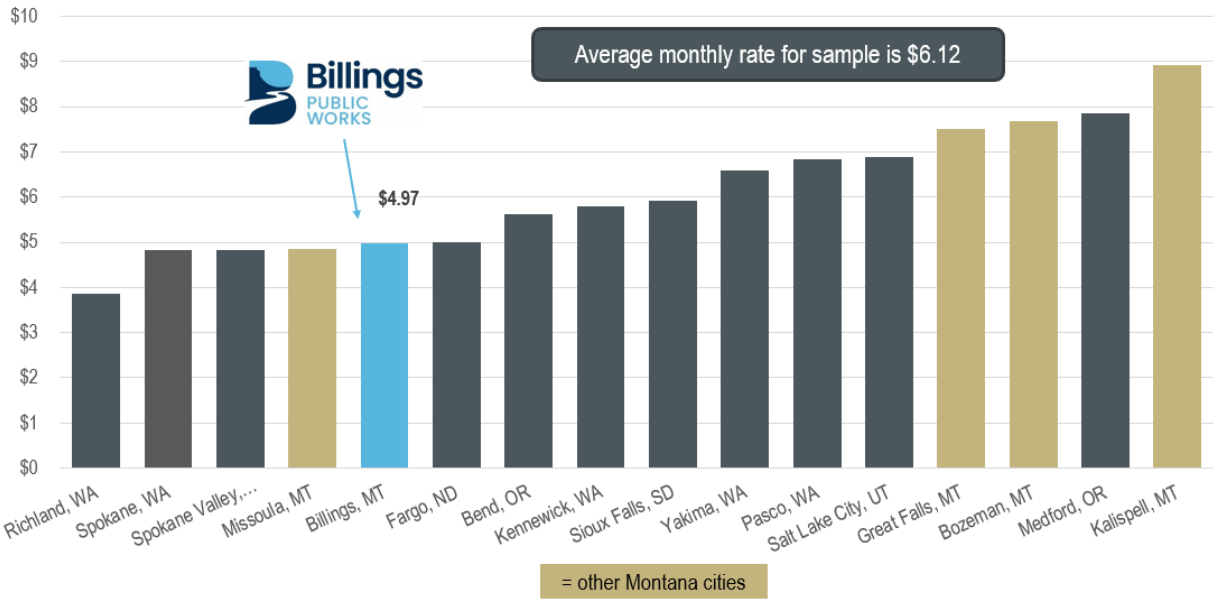
The current stormwater fee that is based upon zoning and square footage generates a revenue profile where roughly 60% of funds are collected from residential properties and 40% of funds are collected from commercial properties. Moving to an impervious area-based rate structure shifts cost recovery to commercial property.





Stormwater Program Update and Council Direction Needed

The average stormwater fee collected for the typical single-family residential property in FY 2024 is $59.60 per year, which equates to $4.97 per month. The stormwater team researched rates collected by other regional communities of similar size, climate, and/or stormwater development process to see how Billings compares. Below is a graph showing that comparison.



System Development Fees

Billings PUBLIC WORKS

Stormwater Program Update and Council Direction Needed

System Development Fees

The City currently assesses System Development Fees (SDF) to new residential and commercial properties that connect to the water and sewer system. The SDF is intended to balance new growth against infrastructure needs of the system. There is no stormwater SDF currently in place.

Below are additional details of an SDF:

- One-time charges, not ongoing rates
- Provide revenue for capital as growth occurs
- Include future & existing infrastructure costs

- For general facilities, not "local" facilities
- Recover proportionate share of cost of capacity
- For capital only, in both calculation and in use

Under the proposed model each residential home is treated equally and assigned an Equivalent Residential Unit (ERU), similar to the lot impervious method. **The initial SDF for new property development will be calculated in the next phase of the project if the practice of collecting SDFs is approved but is estimated to be approximately $1,000 per ERU**. Commercial properties will be assessed a proportionate SDF based upon how many square feet of impervious surface their property has relative to the ERU.

The SDF is for new development only; existing residential and commercial properties will not have to pay for an SDF unless redevelopment occurs for a commercial property and a new connection is made to the system.

The chart to the right shows how the proposed stormwater SDF compares to the existing water and sewer SDF. This is a preliminary evaluation of the SDF; additional calculations will be made after a decision is made regarding implementation of SDFs.

Utility	SDFs
Water (3/4" meter with indoor and outdoor component)	$3,255
Wastewater (3/4" meter)	$2,800
Stormwater	Approx. $1,000
Total	$7,055

A Stormwater SDF is permissible per the MCA, Title 7, Chapter 6, Part 16.

Program Levels of Service and Associated Rates

Stormwater Program Update and Council Direction Needed

Program Levels of Service and Associated Rates

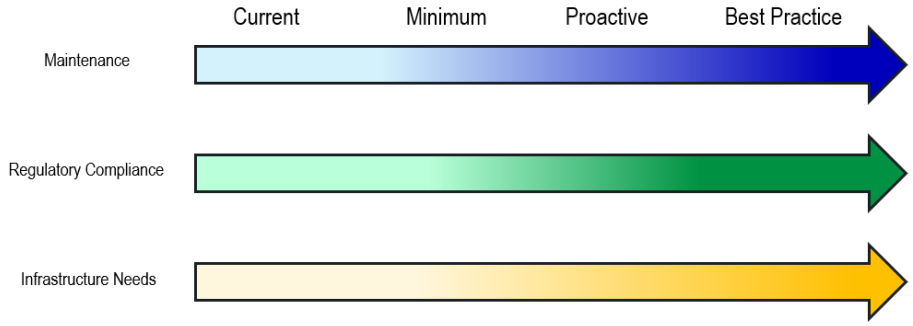
The Phase II analysis previously described performed a comprehensive analysis of the four major components of the stormwater network.

- Deferred Maintenance Backlog
- City-Wide Capital Infrastructure Implementation
- Local Flood Risk Mitigation
- Water Quality Improvements

The evaluation included gathering information on the existing system, evaluating and prioritizing previous capital planning projects, and providing a stormwater risk assessment analysis.

From the analysis, it was determined that the City has $73.8 million in deferred maintenance, $99.3 million in City-wide capital projects and $7.3 million of local flood protection projects. The amount of funding needed for water quality improvements varies based upon the City's permit with Montana DEQ.

During the stormwater team and Advisory Committee meetings, it was determined that Level of Service options were needed to balance rates with the time needed to complete the improvements. The higher the level of service, the faster improvements to the system would be made.



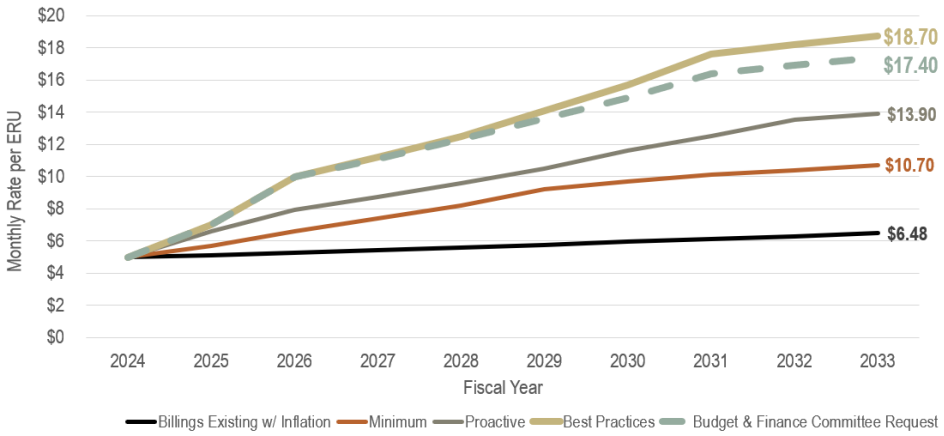
Currently, stormwater rates are set, and services are provided to match the available funding. This current process has resulted in the stormwater program being underfunded. This Level of Service (LOS) evaluation built a "dial" to flip the process. **Under this proposed model, stormwater funding is based on services provided as detailed by the level of service matrix.**

Stormwater Program Update and Council Direction Needed

The matrix below is developed such that Council can select any LOS "box" within each row and column; Council does not need to select one *Best Practice, Proactive or Minimum* column that covers all four program areas. **Each LOS box has a corresponding rate impact.** The Stormwater Advisory committee recommended a *Best Practice* LOS for each of the four stormwater program components primarily based on liability of not addressing issues quickly and the customer service aspect of allowing projects to take more than 15 or 20 years to complete when we know they are a problem now. After a presentation to the Budget and Finance Committee, the Committee chose the *Best Practice* LOS for Deferred Maintenance, Flood Protection Capital and Water Quality Capital and adopt a mid-way LOS (25-year) between the *Proactive* and *Best Practice* LOS for City-wide Capital. Please see the matrix below for the Committee Recommendation. While the Budget committee agreed with many of the reasons that the Advisory committee selected Best Practice levels for all categories, they were very sensitive to the rate impacts and wanted to try to balance the needs and the rates to where they determined was an appropriate level.

	Total Amount	Best Practice	Proactive	Minimum
Deferred Maintenance	$73.8 million	15-yr. completion ($4.9 million / yr.)	20-yr. completion ($3.7 million / yr.)	25-yr. completion ($3.0 million / yr.)
City-wide Capital	$99.3 million	20-yr. completion ($5.0 million / yr.)	30-yr. completion ($3.3 million / yr.)	40-yr. completion ($2.5 million / yr.)
Flood Protection Capital	$7.3 million (local only)	15-yr. completion ($0.5 million / yr.)	20-yr. completion ($0.4 million / yr.)	25-yr. completion ($0.3 million / yr.)
Water Quality Capital	Varies	$500,000 / yr.	$500,000 / yr.	$250,000 / yr.

Currently, the average residential customer pays $59.60 per year (an equivalent of $4.97 per month) in stormwater fees. The recommended LOS packages generate the following rate profile over the next 10-years:



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Stormwater Program Update and Council Direction Needed

This rate profile includes a seven-year ramp-up where rates are incrementally increased over the first seven years before leveling off to meet standard inflationary increases.

Billings PUBLIC WORKS

Stormwater Program Update and Council Direction Needed

City Council Discussion and Direction

Billings PUBLIC WORKS

Stormwater Program Update and Council Direction Needed

City staff will present this information at the October 2, 2023, City Council work session. The presentation will generally follow the information provided in this report. This documentation is being provided to the City Council upon request of the Budget and Finance Committee. After two meetings discussing these issues, it was the opinion of the committee that it would be difficult for the City Council members to fully digest all of this information in one session. In the interest of having a more productive conversation at the work session, staff is providing this information in advance of the meeting so the Councilmembers have an opportunity to become familiar with it before staff presents.

The questions that the City Council will need to provide direction are:

- Is Equivalent Rate Units (ERU) the appropriate rate structure?
- Should the city be charging system development fees (SDFs) on construction for stormwater similar to water and wastewater?
- What is the appropriate level of service for the four categories of stormwater service?
    - Deferred Maintenance
    - Citywide Capital
    - Flooding
    - Water Quality

After the City Council work session discussion, if the City Council is able to provide direction on those three questions, staff will proceed to Phase III of the stormwater program development. In this next phase, a master plan to determine a roadmap for getting the projects completed will be started, a rate study will be completed to determine final rates and SDFs, and the billing system will be updated to accommodate the new rate structure. The City Council will be presented with the new rates and SDFs for approval before implementation.

