

NOTE: SUPPORTING DOCUMENTS FOLLOW AGENDA

CITY OF BILLINGS

CITY OF BILLINGS' VISION STATEMENT:

***"THE MAGIC CITY – A VIBRANT, WELCOMING PLACE WHERE
PEOPLE FLOURISH AND BUSINESS THRIVES"***

AGENDA

COUNCIL CHAMBERS

February 9, 2009

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Gaghen

ROLL CALL

MINUTES – January 26, 2009

COURTESIES

PROCLAMATIONS

- **Designation of Billings' Brand: Montana's Trailhead**
- **National Engineers Week, February 15-21, 2009**

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 and 2 ONLY.

Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard **ONLY** during the designated public hearing time for each respective item.)

(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda. Please sign up on the clipboard located at the back of the room.)

CONSENT AGENDA:

1. A. Bid Awards:

(1) W.O. 06-10, Bannister Drain Trail. (Opened 1/27/09) Recommend CMG Construction, Inc., \$365,503, pending CTEP approval.

(2) W.O. 08-15, Lampman Strip Park Trail. (Opened 1/27/09) Recommend CMG Construction, Inc., \$243,809, pending CTEP approval.

B. Change Order #2, W.O. 07-16, Shiloh Road Corridor Water and Sanitary Sewer System Improvements, COP Construction, \$441,700 increase, and 24 additional days.

C. Professional Services Contract for W.O. 08-22, Wastewater Treatment Plant Disinfection System Improvements, HDR Engineering, Inc., not to exceed \$844,600.

D. Agreement with Canyon Creek Ditch Company, Inc., for ditch crossing for W.O. 07-16, Shiloh Road Corridor Water and Sewer System Improvements, \$500 paid by COP Construction.

E. Settlement Agreement and Release of Claims, Moira Murphy D'Alton; \$125,000.

F. Amendment to 2009 Transportation Improvement Program.

G. Easement requests from Northwestern Energy for electric power line relocation in (1) Ann Ross Park and (2) Shiloh drain property for the Shiloh Road Project, at no cost to the City.

H. Sidewalk Easements for W.O. 06-10, Bannister Drain Multi-use Trail from King Avenue West to S. 29th Street West, at no cost to the City:

- (a) Pierce Flooring
- (b) Big Sky Florists Supply

I. Sidewalk Easement for W.O. 07-22, King Avenue East Multi-use Path along the south side of the City-County drain from South Billings Center LLC, at no cost to the City.

J. Street Closure: St. Vincent Healthcare Foundation World Water Day Walk, 8 a.m.-12 p.m., March 21, 2009, commencing at the MSU-B Student Union Building, west on Marbara Lane, south on Virginia Lane, west on Highland Park Drive, south on Raymond, west on Poly Drive, north on Upper Highwood Drive, east on Park Lane, south on Virginia Lane, across the MSU-B campus, through the N. 27th Street Tunnel, around Mountain View Boulevard, through the N. 27th Street Tunnel, and back to the Student Union Building.

K. Acceptance of Donation to Dehler Park from the Billings Mustangs, for design services for a third base concrete deck, \$8,000.

L. Acceptance of Donation to Billings Animal Shelter from High Plains Psychiatric Association, \$500.

M. Acceptance of Donation to Billings Police Department from DUI Task Force, for light bars for patrol vehicles, \$10,000.

N. Acceptance of Donation from Billings Police Foundation, for two light bars, related equipment and two radars for patrol vehicles, \$6,983.

O. Second/final reading ordinance expanding the boundaries of Ward I to include recently annexed property in Annexation #08-09: Property described as Lots 1-3, Block 1, Cereus Subdivision, located on the north side of Midland Road east of the Motor Power Equipment business, including un-annexed portions of the I-90 and South Billings Boulevard interchange. Brumar Corporation, owner and petitioner; Bruce Sunwall, representative.

P. Amended Plat of Block 1, Lots 22-25, High Sierra Subdivision, 4th Filing.

Q. Preliminary Subsequent Minor Plat of Amended Lots 3A & 4A, Blaesius Subdivision, approximately .64 acres located on North 16th Street between 8th Avenue North and Vuecrest Drive, conditional approval of the preliminary subsequent minor plat and adoption of the Findings of Fact.