Billings PUBLIC WORKS

City Council Work Session

Stormwater Program Update and Council Direction Needed

October 2, 2023

Billings PUBLIC WORKS

FCS GROUP
Solutions-Oriented Consulting

DOWL

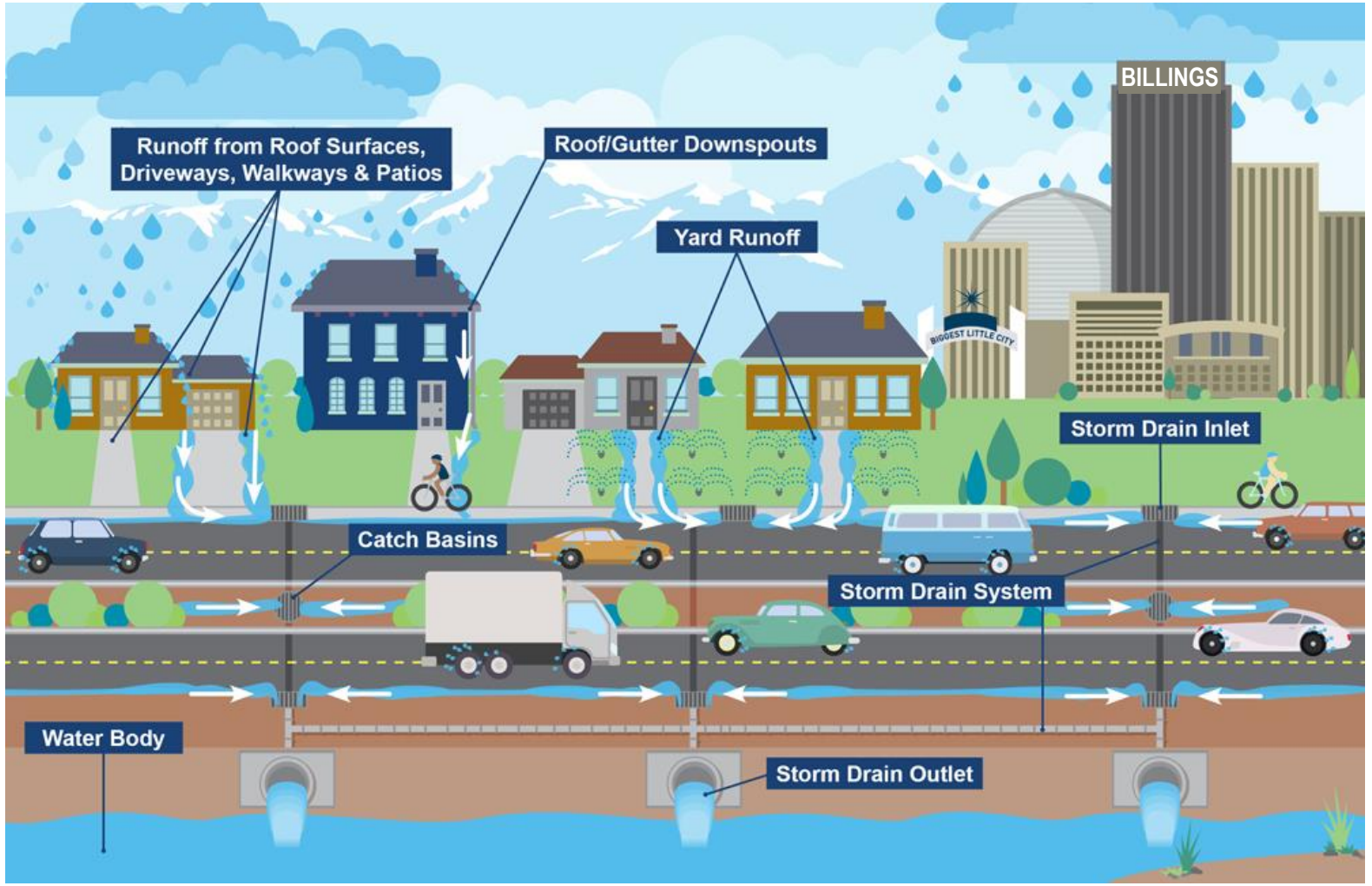
Objectives and Goals

- **Program changes required to match community needs**
  - » Stormwater Team and Advisory Committee conducted years of research
    - – Developed options for levels of service, rate structure, and billing structure

- **Direction from Council needed**
  - » rate structure model
  - » SDF's for new development
  - » level of service

Stormwater Background

What is a Stormwater Program?



Courtesy: City of Reno, NV

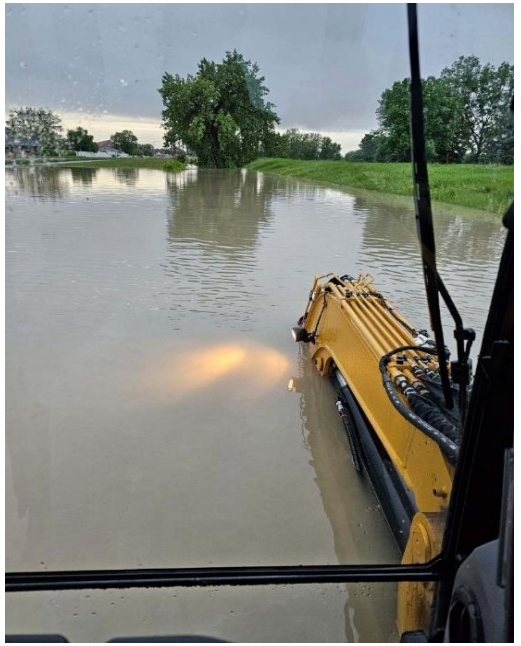
A dedicated stormwater program:

- Focuses attention on critical infrastructure
- Provides a manageable plan for deferred maintenance
- Provides a reasonable timeframe to construct capital improvements
- Addresses permit requirements and improve local water quality
- Satisfies risk management while being stewards of taxpayer funds

Project Purpose and History

Project Purpose

- **Why is Stormwater Being Evaluated Now**
  - » Stormwater system is a critical $1 billion asset
  - » Much of the existing system has unknown elements
  - » Public roads and homes flood in storm events
  - » Development is outpacing existing infrastructure network
  - » Backlog of deferred maintenance and capital projects



Project History

- **Public Works, Consultant Team, and Advisory Committee**
- **Phase I: evaluate program needs and performance** Complete (2020 - 2021)
- **Phase II: refine program needs; develop financial plan** In Progress (2022 – 2023)
  - » Advisory Committee process and recommendations
- **Phase III: program implementation** Next Step (2023 – 2024)
  - » Master plan for deferred maintenance and capital projects
  - » Rate structure ordinance
  - » Rate Resolution

Phase I – Overview

Phase I - Evaluation

- **Interviewed and coordinated with department leads**
  - » Engineering
  - » Street & Traffic
  - » Environmental Affairs
  - » Administration
- **Determined needs**
  - » People, Equipment, Budgets
- **Assessed limitations of the GIS data**
- **Performed limited evaluations of deferred maintenance**
- **Reviewed previous master plan recommendations**
- **Identified data gaps for Phase II evaluation**
- ***Found little to no information on 65% of the existing system***

Phase I: Stormwater Infrastructure

300 miles of storm pipe and 5,200 manholes

9,300 inlets

52 miles of open drains

50 acres of ponds

Phase I: Stormwater Infrastructure

8
miles of
culverts

10,800 hours
of street
sweeping
(8 sweepers)

16 key
outfalls

9 stormwater
pump
stations

Phase I: Current Program Status

- **Out of necessity, the program has been:**
  - Reactive and crisis-driven
  - Unable to stay ahead of:
    - Maintenance
    - Regulatory requirements
    - Growth

- **Program under funding has resulted in the following:**
  - Unmanageable deferred maintenance
  - Capital project backlog
  - Risk of regulatory non-compliance
  - Costly emergency response and ratepayer claims

- **Cost of inaction is important and needs to be addressed**

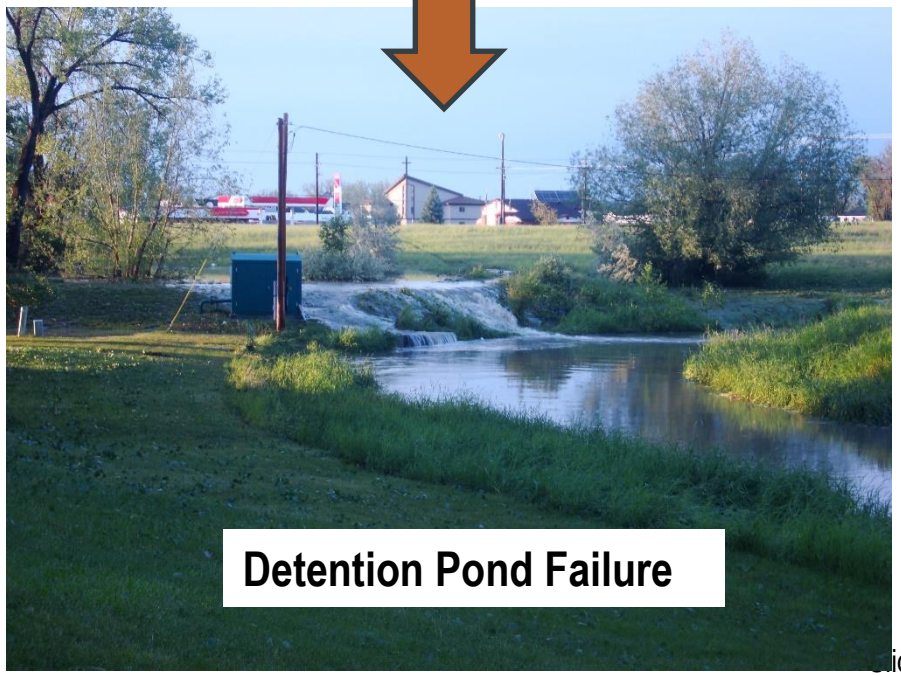
Reactive or Unknown Maintenance

Corroded Culverts

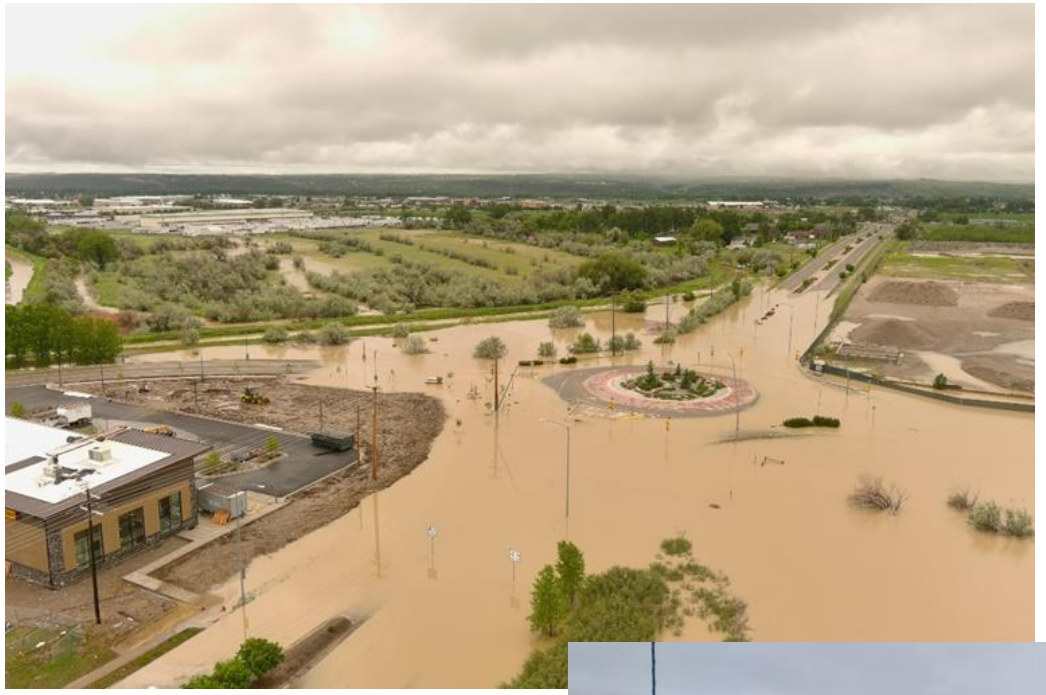
June 3, 2023 Storm Event

Road Failure / Emergency Replacement Project

Reactive or unknown Maintenance and Resulting Issues



Undersized Infrastructure and Consequences



Shiloh Road Flooding

Grand Avenue between 24th and 48th

Flooding near Lake Hills

Undersized Infrastructure and Consequences

Home Flooding - Heights

Property Flooding – West End

Phase II – Findings

Phase II - Evaluation

- **Validated and gathered additional data**
  - » Modeled critical (missing) area in Billings
  - » $73.8 million in deferred maintenance
  - » $103.7 million in deferred capital
- **Refined costs for service levels**
- **Continued coordination with GIS and TV maintenance crew**
- **Developed financial plan and rate analysis**
  - » Revenue sufficiency
  - » Alternative rate structures
  - » Billing frequency
  - » Stormwater system development fee
- **Facilitated Advisory Committee process**
  - » Council directive

Phase II - Advisory Committee

- **Purpose**
  - » Awareness / transparency to the stormwater program
  - » Help define appropriate levels of service and rate structures to match the City's stormwater goals
- **Members**
  - » Citizens, developers, real estate broker, City Council member, Public Works Board, City staff, consulting staff
- **Met seven times throughout 2022 and 2023**
- **<u>Provided recommendations</u>**
  - » Level of service
  - » Rate structure
  - » System development fee

FCS GROUP DOWL

MEETING MINUTES

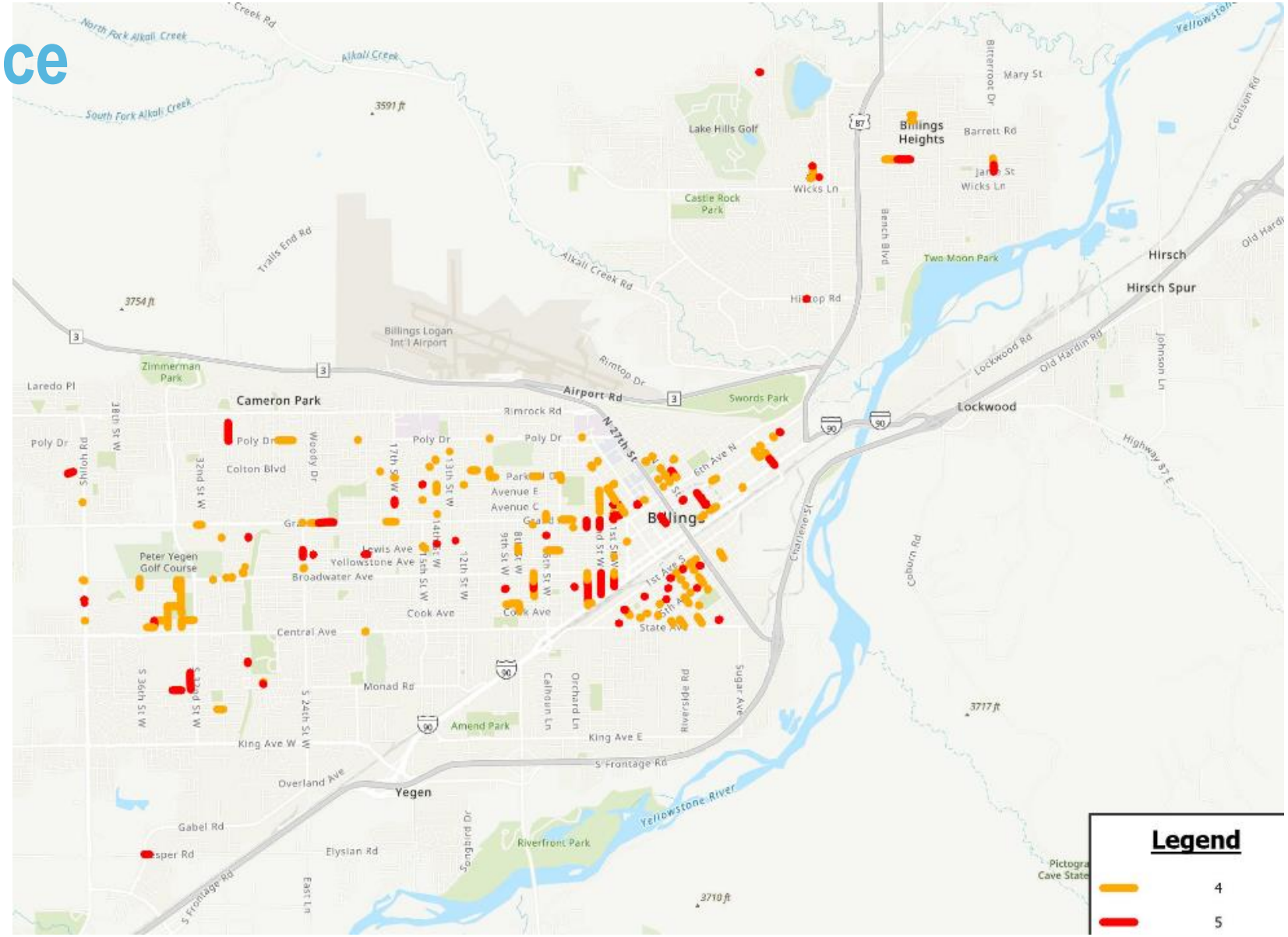
PROJECT:	Billings Stormwater Program Update	DATE:	8/17/2022
PROJECT NUMBER:	4036.21779.01	TIME:	10:30 am
ORGANIZER:	Tyler Westrope	SUBJECT:	Advisory Committee Meeting #1
LOCATION:	DOWL Conference Room – Granite Tower (222 North 32nd Street, Suite 700)	CONTACT INFORMATION:	westropet@billingsmt.gov

ATTENDEES:	ORGANIZATION:
Debi Meling	Director, City of Billings Public Works
Jennifer Duray	Deputy Director, City of Billings of Public Works
John Ghilarducci	Utility Rate and Fee Consultant, FCS Group
Wade Irion	Engineering Consultant, DOWL
Aaron Redland	Board Member, Public Works Board
Derick Miller	Street/Traffic Engineer, City of Billings Public Works
Mike Whitaker	Director, City of Billings Parks and Recreation
Ed Gulick	City Council Member, Ward 1, City of Billings
Rick Leuthold	Engineering Development Consultant, Sanderson Stewart
Tyler Westrope	Project Manager, City of Billings Public Works
Tage Aaker (virtual)	Project Manager, FCS Group
Greg Gabel	Senior Water Resources Engineer, DOWL
Lisa Olmsted	Public Involvement Manager, DOWL

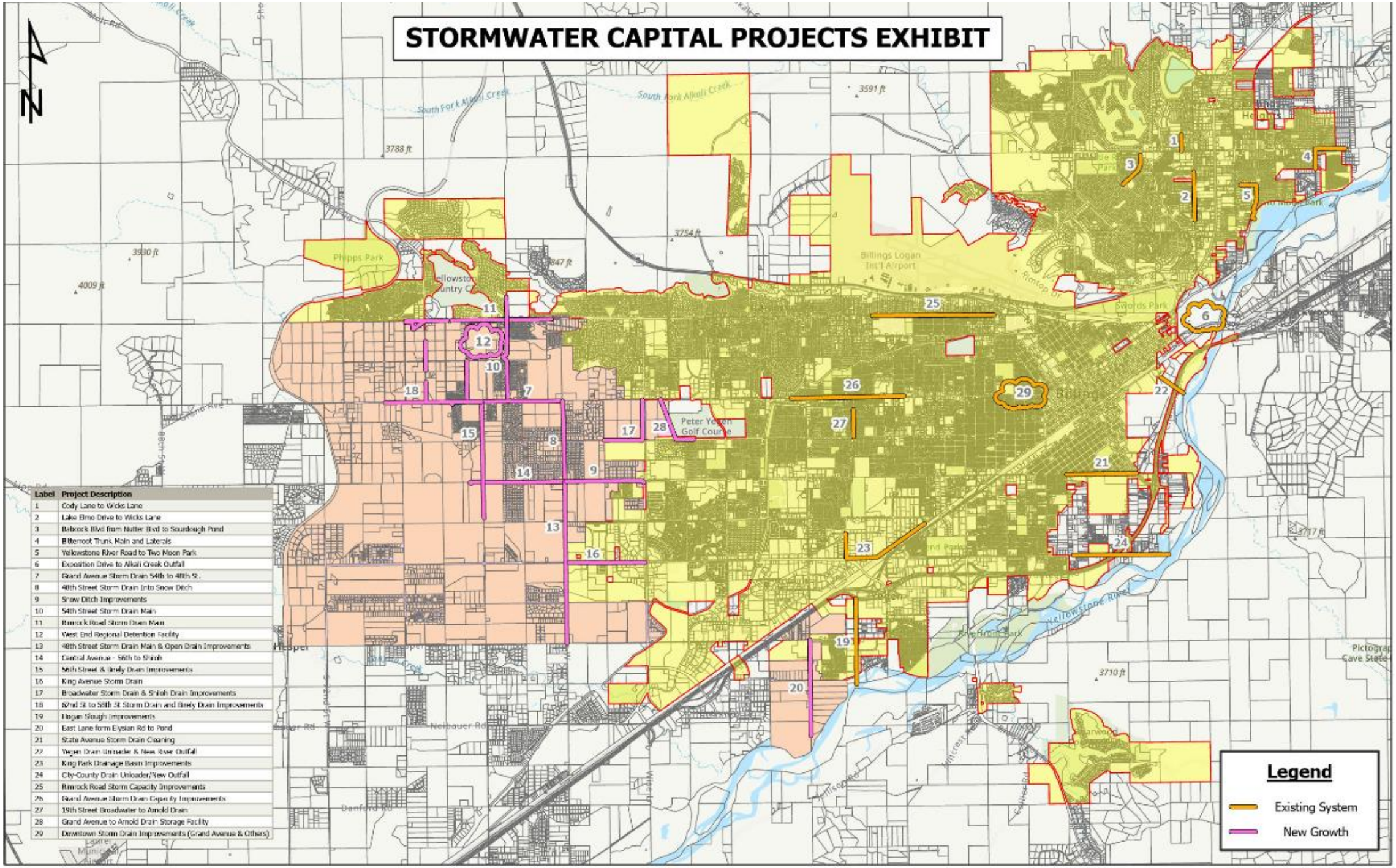
Phase II – Level of Service Analysis

Deferred Maintenance

- **Current storm drain pipe that is need of repair**
  - » Developing list
  - » Not all of City has CCTV
  - » Does not include culverts, ponds, boulder pits, etc.
  - » No information entire parts of system



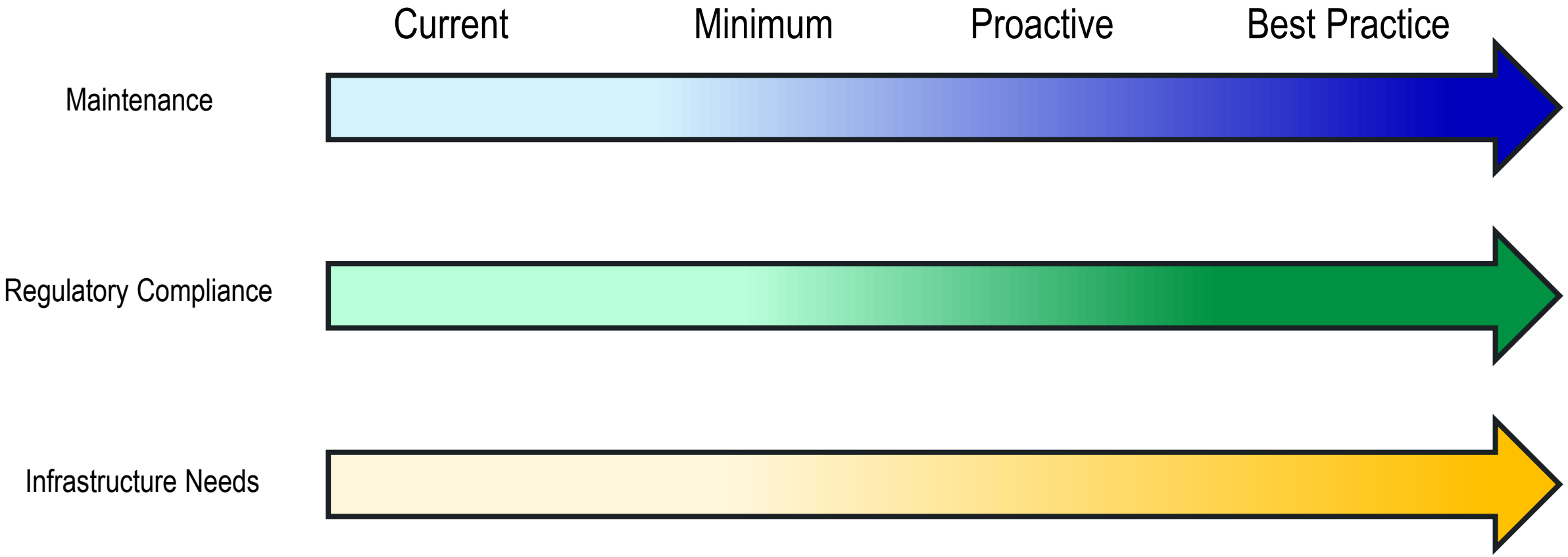
STORMWATER CAPITAL PROJECTS EXHIBIT



Label	Project Description
1	Cody Lane to Wicks Lane
2	Lake Elmo Drive to Wicks Lane
3	Babcock Blvd from Nutter Blvd to Sourdough Pond
4	Bitterroot Trunk Main and Laterals
5	Yellowstone River Road to Two Moon Park
6	Exposition Drive to Alkali Creek Outfall
7	Grand Avenue Storm Drain 54th to 48th St.
8	48th Street Storm Drain Into Snow Ditch
9	Snow Ditch Improvements
10	54th Street Storm Drain Main
11	Rimrock Road Storm Drain Main
12	West End Regional Detention Facility
13	48th Street Storm Drain Main & Open Drain Improvements
14	Central Avenue - 56th to Shiloh
15	56th Street & Bitely Drain Improvements
16	King Avenue Storm Drain
17	Broadwater Storm Drain & Shiloh Drain Improvements
18	62nd St to 56th St Storm Drain and Bitely Drain Improvements
19	Hogan Slough Improvements
20	East Lane form Eyesan Rd to Pond
21	State Avenue Storm Drain Cleaning
22	Yegen Drain Unloader & New River Outfall
23	King Park Drainage Basin Improvements
24	City-County Drain Unloader/New Outfall
25	Rimrock Road Storm Capacity Improvements
26	Grand Avenue Storm Drain Capacity Improvements
27	19th Street Broadwater to Arnold Drain
28	Grand Avenue to Arnold Drain Storage Facility
29	Downtown Storm Drain Improvements (Grand Avenue & Others)