R. Preliminary Major Plat of The Estates at Briarwood Subdivision, 2nd Filing, approximately 52 acres located east of Blue Creek Road and north of McMasters Road, conditional approval of the preliminary major plat and adoption of the Findings of Fact.

S. Preliminary Plat of High Sierra Subdivision, 6th Filing, 7.18 acres located north of Annandale Road and east of Greenbriar Road, conditional approval of the preliminary plat and adoption of the Findings of Fact, and **approval** of the Master Plan for High Sierra Subdivision 5th-12th Filing.

T. Final Plat, Amended Lot 1, Block 1, Burlington Northern Subdivision, 17th Filing.

U. Bills and Payroll

- (1) January 9, 2009
- (2) January 16, 2009

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. RESOLUTION TO ADOPT BRIARWOOD PARK MASTER PLAN. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)

3. **PUBLIC HEARING ON FEDERAL LEGISLATION PRIORITIES.** Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
4. **PUBLIC HEARING AND RESOLUTION** creating SID 1384 Yellowstone Club Estates sanitary sewer extension, repealing and superseding Resolution 08-18699 approved by City Council on April 14, 2008. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
5. **PUBLIC HEARING AND RESOLUTION** ordering construction of the improvements identified in W.O. 08-02, 2008 Miscellaneous/Developer Related Project. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
6. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.** *(Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)*

Council Initiatives

ADJOURN

(NOTE: Additional information on any of these items is available in the City Clerk's Office)

<p>Visit our Web site at: http://ci.billings.mt.us</p>

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, February 9, 2009

TITLE: W.O. 06-10 Bannister Drain Trail-Billings, Federal Aid No. STPE 1099(55), MDT UPN 6126

DEPARTMENT: Public Works/Engineering

PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: Bids were received and evaluated on January 27, 2009. This project will construct a multi-use path from King Avenue West south along the Bannister Drain right-of-way, then east along the Bannister Drain right-of-way to 29th Street West, then connecting to the existing trail in Midland Subdivision. CTEP funds from WO 08-15 Lampman will be transferred to this project which will leave 4% contingency for each project.

ALTERNATIVES ANALYZED:

1. Award the contract for W.O. 06-10 Bannister Drain Trail; or
2. Reject all bids and do not award contract for W.O. 06-10 Bannister Drain Trail.

FINANCIAL IMPACT: We received Five bids for this project as follows:

Project Costs	Base Bid	Additive Alternate #1	Total Bid
Engineer's Estimate	\$246,341.70	\$196,274.00	\$420,221.00
CMG Construction, Inc.	\$189,888.00	\$175,615.00	\$365,503.00
Knife River – Billings	\$199,985.15	\$221,665.10	\$421,650.25
Riverside Sand & Gravel, Inc.	\$227,240.95	\$230,270.85	\$457,511.80
H.L. Ostermiller	\$275,458.20	\$253,305.19	\$528,763.39
Coleman Construction	\$356,408.25	\$312,455.88	\$668,864.13

A breakdown of the project funds is listed below:

CTEP Grant	\$312,406
CTEP Funds Transferred from WO 08-15 Lampman	\$ 57,730
Parks and Trails G.O. bond (Local match)	\$ 25,748
BikeNet (Local match)	\$ 25,000
Recreational Trails Program Grants	\$ 23,000
Consultant Contract	(\$ 64,067)
Total Funds Available	<u>\$379,817</u>

RECOMMENDATION

Staff recommends that Council award CMG Construction Inc.'s bid for W.O. 06-10 Bannister Drain Trail in the amount of \$365,503.00 pending CTEP approval.

Approved By: **City Administrator** _____ **City Attorney** ____

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, February 09, 2009

TITLE: WO 08-15 Lampman Strip Park Trail – Billings Federal Aid Project No. STPE 1099(59) MDT CN6635

DEPARTMENT: Public Works/Engineering

PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: Bids were received and evaluated for Work Order 08-15 Lampman Strip Park – Billings, Federal Aid Project No. STPE 1099(59) MDT CN6635 on January 27, 2009. This project will provide two mid-block crossings on Monad between Phyllis Dr and S 29th ST W and a concrete trail through Lampman Strip Park connecting to the existing concrete trail behind Famous Dave's.

ALTERNATIVES ANALYZED:

1. Award the contract for W.O. 08-15 to CMG Construction, Inc in the amount of \$243,809.00; or
2. Reject all bids and do not award contract for W.O. 08-15

FINANCIAL IMPACT: We received five bids for this project as follows:

<u>Contractor</u>	<u>Base Bid</u>	<u>Total Base Bid +Additive Alternate No. One</u>
Engineer's Estimate	\$359,186.75	\$360,735.55
CMG Construction, Inc	\$239,937.00	\$243,809.00
Riverside Sand & Gravel, Inc	\$260,182.95	\$263,861.35
Knife River – Billings	\$262,937.20	\$266,809.20
H.L. Ostermiller Const., Inc	\$270,788.51	\$277,564.51
Coleman Construction	\$412,196.15	\$416,068.15

A breakdown of the project funding sources available is listed below:

Local Funds	\$ 46,773
CTEP	\$ 301,762
Recreational Trail Program	\$ 20,000
Obligated Funds (PE & CE Contract)	\$(19,974)
CTEP Funds reallocated to WO 06-10 Bannister	\$(57,730)
Funding Available	\$ 290,831

RECOMMENDATION

Staff recommends that Council award CMG Construction, Inc.'s bid for WO 08-15 Lampman Strip Park – Billings in the amount of \$243,809.00 pending CTEP Approval.

Approved By: **City Administrator** _____ **City Attorney** ____

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: W.O. 07-16, Shiloh Road Corridor Water and Sanitary Sewer System Improvements, Change Order No. 2

DEPARTMENT: Public Works - Engineering

PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: Our contract with COP Construction, LLC for the Shiloh Road Corridor Water and Sewer System Improvements project requires amendment. It has been determined that a number of additional water system replacements and improvements are necessary in Shiloh Road between Poly Drive and Monad Road in order to effectively operate and maintain the system and to ensure its long-term integrity. The majority of the required work involves replacing eight (8) 24-inch valves located at key road intersections; these valves do not close, so they are the cause of significant operational and maintenance concerns. Additional work includes completing an important system loop, replacing a 16-inch valve and removing an unnecessary air release structure from the system.

FINANCIAL IMPACT: The net result of Change Order No. 2 is an estimated \$441,700.00 *increase* to the contract price and a 24-day *increase* to the contract time. The contract price would be *increased* from \$2,073,606.00 to \$2,515,306.00 and the contract time will be *increased* from 217 to 241 days. Sufficient FY09 water funds are available for Change Order No. 2.

RECOMMENDATION

Staff recommends that Council approve Change Order No. 2 for W.O. 07-16 in the amount of \$441,700.00. Sufficient water funds are available for these important water system improvements in the Shiloh Road Corridor.

Approved By: _____ City Administrator _____ City Attorney _____

ATTACHMENT

- A. Change Order No. 2 (15 pages)

INTRODUCTION

It has been determined that additional water distribution system improvements in Shiloh Road between Poly Drive and Monad Road are needed to effectively operate valves and ensure long-term system integrity. Most of the proposed work involves replacing eight (8) 24-inch valves located at key intersections. These valves do not function and cause significant operational and maintenance concerns. Additional work includes completing a system loop, replacing a 16-inch valve, and removing an unnecessary air release structure from the system.

BACKGROUND

It has been determined that eight (8) existing 24-inch valves in Shiloh Road between Poly Drive and Monad Road do not close. Because these valves must properly operate to perform system maintenance and to cost-effectively construct future water system extensions, they should be replaced while COP Construction is now performing similar work under WO 07-16 and before the State of Montana begins reconstruction of Shiloh Road in the spring of 2009. Replacement of these valves (as well as the 16-inch valve) in most cases involves setting-up an extensive temporary water system for City water customers while the system is temporarily out of service.