Phase II: Level of Service Analysis

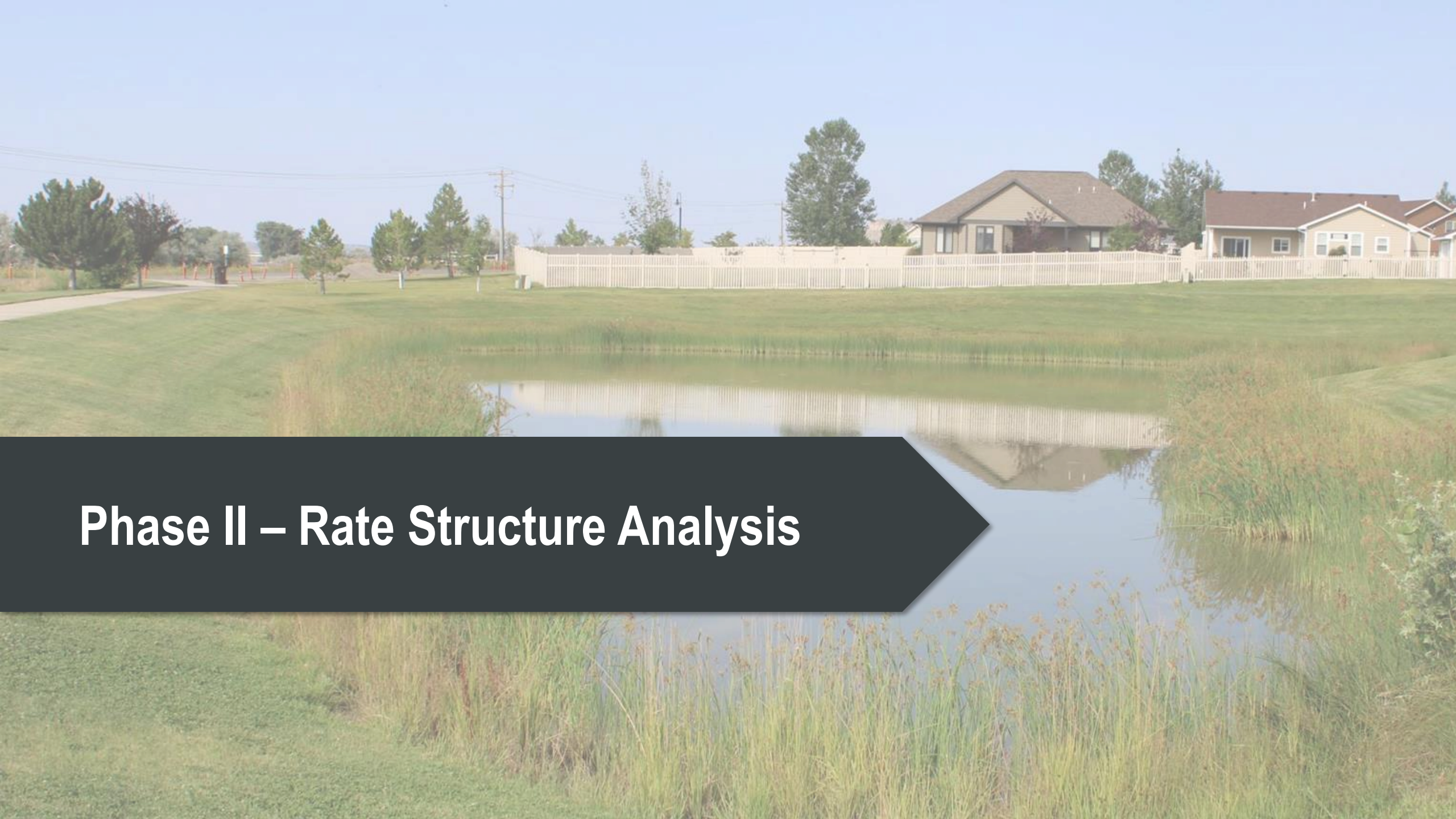
- **Three levels of service (and associated rates) were developed:**



Key Level of Service Assumptions

	Total Amount	Minimum	Proactive	Best Practice
Deferred Maintenance	$73.8 million	25-yr. completion ($3.0 million / yr.)	20-yr. completion ($3.7 million / yr.)	15-yr. completion ($4.9 million / yr.)
City-wide Capital	$103.7 million	40-yr. completion ($2.6 million / yr.)	30-yr. completion ($3.5 million / yr.)	20-yr. completion ($5.2 million / yr.)
Flood Protection Capital	$2.9 million (local only)	25-yr. completion ($0.11 million / yr.)	20-yr. completion ($0.15 million / yr.)	15-yr. completion ($0.20 million / yr.)
Water Quality Capital	Varies	$250,000 / yr.	$500,000 / yr.	$500,000 / yr.

- **Rate forecast assumes seven-year cost ramp up**
- **Timing for completion varies by LOS (dials)**

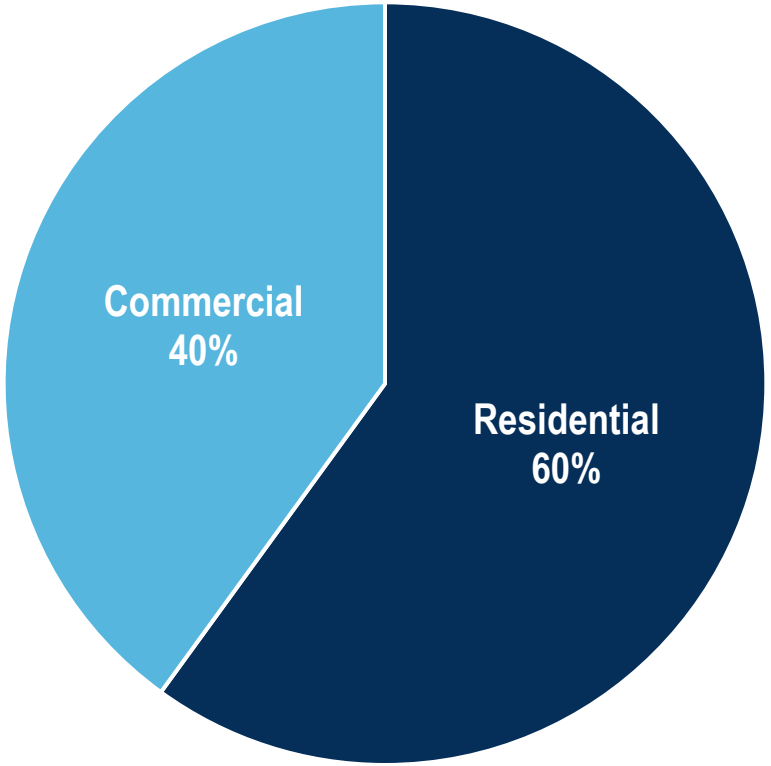


Phase II – Rate Structure Analysis

Ratemaking: Current Revenue Profile

- **Currently, stormwater services are based on available funding**
- **Stormwater programs incur two primary types of costs**
  - » Operating Costs (regular / ongoing)
    - – Employee salaries and benefits
    - – Routine asset repair and maintenance
    - – Power / utilities
    - – Regulatory compliance
    - – Bill processing
  - » Capital Costs
    - – Repair and replacement
    - – Capital improvement projects

Existing Structure: Revenue by Class *Estimate*



Ratemaking: Current Rate Structure

- **Drawbacks of Existing Structure**
  - » Can be difficult to communicate and explain to customers
  - » Lack of fairness
    - – Zoning may not align with land use
    - – Applied to gross parcel size, not impervious area
    - – Impacts to storm system not always equitable
  - » Revenue collected on property taxes
    - – Revenue receipts infrequent can result in larger reserve reqs.
    - – Lack of customer transparency; many pay without noticing
- **Advantages of Existing Structure**
  - » Status quo
  - » Delinquency rate typically lower when on property tax statement

STORM SEWER FEE

ZONE	RATE	
VACANT	1,110.00	Cap
AT RATE	0.001901	per sq. ft.
CBD	0.019462	per sq. ft.
CMU1	0.013401	per sq. ft.
CMU2	0.013749	per sq. ft.
CX	0.014615	per sq. ft.
DX	0.013401	per sq. ft.
EBCW	0.013401	per sq. ft.
EBIS	0.014615	per sq. ft.
EBMS	0.019462	per sq. ft.
EBRMS	0.019462	per sq. ft.
EBRSV	0.012524	per sq. ft.
I1	0.014615	per sq. ft.
I2	0.016252	per sq. ft.
N1	0.006146	per sq. ft.
N2	0.006146	per sq. ft.
N3	0.006146	per sq. ft.
NMU	0.012524	per sq. ft.
NO	0.010549	per sq. ft.
NX1	0.011004	per sq. ft.
NX2	0.011183	per sq. ft.
NX3	0.011352	per sq. ft.
P1	0.003231	per sq. ft.
P2	0.003231	per sq. ft.
P3	0.012925	per sq. ft.
PD	0.008902	per sq. ft.
RMH	0.007255	per sq. ft.

Single-Family: FY 2023 Stormwater Assessments

1027 Wicks Lane

- Lot size = 80,586 SF; 1,200 SF house
- FY 2023 stormwater assessment = **$469 per year; $39 / month**
- Estimated lot impervious of 3.5% (2,800 impervious square feet)

5406 Lazy Willow Lane

- Lot size = 3,276 SF; 1,768 SF house
- FY 2023 stormwater assessment = **$28 per year; $2 / month**
- Estimated lot impervious of 77% (2,500 impervious square feet)

Courtesy: Google Earth images

Commercial: FY 2023 Stormwater Assessments

2625 St. John's

- 21,000 SF gross lot size
- **82.5% lot impervious**
- FY 2023 stormwater assessment = $210 per year

2545 St. John's

- 21,000 SF gross lot size
- **41.6% lot impervious**
- FY 2023 stormwater assessment = $210 per year

Courtesy: Google Earth images

Commercial: FY 2023 Stormwater Assessments

Wells Fargo Downtown Tower

- Lot size = 21,000 SF; Office Building
- FY 2023 stormwater assessment = **$387 per year; $32 / month**
- Estimated lot impervious of 95% (20,000 impervious square feet)

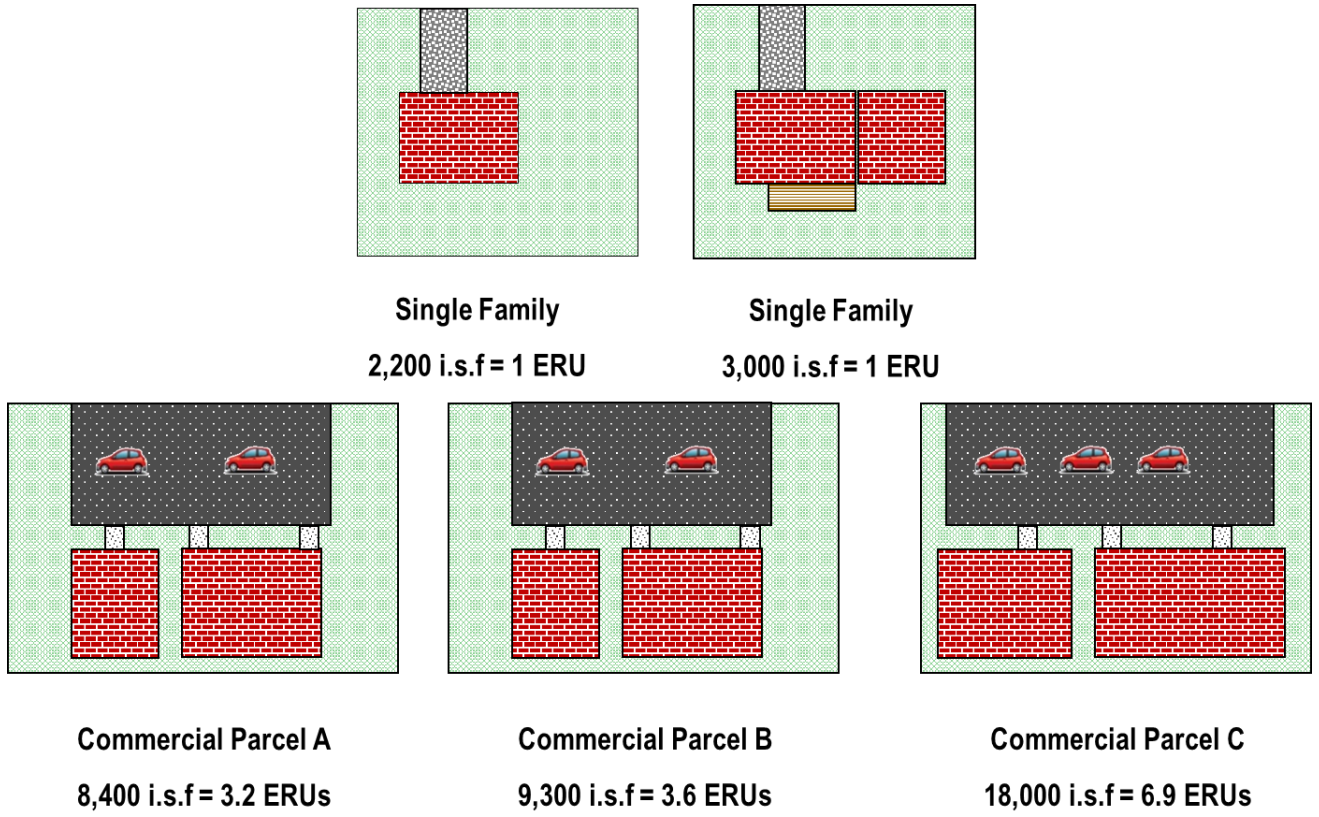
Holiday Gas Station at 8th and Grand

- Lot size = 21,560 SF; Gas Station
- FY 2023 stormwater assessment = **$260 per year; $22 / month**
- Estimated lot impervious of 95% (20,500 impervious square feet)

Courtesy: Google Earth images

Recommended Rate Structure

- **Develop a rate structure based on impervious surface area**
  - » Rate expressed in $ per equivalent residential unit (ERU)
- **Equivalent residential unit**
  - » 1 ERU = 1 developed residential parcel
  - » 1 ERU = 2,600 impervious sq. ft. on other developed parcels (median impervious area on residential parcels)
- **Impervious area data needs refinement before implementation**
- **Impervious area most common rate structure based on consultant experience**

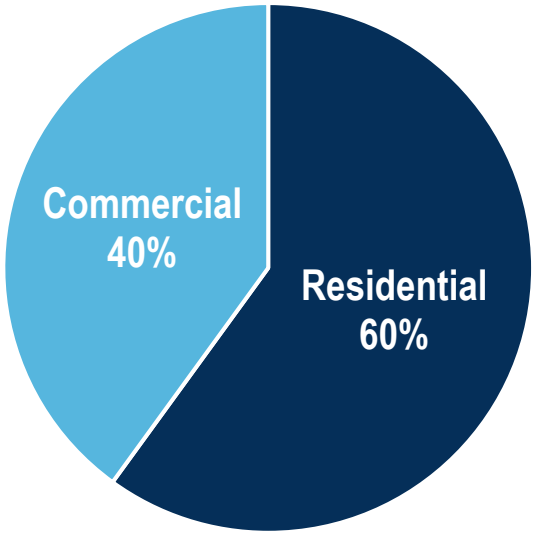


Ratemaking: Proposed Revenue Profile

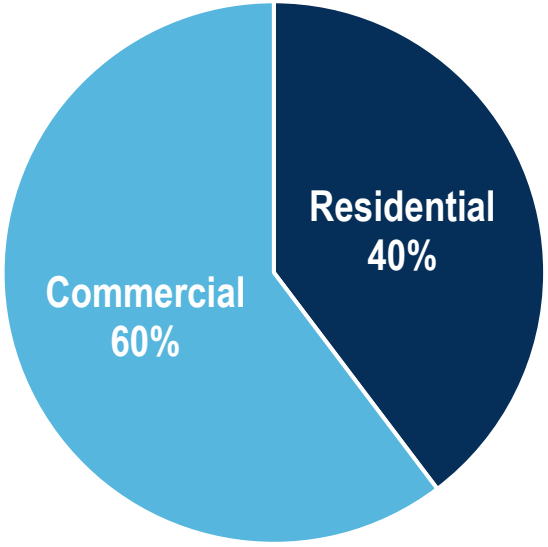
- **Stormwater *services* are based on available *funding* (current)**

- **Stormwater *funding* is based on provided *services* (proposed)**

Current Structure:
Revenue by Class



Proposed ERU Structure:
Revenue by Class



- **Moving to an impervious area-based rate structure shifts cost recovery to commercial**

Single-Family: Proposed with Best Practices LOS

- Lot size = 1.85 acres. 1,200 SF house
- FY 2023 stormwater assessment = $469 per year; $39 / month
- Estimated lot impervious of 3.5% (2,800 impervious square feet)
- **$85 per year in FY 2025 under ERU rate structure; $7 / month**
  - » **1 ERU**

- Lot size = 3,276 SF; 1,768 SF house
- FY 2023 stormwater assessment = $28 per year; $2 / month
- Estimated lot impervious of 77% (2,500 impervious square feet)
- **$85 per year in FY 2025 under ERU rate structure; $7 / month**
  - » **1 ERU**

Courtesy: Google Earth images

Commercial: Proposed with Best Practices LOS

- 21,000 SF gross lot size
- 82.5% lot impervious
- FY 2023 stormwater assessment = $210 per year
- **$563 in FY 2025 under ERU structure; $47 / month**
  - » 17,300 impervious square feet ÷ 2,600 impervious square feet per ERU = **6.7 ERUs**

- 21,000 SF gross lot size
- 41.6% lot impervious
- FY 2023 stormwater assessment = $210 per year
- **$284 in FY 2025 under ERU structure; $24 / month**
  - » 8,700 impervious square feet ÷ 2,600 impervious square feet per ERU = **3.4 ERUs**

Courtesy: Google Earth images

Commercial: Proposed with Best Practices LOS

- Lot size = 21,000 SF; Office Building
- FY 2023 stormwater assessment = $387 per year; $32 / month
- Estimated lot impervious of 95% (20,000 impervious square feet)
- **$650 in FY 2024 under ERU structure; $54 / month**
  - » 20,000 impervious square feet ÷ 2,600 impervious square feet per ERU = **7.7 ERUs**

- Lot size = 21,560 SF; Office Building
- FY 2023 stormwater assessment = $260 per year; $22 / month
- Estimated lot impervious of 95% (20,500 impervious square feet)
- **$660 in FY 2024 under ERU structure; $55 / month**
  - » 20,500 impervious square feet ÷ 2,600 impervious square feet per ERU = **7.9 ERUs**

Courtesy: Google Earth images

Phase II – System Development Fee Analysis

Characteristics of System Development Fees (SDFs)

- **SDFs are calculated by dividing the cost of the system by customer equivalents**
- **Authorized under Montana State Code**
  - » Title 7, Chapter 6, Part 16: Impact Fees to Fund Capital Improvements

One-time charges, not ongoing rates

Provide revenue for capital as growth occurs

Can include future & existing infrastructure costs

For general facilities, not "local" facilities

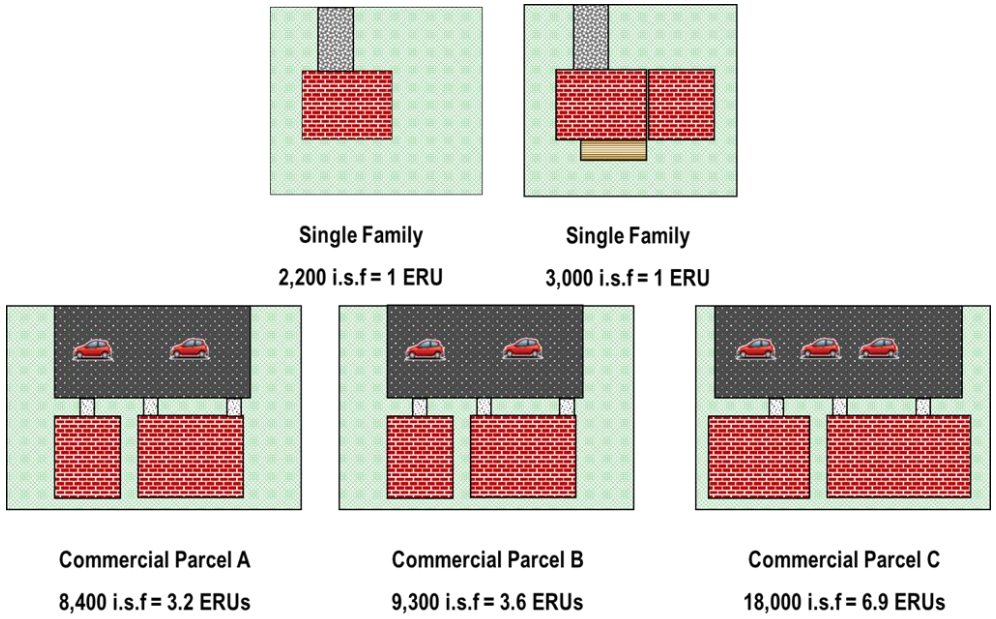
Recover proportionate share of cost of capacity

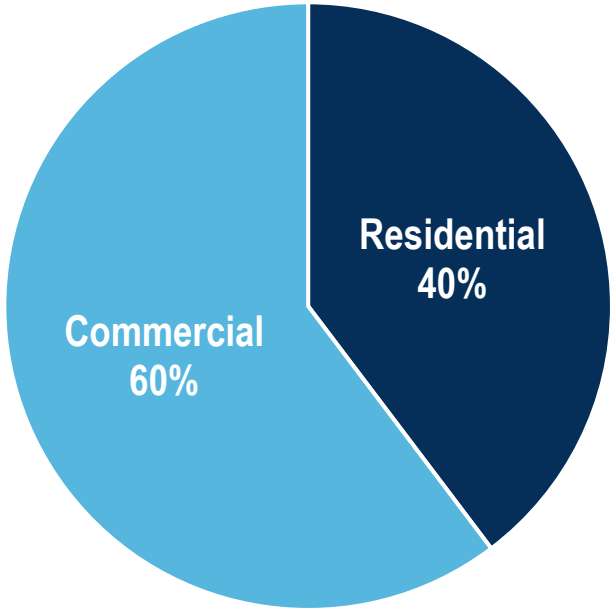
For capital only, in both calculation and in use

Committee Recommendations

Advisory Committee Recommendations

- **Advisory Committee Recommendation #1**
  - » Move to *impervious area* based equivalent residential unit (ERU) rate structure





Advisory Committee Recommendations

- **Advisory Committee Recommendation #2**
  - » Adopt a *stormwater system development fee*

Utility	SDFs
Water	$2,950
Wastewater	$3,120
Stormwater	Approx. $1,000
Total	**$7,070**