In addition to the valve replacements, an important system loop will be completed at the intersection of Shiloh Road and Avenue C, and an obsolete air release structure will be removed from the system just south of Broadwater Avenue.

ALTERNATIVES ANALYSIS

1. Construct the additional water system replacements and improvements in Shiloh Road.
2. Do not construct the additional water system replacements and improvements.

If the valves are not replaced, the City will be unable to perform important system operations throughout what is one of the most important trunk water mains in West Billings. Standard system operations in Shiloh Road (i.e., opening and closing of valves) will be critical in the future as water system extensions are constructed to the west from Shiloh Road. During construction of main extensions, valves must be closed in order to keep customers in service, to keep system water from bleeding into work trenches, and to conduct pressure testing of new mains. Operating and constructing improvements to the existing system in the future without these valve replacements will be cumbersome, costly, and will cause great inconvenience to customers along Shiloh Road. It has been recently confirmed that many of the valves proposed for replacement leak several hundreds of gallons of water per minute in the closed position, rendering them ineffective for their intended purpose.

RECOMMENDATION

Staff recommends that Council approve Change Order No. 2 for W.O. 07-16 in the amount of \$441,700.00. The contract price will be *increased* from \$2,073,606.00 to \$2,515,306.00 and the contract time will be increased from 217 to 241 days. Sufficient water funds are available for these important water system improvements in the Shiloh Road Corridor.

PROJECT: **City of Billings W.O. 07-16**
Shiloh Road Corridor

DATE OF ISSUANCE: **January 26, 2009**

OWNER: **City of Billings**
2224 Montana Avenue
Billings, MT 59101

OWNER PROJ. NO. **W.O. 07-16**

CONTRACTOR: **COP Construction LLC**
P.O. Box 20913
Billings, MT 59104

ENGINEER: **ENGINEERING, INC.**

ENGINEER PROJ. NO. **07104.01**

CONTRACT FOR: **Water and Sewer System Improvements for Shiloh Road from Pierce Parkway to Rimrock Road, Billings, Montana**

You are directed to make the following changes in the Contract Documents.

Explanation of Items. **To replace existing 24-inch valves on Shiloh Road. See Attachments**

Attachments: **Special Provisions fo Change Order No. 2; COP Construction letter dated January 23, 2009; Plan Sheets 1 of 2 and 2 of 2.**

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIME:

Original Contract Price

Original Contract Time

\$2,051,510.00

217
days or date

Previous Change Order No. 1

Net change from previous Change Orders

\$22,096.00

0
days

Contract Price prior to this Change Order

Contract Time prior to this Change Order

\$2,073,606.00

217
days or date

Net INCREASE of this Change Order

Net INCREASE of this Change Order

\$441,700.00

24
days

Contract Price with all approved Change Orders

Contract Time with all approved Change Orders

\$2,515,306.00

241
days or date

RECOMMENDED:

ACCEPTED:

by: Engineering, Inc. Date

by: COP Construction LLC Date

APPROVED:

by: City of Billings Date

by: City Administrator Date

PROJECT: City of Billings W.O. 07-16
Shiloh Road Corridor

DATE OF ISSUANCE:

January 26, 2009

Bid Item	Description	Unit	Price	Quantity Increase / Decrease	Dollar Amount Increase / Decrease	
CHANGE ORDER NO. TWO						
CO2-1	Replace 24-inch Valve - Colton Blvd.	EA	\$ 36,500.00	1.00	\$ 36,500.00	\$ -
CO2-2	Replace 24-inch Valve - Grand Ave. North	EA	\$ 38,800.00	1.00	\$ 38,800.00	\$ -
CO2-3	Replace 24-inch Valve - Grand Ave. South	EA	\$ 36,300.00	1.00	\$ 36,300.00	\$ -
CO2-4	Replace 24-inch Valve - Broadwater Ave. North	EA	\$ 33,000.00	1.00	\$ 33,000.00	\$ -
CO2-5	Replace 24-inch Valve - Broadwater Ave. South	EA	\$ 36,500.00	1.00	\$ 36,500.00	\$ -
CO2-6	Remove Valves/Blowoff/Tee - Broadwater Ave. South	EA	\$ 27,000.00	1.00	\$ 27,000.00	\$ -
CO2-7	Replace 16-inch Valve - Broadwater Ave. East	EA	\$ 28,600.00	1.00	\$ 28,600.00	\$ -
CO2-8	Replace 24-inch Valve - Central Ave. North	EA	\$ 37,500.00	1.00	\$ 37,500.00	\$ -
CO2-9	Replace 24-inch Valve - Central Ave. South	EA	\$ 37,500.00	1.00	\$ 37,500.00	\$ -
CO2-10	Replace 24-inch Valve - Monad Rd. North	EA	\$ 36,000.00	1.00	\$ 36,000.00	\$ -
CO2-11	Ave. C 8-inch Water Main Connection	EA	\$ 23,000.00	1.00	\$ 23,000.00	\$ -
CO2-12	Tender Nest Temporary Water	LS	\$ 7,000.00	1.00	\$ 7,000.00	\$ -
CO2-13	Ave. C Temporary Water	LS	\$ 4,000.00	1.00	\$ 4,000.00	\$ -
CO2-14	Temporary Water - Colton Blvd. - Rimrock Rd and Faith Chapel	LS	\$ 25,700.00	1.00	\$ 25,700.00	\$ -

PROJECT: **City of Billings W.O. 07-16**
Shiloh Road Corridor

DATE OF ISSUANCE:

January 26, 2009

Bid Item	Description	Unit	Price	Quantity Increase / Decrease	Dollar Amount Increase / Decrease	
CO2-15	Temporary Water - Broadwater Ave. to Monad Road	LS	\$ 26,500.00	1.00	\$ 26,500.00	\$ -
CO2-16	Added cost for Full-Time Flagging at two (2) Central Ave. valves if work must be completed under Traffic Control	LS	\$ 9,300.00	1.00	\$ 9,300.00	\$ -
CO2-17	Deduct to Bid Item No. 108 - 8-inch Sanitary Sewer Main if Bid Item No. 106 - Connect to Existing 6-inch Water Main (Ave. C work) is performed before April 15, 2009.	LS	\$ (1,500.00)	1.00	\$ -	\$ (1,500.00)
TOTAL NET INCREASE					\$ 441,700.00	



January 23, 2009

#002rev1

Mr. Tim Pirtz, PE
Engineering, Inc.
1300 North Transtech Way
Billings, MT 59102

**RE: CHANGE ORDER PRICING - VALVE REPLACEMENTS - TOTAL PACKAGE
WITH FINAL TEMPORARY WATER PRICING
W.O. 07-16 Shiloh Road Corridor
COP Project #08127-100**

Dear Tim:

COP Construction LLC would like to provide pricing for the valve replacements along Shiloh Road. As we have discussed, this pricing now represents the complete Shiloh package. This pricing is based upon the "Special Provisions for Change Order #2" originally dated 8/26/08 and revised 1/15/09, the original single plan sheet dated 10/31/08 and received 11/5/08, the two newest "Preliminary" plan sheets dated 1/13/09, and results of our various meetings with PUD and City Engineering last fall and this month. We have priced the work to reflect the sequencing proposed. The breakdown of pricing as discussed in SP-1 is as follows:

HEAVY, HIGHWAY, MUNICIPAL-UTILITIES SINCE 1947
An Equal Employment Opportunity Employer