Advisory Committee Recommendations

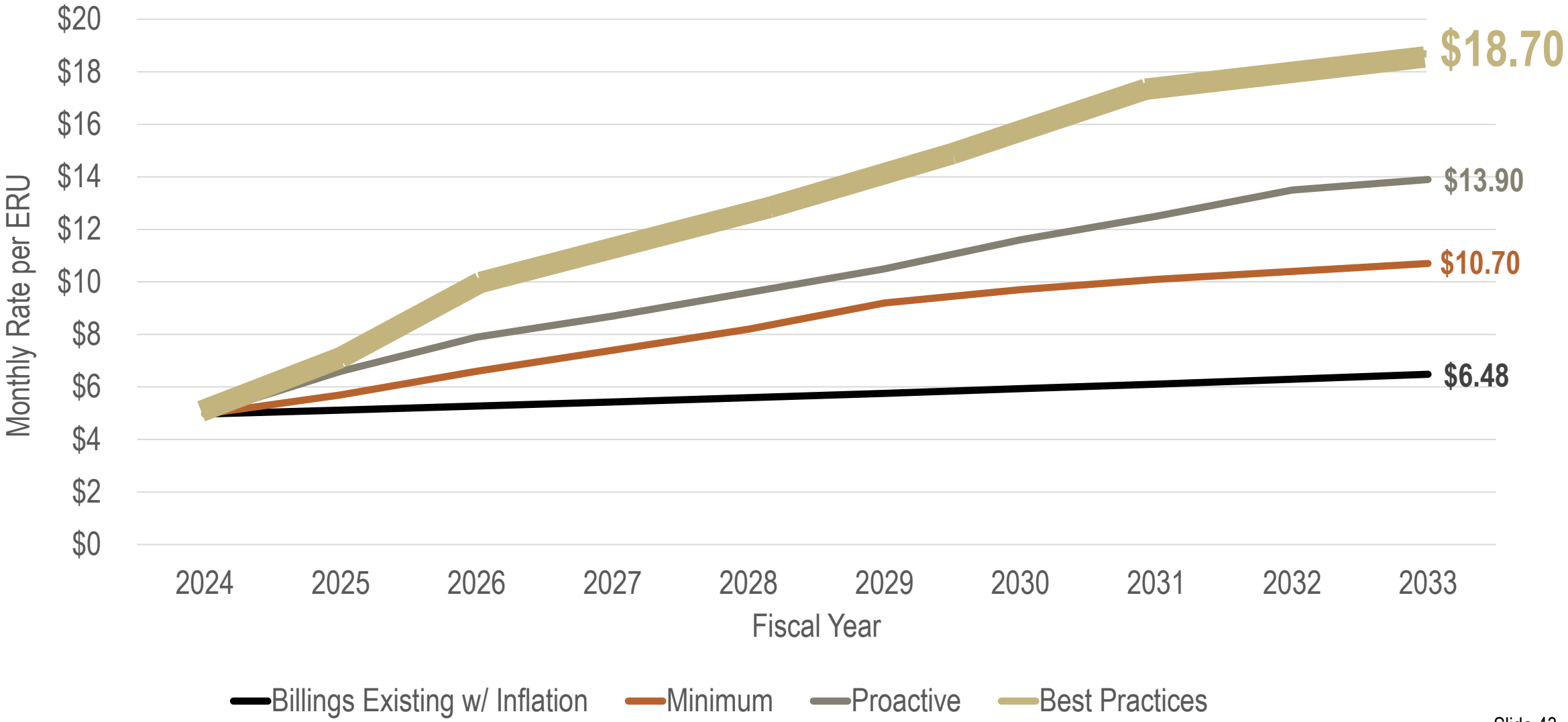
- **Advisory Committee Recommendation #3**
  - » Adopt *Best Practices* level of service with seven-year ramp up period

	Total Amount	Minimum	Proactive	Best Practice
Deferred Maintenance	$73.8 million	25-yr. completion ($3.0 million / yr.)	20-yr. completion ($3.7 million / yr.)	15-yr. completion ($4.9 million / yr.)
City-wide Capital	$103.7 million	40-yr. completion ($2.6 million / yr.)	30-yr. completion ($3.5 million / yr.)	20-yr. completion ($5.2 million / yr.)
Flood Protection Capital	$2.9 million (local only)	25-yr. completion ($0.11 million / yr.)	20-yr. completion ($0.15 million / yr.)	15-yr. completion ($0.20 million / yr.)
Water Quality Capital	Varies	$250,000 / yr.	$500,000 / yr.	$500,000 / yr.

Why “Best Practice” L.O.S. Recommended

- **Best Practice Level of Service**
  - » Focused attention on critical infrastructure
  - » Manageable plan to address deferred maintenance
  - » Reasonable timeframe to construct capital improvements
  - » Addressing permit requirements and improving local water quality
  - » Significant increase in service for relatively small increase in rate
  - » Balance between citizen services and rates
  - » Satisfies risk management objectives and targeted goals
  - » Business-like approach to managing a billion-dollar asset

Monthly Rates per ERU by Level of Service



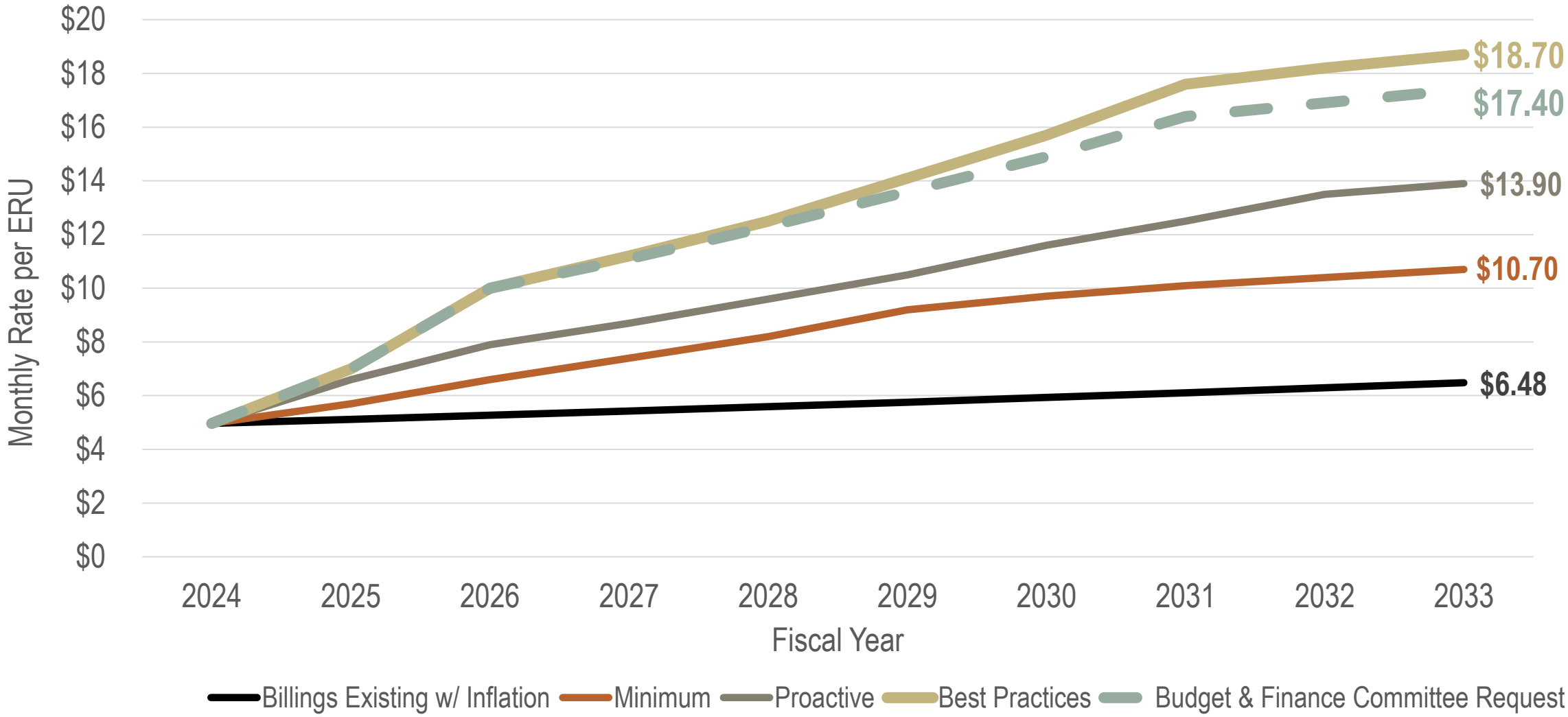
Updated Based on B.F.C. Feedback

Advisory Committee Recommendations

- **Advisory Committee Recommendation #3**
- **Budget & Finance Committee (BFC) requested #4**

	Total Amount	1. Minimum	2. Proactive	3. Best Practice	4. BFC - Requested
Deferred Maintenance	$73.8 million	25-yr. completion ($3.0 million / yr.)	20-yr. completion ($3.7 million / yr.)	15-yr. completion ($4.9 million / yr.)	15-yr. completion ($4.9 million / yr.)
City-wide Capital	$103.7 million	40-yr. completion ($2.6 million / yr.)	30-yr. completion ($3.5 million / yr.)	20-yr. completion ($5.2 million / yr.)	25-yr. completion ($4.1 million / yr.)
Flood Protection Capital	$2.9 million (local only)	25-yr. completion ($0.11 million / yr.)	20-yr. completion ($0.15 million / yr.)	15-yr. completion ($0.20 million / yr.)	15-yr. completion ($0.20 million / yr.)
Water Quality Capital	Varies	$250,000 / yr.	$500,000 / yr.	$500,000 / yr.	$500,000 / yr.

Monthly Rates per ERU by Level of Service



Council Action

Council Action

- **What will City Council need to act on?**
  - » Adopt rates reflective of desired levels of service
  - » Adopt impervious-based rate structure model
  - » Adopt SDF's for new development


Thank You!
Questions?

City Council Work Session

Date:	10/02/2023
Title:	Resolution Modifying Special Improvement District Policy
Presented by:	Debi Meling
Department:	Public Works
Presentation:	Yes
Legal Review:	Yes
Project Number:	N/A

RECOMMENDATION

Information will be presented at the meeting but no action is required.

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

In 2004, City Council adopted a policy regarding special improvement districts for roadways (04-18204). In 2018, City Council adopted a policy regarding the installation and repair of street improvements in existing neighborhoods (18-10719). There is an inconsistency between the two policies as far as assessments for adjacent property owners. In the 2004 Resolution, all properties are assessed for the improvements on the addressed side of the property only and the City funds all improvements on non-addressed sides. In the 2018 resolution, residential corner properties are assessed for general street improvements on the addressed side and private benefit improvements (i.e. drive approaches) on the non-addressed side. Commercial and industrial corner properties are assessed for improvements on both frontages of a corner lot. This inconsistency should be addressed to ensure property owners are funding the same improvements regardless of the project development mechanism.

When staff reviewed the 2004 SID policy to correct the aforementioned inconsistency, it was determined that a couple of other changes would be beneficial. Specifically, instead of defining the dimensions of a street, it was decided that referring to the subdivision street standards is better so if and when street standards change in City Code, the resolution will still be consistent with the standards. Also, for existing streets, the resolution refers to the 2018 resolution instead of addressing the same issue in two different resolutions.

If City Council is amenable to the changes, staff will bring the resolution forward for City Council approval at a future regular meeting.

ALTERNATIVES

There is no action being taken at the meeting so alternatives were not evaluated.

FISCAL EFFECTS

No action will be taken at the meeting so there are no fiscal effects.

Attachments

Proposed Resolution
Presentation
Resolution 04-18204
Resolution 18-10719

RESOLUTION 23-_____

A RESOLUTION REPEALING 04-18204 AND ADOPTING GENERAL GUIDELINES AND STANDARD PROCEDURES FOR SPECIAL IMPROVEMENT DISTRICTS FOR CITY STREETS

WHEREAS, the City of Billings has many incomplete streets that are desired for completion; and

WHEREAS, the Montana Code Annotated (MCA) allows municipalities to assess adjacent property owners for the construction or reconstruction of street improvements including street, curb and gutter, sidewalk, and appurtenances.

WHEREAS, for the purpose of this resolution, residential properties are defined as lots or parcels with single family or duplex dwelling units on it. Non-residential properties are defined as lots or parcels with commercial buildings on it and lots or parcels with 3 or more residential dwelling units on it.

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

CITY OF BILLINGS POLICY FOR
Special Improvement Districts

Purpose: The City of Billings is establishing a consistent Policy for the development of Special Improvement Districts. The Policy shall address the physical items to be assessed, properties eligible for assessment, and responsibilities for tasks. The Policy is in conformance with Billings City Council Resolution No. 05-18234 and Title 7, Chapter 12, Part 41, MCA.

Policy:

General Guidelines:

- The establishment of all Special Improvement Districts (SID) will conform to the policies and practices established in Resolution No. 05-18234 of the City of Billings and Title 7, Chapter 12, Part 41, MCA.

- The maximum street improvements a property contained in an SID could be assessed for would be the half (1/2) street standard as defined in the Subdivision Regulations for the City of Billings. This standard includes asphalt and base, sidewalk or

equivalent multiuse path, curb and gutter, and appurtenant facilities.

- The SID costs will include but not be limited to financial services charges, bond fees, design, project administration, and construction.

- The scheduling of SID projects will be subject to City Council approval in the Capital Improvement Program (CIP) and capital funding availability.

NEW STREETS AND GRAVEL STREETS

- If the street is new or existing as a gravel street, the adjacent property owners will be responsible for the cost of developing to the street standards as described in the General Guidelines.

- For residential corner lots, improvements along the addressed side of the lot and private property specific improvements (i.e., drive approaches) along the non-addressed side serving the property will be assessed to the adjacent property owners. All other improvements along the non-addressed side of the lot will be paid by the City.

- For non-residential lots with multiple street frontages, improvements along all sides will be assessed to the property owner.

EXISTING STREET

- The adjacent property owner will be responsible for the development of the street section that is not complete in accordance with Billings City Council Resolution No. 18-10719.

General Procedures for Special Improvement Districts

Phase	**Responsible Agency**	**Brief Description**
Initialization	Public Works Dept.	This phase covers the initialization of the SID from inception to development of request for creation.
Creation	Public Works Dept.	Development of preliminary SID data, notification of property owners, preliminary cost estimate, and creation of SID documents.
Council Approval	Public Works Dept. Legal Dept Administrative Services	Creation of Council Resolution and City Council approval of SID creation.
Design	Public Works Dept.	Development of construction plans, final cost estimate, bid documents.

Phase	Responsible Agency	Brief Description
SID Bonds	Administrative Services	Award of bonds, printing of bonds, registering of bonds and final closing of bond sale.
Bid SID	Public Works Dept.	Bid and select contractor.
Construction	Public Works Dept.	Construction phase of project.
SID Principal Spread	Administrative Services	Spreading of principal based on on bids and notifying taxpayers of payment amounts.
Spreading	Administrative Services	Determination of cash flow requirements, spreading principal and interest charges and merging of the per bid assessments with the SID assessment file.

PASSED and ADOPTED 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

Special Improvement District Resolution

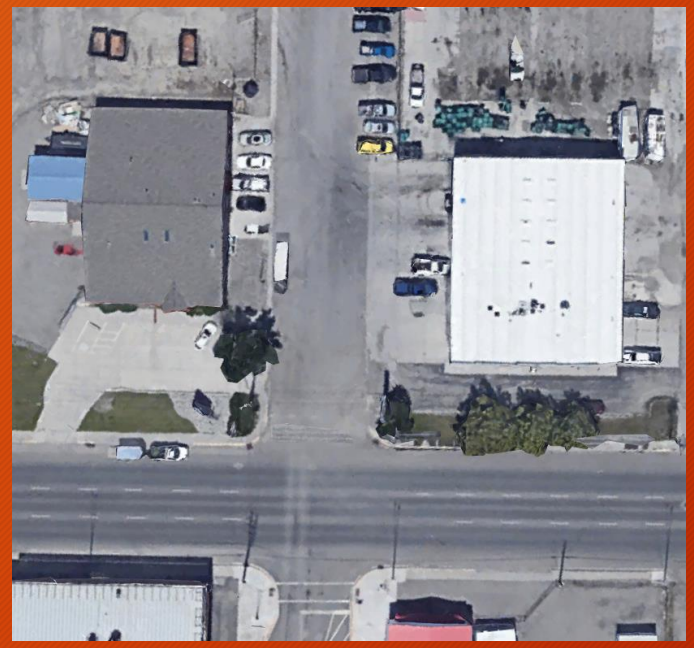
Street Construction

New Resolution rescinds Resolution No. 04-18204

Assessments

Existing Resolution

- Only those properties that are physically addressed are assessed



New Resolution

- Residential – addressed side and private improvements on non-addressed side
- Commercial/Industrial – all sides
  - Consistent with 18-10719

Design and Assessment Standards

Existing Resolution

- Defined widths
  - All residential street standard

Street Type	Right-of-Way	B-B Curb Width	Lane Width	Parking Width	Turn lane width	Median Width	Boulevard Width	Sidewalk Width
Principal Arterial	130'	64'-86' *	11'-12' **	—-	14'	—-	10'	5'/10' ***
Minor Arterial	100'	42'-66' *	12'	—-	—-	14'	10'	5'
Collector	74'	53'-39'	11'	8'	14'	—-	5'	5'
Commercial Local Access	70'	44'-45'	13.5'	8'	14'	—-	5'	5'
Residential Local Access	56'	34' min.	n/s	n/s	—-	—-	5'	5'
Cul-de-Sac 100—600 feet	56'	34' min.	n/s	n/s	—-	—-	5'	5'
Cul-de-Sac < 100 feet	40'	29' min.	n/s	n/s	—-	—-	—-	—-

New Resolution

- Refers to subdivision regulations
  - Residential – residential street standard
  - Commercial/Industrial - commercial street standard

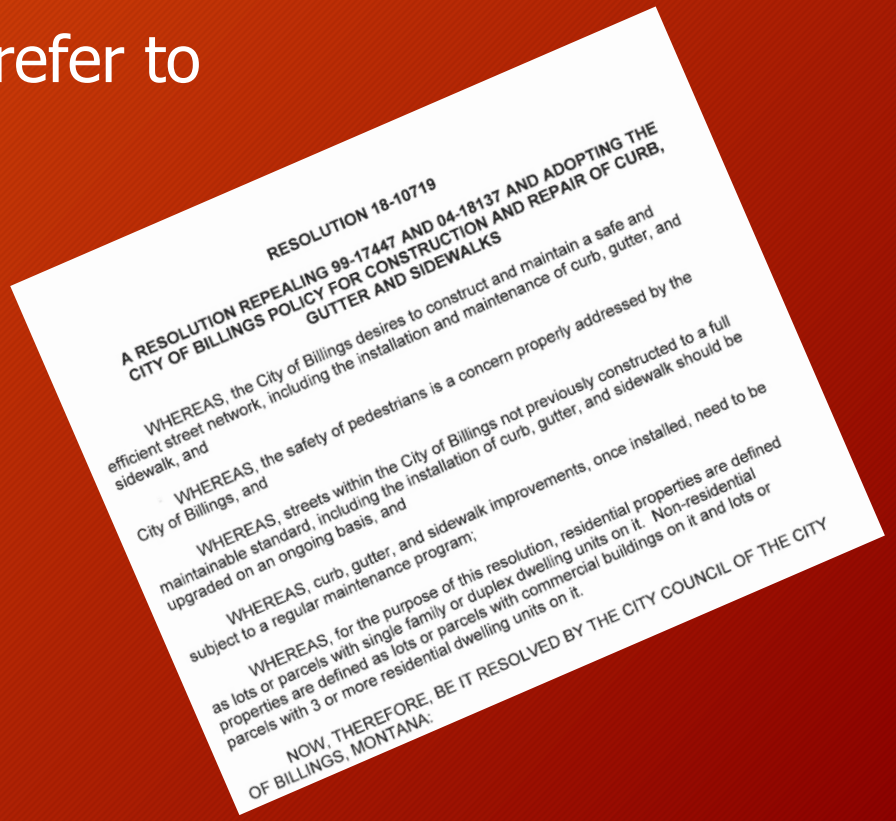
New and Existing Streets

Existing Resolution

- New and Existing Street construction

New Resolution

- New streets only
- Existing streets refer to Res. 18-10719



RESOLUTION 18-10719

A RESOLUTION REPEALING 99-17447 AND 04-18137 AND ADOPTING THE CITY OF BILLINGS POLICY FOR CONSTRUCTION AND REPAIR OF CURB, GUTTER AND SIDEWALKS

WHEREAS, the City of Billings desires to construct and maintain a safe and efficient street network, including the installation and maintenance of curb, gutter, and sidewalk, and

WHEREAS, the safety of pedestrians is a concern properly addressed by the City of Billings, and

WHEREAS, streets within the City of Billings not previously constructed to a full maintainable standard, including the installation of curb, gutter, and sidewalk should be upgraded on an ongoing basis, and

WHEREAS, curb, gutter, and sidewalk improvements, once installed, need to be subject to a regular maintenance program;

WHEREAS, for the purpose of this resolution, residential properties are defined as lots or parcels with single family or duplex dwelling units on it. Non-residential properties are defined as lots or parcels with commercial buildings on it and lots or parcels with 3 or more residential dwelling units on it.

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

Questions

RESOLUTION NO. **04-18204**

A RESOLUTION OF THE BILLINGS, MONTANA CITY COUNCIL ADOPTING GENERAL GUIDELINES AND STANDARD PROCEDURES FOR SPECIAL IMPROVEMENT DISTRICTS FOR CITY STREETS

WHEREAS, the City Council has heard testimony, on a case by case basis, from affected citizens that the City's policies regarding the creation and terms of Special Improvement Districts for roadway construction and reconstruction are inequitable and are inconsistently applied; and

WHEREAS, the Council formed a Special Improvement District Subcommittee in July of 2004 to review current procedures and develop a consistent policy for future SIDs; and

WHEREAS, the Special Improvement District Subcommittee has met several times and has examined possible methods to resolve citizen concerns about equity and consistency, and the Subcommittee has proposed standard procedures for Special Improvement Districts, to include General Guidelines, a policy for residential and collector street Special Improvement Districts, and a policy for arterial street Special Improvement Districts; and

WHEREAS, adoption of this policy will effectively address the concerns raised by the testimony the Council has heard concerning equity and consistency in City Special Improvement District procedures.

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

That the procedures proposed by the City Council Subcommittee on Special Improvement Districts, now makes and adopts the following

City of Billings
Policy for
Roadway Special Improvement Districts

Purpose:

The City of Billings is establishing a consistent Policy for the development of Special Improvement Districts. The Policy shall address the physical items to be assessed, properties eligible for assessment, and responsibilities for tasks. The Policy is in conformance with Billings City Council Resolution 87-15592 and M.C.A. 7-12-4102.

Policy:

General Guidelines:

- The establishment of all Special Improvement Districts (SID) will conform to the policies and practices established in Resolution No. 87-15592 of the City of Billings.
- Only those properties that are physically addressed to the street being improved would be assessed for the SID costs.
- The maximum street improvements a property contained in an SID could be assessed for would be the half (1/2) street standard as defined in the Subdivision Regulations, Chapter 23-601 for the length of the property. Commercial and residential property will be assessed by the following improvements;
- The residential half street standard:
    - 16.5 feet of asphalt and base
    - concrete curb and gutter
    - 5 foot concrete sidewalk or the equivalent cost of a multi – use trail
- The Commercial half street standard:
    - 22 feet of asphalt and base
    - concrete curb and gutter

  - 5 foot concrete sidewalk or the equivalent cost of a multi – use trail
- The SID costs will include but not limited to financial services charges, bond fees, design, project administration, and construction.
- The scheduling of Special Improvement District projects will be subject to City Council approval in the Capital Improvement Program and capital funding availability.

Residential & Collector Streets SID Policy

- New streets: If the **residential or collector** street is new, the adjacent property owners will be responsible for the cost of developing to the residential street standards as described in the General Guidelines.
- Existing street: The adjacent property owner will be responsible for the development of the residential street section that is not complete. (Example: if the street does not have curb gutter and sidewalk, the adjacent property owner would be responsible for these improvements. The adjacent property owner would not be responsible for the construction of the asphalt surface if it exists.)

Arterial Streets SID Policy

- New streets: If the **arterial** street is new, the adjacent property owners will be responsible for the cost of developing to the residential street standards as described in the General Guidelines.
- Existing street: The adjacent property owner will be responsible for the development of the residential street section that is not complete. (Example: if the street does not have curb gutter and sidewalk, the adjacent property owner would be responsible for these improvements. The adjacent property owner would not be responsible for the construction of the asphalt surface if it exists.)
- Reconstruction of existing streets: If the street currently exists to City standards, the City of Billings will fund all improvement costs for reconstruction and / or widening of the facility.