#002rev1
CHANGE ORDER PRICING – VALVE REPLACEMENTS – TOTAL PACKAGE WITH FINAL TEMPORARY WATER
PRICING
January 23, 2009

		Quantity	Unit	Unit Price	Extension
101	Replace 24" Valve - Colton Blvd.	1	EA	\$ 36,500.00	\$ 36,500.00
102	Replace 24" Valve - Grand Ave. North	1	EA	\$ 38,800.00	\$ 38,800.00
103	Replace 24" Valve - Grand Ave. South	1	EA	\$ 36,300.00	\$ 36,300.00
104	Replace 24" Valve - Broadwater North	1	EA	\$ 33,000.00	\$ 33,000.00
105	Replace 16" Valve - Broadwater East	1	EA	\$ 28,600.00	\$ 28,600.00
106	Ave. C 8" Water Main Connection	1	EA	\$ 23,000.00	\$ 23,000.00
107	Tender Nest Temporary Water	1	LS	\$ 7,000.00	\$ 7,000.00
108	Ave. C Temporary Water	1	LS	\$ 4,000.00	\$ 4,000.00
109	Temporary Water - Colton-Rimrock & Faith Chapel	1	LS	\$ 25,700.00	\$ 25,700.00
201	Replace 24" Valve - Broadwater South	1	EA	\$ 36,500.00	\$ 36,500.00
202	Remove Valves/Blowoff/Tee - Broadwater South	1	EA	\$ 27,000.00	\$ 27,000.00
203	Replace 24" Valve - Central Ave. North	1	EA	\$ 37,500.00	\$ 37,500.00
204	Replace 24" Valve - Central Ave. South	1	EA	\$ 37,500.00	\$ 37,500.00
205	Replace 24" Valve - Monad North	1	EA	\$ 36,000.00	\$ 36,000.00
206	Temporary Water - Broadwater to Monad	1	LS	\$ 26,500.00	\$ 26,500.00

TOTAL \$ 433,900.00

ALT1	Added Cost for Full-Time Flagging at Two Central Valves if Work Must Be Done Under Traffic	\$ 9,300.00
ALT2	Deduct to Item #108 if Item #106 (Ave. C work) Is Performed before April 15th	\$ (1,500.00)

Please note the following conditions:

- Formal traffic control plans for the areas to follow as soon as possible
- This pricing is based directly on COP's questions raised in our 10/10/08 memo and the responses given in the two late October meetings
- We request that this letter be attached to and incorporated into the eventual Change Order documents
- Butterfly valves are factory-tested to 250 psi, and will be supplied and installed with factory settings
- In addition to the costs detailed above, we have determined that the total work package will require an additional 24 work days. At this time we feel that the extra work can be accomplished within the contract time milestones provided, but we would like to reserve the opportunity to extend the June or September milestones if weather or other factors intervene.
- All local businesses affected by a water shutdown for the Ave. C Water Main Connection (Item #106) were agreeable to a short term morning shutdown of a few hours to tie in except Sylvan Nursery. This item therefore is dependent on there being no pressure test or Bac-T test requirements. Due to our spring work timing and their greenhouse needs,

Sylvan will still require temporary water for the period of the shutdown if the work occurs after April 15th. Item #108 (Ave. C Temporary Water) represents the work occurring after April 15th. If the work can occur before April 15th, a \$1,500.00 deduct can be provided on Item #108.

- This pricing does not anticipate removal and disposal of large concrete thrust blocks under existing valves
- No vibration monitoring was included
- Per our discussions last fall and the design plans, all asphalt restoration is priced as cold mix asphalt patching. If future removal and replacement with hot mix becomes desired, it will need to be addressed with additional extra work.
- We feel the Central Ave. North and South valves work (Items #203 and #204) is best and safest constructed under a full closure of Shiloh Road north-south traffic. Central Ave. east-west traffic flow would remain open through the intersection. We have followed through with this proposal by pricing the traffic control this way (north-south closure) in Item #203 and #204. However, if the entire intersection must remain open and must be flagged (including through the night), we have provided an additive alternate price (ALT1) to cover the added costs.
- Per the approval of the Fire Marshall office, we have not planned for any temporary water to fire sprinkler systems, or fire watch for buildings with sprinkler systems
- On Item #202 (Remove Valves/Blowoff/Tee - Broadwater South), we understand that the fire hydrant itself, 6" hydrant piping, air vac assembly, and its 2" piping will be abandoned in place. We priced this scenario, to only remove the assemblies' connections to the main.
- Item #205 (Replace 24" Valve - Monad North or Phase V) is planned to be completed under the full closure (TCP 7) for the main project's Segment E work.

If you have any questions, please feel free to contact us.