General Procedures for Special Improvement Districts

Phase	Responsible Agency	Brief Description
Initialization	Public Works Dept.	This phase covers the initialization of the SID from inception to development of request for creation.
Creation	Public Works Dept.	Development of preliminary SID data, notification of property owners, preliminary cost estimate and creation of SID documents.
Council Approval	Public Works Dept. Legal Dept. Administrative Services Dept.	Creation of Council Resolution and City Council approval of SID creation.
Design	Public Works Dept.	Development of construction plans, final cost estimate, bid documents.

Phase	Responsible Agency	Brief Description
SID Bonds	Administrative Services Dept.	Award of bonds, printing of bonds registering of bonds and final closing of bond sale.
Bid SID	Public Works Dept.	Bid and select contractor.
Construction	Public Works Dept.	Construction phase of project.
SID Principal Spread	Administrative Services Dept. Public Works Dept.	Spreading of principal based on bids and notifying taxpayers of payment amounts.
Spreading principal and interest charges.	Administrative Services Dept.	Determination of cash flow requirements, spreading principal and interest charges and merging the per bib assessments with the SID assessment file.

APPROVED AND PASSED by the City Council of the City of Billings, this 12th day of October, 2004.

CITY OF BILLINGS • SEAL • YELLOWSTONE COUNTY, MONTANA

THE CITY OF BILLINGS:

BY: Charles F. Tooley
Charles F. Tooley MAYOR

ATTEST:

BY: Susan Shuckler
Marita Herold, CMC CITY CLERK
Deputy City Clerk

RESOLUTION 18-10719

A RESOLUTION REPEALING 99-17447 AND 04-18137 AND ADOPTING THE CITY OF BILLINGS POLICY FOR CONSTRUCTION AND REPAIR OF CURB, GUTTER AND SIDEWALKS

WHEREAS, the City of Billings desires to construct and maintain a safe and efficient street network, including the installation and maintenance of curb, gutter, and sidewalk, and

WHEREAS, the safety of pedestrians is a concern properly addressed by the City of Billings, and

WHEREAS, streets within the City of Billings not previously constructed to a full maintainable standard, including the installation of curb, gutter, and sidewalk should be upgraded on an ongoing basis, and

WHEREAS, curb, gutter, and sidewalk improvements, once installed, need to be subject to a regular maintenance program;

WHEREAS, for the purpose of this resolution, residential properties are defined as lots or parcels with single family or duplex dwelling units on it. Non-residential properties are defined as lots or parcels with commercial buildings on it and lots or parcels with 3 or more residential dwelling units on it.

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

Installation of New or Missing Curb, Gutter, and Sidewalk Improvements in Established Neighborhoods

For this program, curb, gutter, and sidewalk, together with or without corresponding street improvements are completed within those areas of the city where the work has not previously been addressed.

1. The City Engineer's office shall periodically recommend infill improvements to the City Council based on one or more of the following:

    a. Citizen request.
    b. Staff recommendations.
    c. Coordination with other projects.
    d. Along school walking routes.
    e. Other public interest.

2. Improvements are to be assessed to fronting property owners.

3. For residential corner lots, improvements along the addressed side of the lot and private property specific improvements (i.e. drive approaches) along the non-addressed side serving the property will be assessed to the property owner. All other improvements along the non-addressed side of the lot will be paid by the City.

4. For non-residential corner lots, improvements along both sides will be assessed to the property owner.

Repair and Maintenance of Existing Curb, Gutter and Sidewalk Improvements

These projects provide for the ongoing maintenance of curb, gutter and sidewalk previously constructed. The general policy for repair and maintenance programs is as follows:

1. The City Engineer's office shall periodically recommend repair and maintenance programs based upon:

    a. Complaints.
    b. Staff recommendations.
    c. Property owner requests.

2. The City Engineer's office has developed a policy statement for defective sidewalk, curb, and gutter and driveways which shall be used as a baseline for the inventory of work recommended for repair, followed by discussions with individual property owners.

3. The following construction costs are assessed to the fronting property owners as follows:

    a. Sidewalk repair or replacement.
    b. Landscaping necessary for sidewalk repair or replacement.
    c. Tree removal necessary to repair sidewalk.
    d. Drive approaches and driveway repair or replacement.
    e. Adjacent asphalt to assessed improvements

4. Curb and gutter repair or replacement, storm drain improvements, and adjacent asphalt will be paid for by the City of Billings.

5. For residential corner lots, improvements along the addressed side of the lot and drive approaches along the non-addressed side serving the property will be assessed to the property owner. All other improvements along the non-addressed side of the lot will be paid by the City.

6. For non-residential corner lots, improvements along both sides will be assessed to the property owner.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 14th day of May 2018.

CITY OF BILLINGS

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

ATTEST:

By: Toni Keehner
Toni Keehner, Deputy City Clerk

City Council Work Session

Date:	10/02/2023
Title:	Sale, exchange, or donation of city real property
Presented by:	Gina Dahl
Department:	Legal
Presentation:	Yes
Legal Review:	Not Applicable
Project Number:	N/A

RECOMMENDATION

Staff requests feedback regarding the proposal to amend city code regarding the disposition of city real property.

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

On September 18, 2023, Council discussed a proposal to amend city code which would generally revise the enabling legislation regarding acquisition and disposition of city real property. Based on the feedback, it appeared Council was reluctant to proceed with the amendments and was not comfortable delegating certain authority to the city administrator.

Therefore, staff only seeks to revise BMCC section 22-902 to provide additional options for Council to dispose of city property. Currently, property must be advertised for competitive bid prior to the sale, exchange, or donation. Staff seeks to include the option to negotiate a sale directly or to utilize a public auction.

The ordinance also contains some clarifying language regarding the process involved in disposing of property. The process outlined in the amendment is not different from the process currently followed under section 22-902 except for the notice provision. The notice provision contained in city code is unique to this process and is not consistent with the public notice requirements contained in Montana law for publication of notices. Staff recommends using the statutory notice provision used for other processes.

ALTERNATIVES

City Council may provide staff direction regarding the proposed amendments.

FISCAL EFFECTS

Attachments

Current Article 22-900 - Sale, Exchange or Donation of City Real Property
proposed amendments to Article 22-900
proposed amendments to Article 22-900 REDLINED

ARTICLE 22-900. SALE, EXCHANGE OR DONATION OF CITY REAL PROPERTY[1]

Sec. 22-901. State law superseded.

Pursuant to the city's self-government powers, MCA 7-8-4201, of the state law dealing with the disposal, donation, lease or sale of city property is hereby superseded.

(Ord. No. 12-5578, § 1, 9-10-12)

Sec. 22-902. Sale, exchange or donation of city real property.

(1) Subject to the provisions of subsections (a) and (b) below, the city council may sell, exchange or donate any real property belonging to the city, including property held in trust for a specific purpose, by a resolution passed by six (6) of the city council members present. The city council shall advertise for competitive bids on any real property prior to sale, exchange or donation. The city council shall have the authority and discretion to select the bid that is in the best interest of the city, conditionally accept a bid or it may reject any and all bids. Other local, state or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided in subsections (a) and (b) and approve the Resolution described above when considering the sale, exchange or donation to another governmental entity.

In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange or donation of land.

Prior to selling exchanging or donating said real property, the city administrator or his/her designee shall:

(a) Publish notice in the legal newspaper of the city of the intention to sell, exchange or donate such property and requesting competitive bids prior to the sale, exchange or donation of such lands, giving the public the opportunity to be heard regarding such action. Said notice shall be published no less than fifteen (15) days in advance of the date of the public hearing.

(b) Notify by mail all property owners within three hundred (300) feet of the exterior boundaries of the real property subject to sale, exchange or donation fifteen (15) calendar days in advance of the time, date, place of the public hearing and the existing and proposed use.

(2) Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.

(3) The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion

[1]Editor's note(s)—Ord. No. 12-5578, § 1, adopted September 10, 2012, amended article 22-900 in its entirety to read as herein set out. Formerly, article 22-900 pertained to the sale, disposal or lease of city property and derived from Ord. No. 90-4826, §§ 1, 2, adopted March 26, 1990.

Cross reference(s)—Administration, Ch. 2.

to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to the prepare all appropriate documents for signature by the mayor.

(Ord. No. 12-5578, § 1, 9-10-12)

ARTICLE 22-900. SALE, EXCHANGE, OR DONATION OF CITY REAL PROPERTY

Sec. 22-901. State law superseded.

Pursuant to the city's self-government powers, MCA 7-8-4201, of the state law dealing with the disposal, donation, lease, or sale of city property is hereby superseded. All other applicable provisions of state law not in compliance with this article are hereby superseded.

Sec. 22-902. Sale, exchange, or donation of city real property.

a. Subject to the provisions of subsections e. and f. below, the city council has the authority to sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose.

b. The city council may sell city owned property by public auction, direct negotiated sale, or by bid. If the bid process is used, the city council shall have the authority and discretion to select the bid that is in the best interest of the city, conditionally accept a bid, or it may reject any and all bids.

c. Other local, state, or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange, or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided below in subsections e. and f. and approve a resolution of intent to sell, exchange, or donate the property when considering the sale, exchange, or donation to another governmental entity.

d. In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange, or donation of land.

e. Prior to selling, exchanging, or donating real property, the city council must find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation and pass a resolution of intent to sell, exchange, or donate the city owned property. This determination must be made by no fewer than six (6) of the city council members present.

f. If the council makes a finding as required above and adopts a resolution of intent to sell, exchange, or donate the city property, council must hold a subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Prior to the public hearing, the city must provide notice by publishing the resolution of intent as required by MCA 7-1-4127.

g. Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.

h. The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to prepare all appropriate documents for signature by the mayor.

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Sec. 22-902. Sale, exchange, or donation of city real property.

a. ~~(1)~~ Subject to the provisions of subsections ~~(e~~a.~~)~~ and ~~(f~~b~~).~~ below, the city council has the authority to ~~may~~ sell, exchange, or donate any real property belonging to the city, including property held in trust for a specific purpose.~~, by a resolution passed by six (6) of the city council members present.~~

b. ~~-~~The city council may sell city owned property by public auction, direct negotiated sale, or by bid. If the bid process is used, ~~shall advertise for competitive bids on any real property prior to sale, exchange, or donation. T~~the city council shall have the authority and discretion to select the bid that is in the best interest of the city, conditionally accept a bid, or it may reject any and all bids.

~~a.~~ Other local, state, or federal governmental entities expressing interest shall be exempt from competitive bidding, and the city council may sell, exchange, or donate specific real property to such governmental entities without a competitive bidding process. However, the council shall proceed as provided below in subsections ~~(a)~~e. and ~~(b)~~f. and approve a r~~the R~~esolution of intent to sell, exchange, or donate the property~~described above~~ when considering the sale, exchange, or donation to another governmental entity.

c.

~~b.~~ In its discretion, the city council may consider and impose deed restrictions relating to the use or subsequent sale of the property as a condition of the sale, exchange, or donation of land.

d.

Prior to selling, exchanging, or donating ~~said~~ real property, the city council must find the property is no longer necessary to conduct city business or that the public interest may be furthered by the sale, exchange, or donation and pass a resolution of intent to sell, exchange, or donate the city owned property. This determination must be made by no fewer than six (6) of the city council members present.~~the city administrator or his/her designee shall:~~

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subsequent public hearing on whether to approve the sale, exchange, or donation of the city owned property. This determination must be made by no fewer than six (6) of the city council members present. Prior to the public hearing, the city must provide~~Publish~~ notice by publishing the resolution of intent as required by MCA 7-1-4127.

~~d. in the legal newspaper of the city of the intention to sell, exchange or donate such property and requesting competitive bids prior to the sale, exchange, or donation of such lands, giving the public the opportunity to be heard regarding such action. Said notice shall be published no less than fifteen (15) days in advance of the date of the public hearing.~~

~~e. (b) Notify by mail all property owners within three hundred (300) feet of the exterior boundaries of the real property subject to sale, exchange, or donation fifteen (15) calendar days in advance of the time, date, place of the public hearing and the existing and proposed use.~~

~~f. (2)~~ Leases of city-owned real property shall be excluded from this section and will be approved in the same manner as all other contracts submitted to the city for approval.

g.

~~g.~~h. ~~(3)~~ The city administrator is hereby authorized to establish procedures to implement this section including establishment of sale criteria or conditions, a minimum sale price or exchange value and shall have discretion to develop individualized marketing plans to maximize land value and promote city land use policies. The city administrator is authorized to ~~the~~ prepare all appropriate documents for signature by the mayor.