Sincerely,

COP Construction LLC



Doug Teller
Project Manager

cc: Correspondence File #08127

SPECIAL PROVISIONS for CHANGE ORDER #2

SP-1 CHANGE ORDER NO. 2 – SCOPE OF WORK

City of Billings Work Order 07-16, Change Order No. 2 shall complete the utility improvements as shown on the construction drawing named PLAN AND PROFILE FOR SHILOH RD VALVE REPLACEMENTS FROM MONAD RD TO BROADWATER AVE – CHANGE ORDER NO. 2 and PLAN AND PROFILE FOR SHILOH RD VALVE REPLACEMENTS FROM GRAND TO COLTON – CHANGE ORDER NO. 2, of which work shall be as follows:

PHASE I

This phase is scheduled to be complete in the Spring of 2009 which shall include the replacement of the valves at Colton Boulevard and Grand Avenue (North). The water will be shut down from Broadwater Avenue to Poly Drive. The water shut down shall not exceed two days. If the work cannot be completed in two days, then the mains will need to be filled again to provide supply water to the City storage tanks. Once the tanks are filled, the Contractor may drain the line again to complete the work in Phase I.

Replace Existing 24-inch Butterfly Valve at Colton Boulevard – This work will replace the existing 24-inch valve at Colton Boulevard, south of the Big Ditch Culvert Crossing, west of the existing asphalt paving. Measurement and payment for this item shall be made on a lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, valve and pipe removal, pumping, dewatering, furnishing and installation of the pipe, valve and fittings, disinfection by swabbing, bedding, backfill, compaction, surface restoration and all other incidental work required to replace the valve.

Traffic control for this item shall consist of a two-way traffic push to the east on Shiloh Road. This push will require the existing roadway to be widened with a temporary gravel surface that must be maintained continuously by the Contractor.

Replace Existing 24-inch Butterfly Valve at Grand Avenue (North) – This work will replace the existing 24-inch valve at Grand Avenue on the north side of the Grand Avenue/Shiloh Road intersection. Measurement and payment for this item shall be made on a lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, valve and pipe removal, pumping, dewatering, furnishing and installation of the pipe, valve and fittings, disinfection by swabbing, bedding, backfill, compaction, surface restoration and all other incidental work required to replace the valve.

Traffic control for this item shall consist of a two-way traffic push to the east side of the existing median on Shiloh Road with a signal phasing modification; Or a complete closure for the south bound lanes from Avenue B to Grand Avenue with detours to Country Manor Boulevard to the east or 41st to the west.

Phase I Temporary Water – Replacement of the existing valves at Colton Boulevard and Grand Avenue (North) will require temporary water at the Tender Nest Assisted Living, the “*original*” Faith Chapel, and several hydrant-to-hydrant jumpers to serve the users north of Grand Avenue west of Shiloh Road. All temporary water is the responsibility of the Contractor. Measurement and payment for the temporary water will be made on a lump sum basis of which work shall include piping installation, temporary service connection, fittings, testing, trenching, trench service restoration, user notification, system disassembly and all other incidental work necessary to complete this item.

PHASE II

This phase is scheduled to be complete in the Spring of 2009 which shall include the replacement of the Broadwater Avenue (North) and Broadwater Avenue (East) valves. The water will be shut down from Grand Avenue to Broadwater Avenue. The water shut down shall not exceed two days. If the work cannot be completed in two days, then the mains will need to be filled again to provide supply water to the City storage tanks. Once the tanks are filled, the Contractor may drain the line again to complete the work in Phase II.

Replace Existing 24-inch Butterfly Valve at Broadwater Avenue (North) – This work will replace the existing 24-inch valve at Broadwater Avenue on the north side of the Broadwater Avenue/Shiloh Road intersection. Measurement and payment for this item shall be made on a lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, valve and pipe removal, pumping, dewatering, furnishing and installation of the pipe, valve and fittings, disinfection by swabbing, bedding, backfill, compaction, surface restoration and all other incidental work required to replace the valve.

Traffic control for this item shall consist of a two-way traffic push to the east on Shiloh Road.

Replace Existing 16-inch Butterfly Valve at Broadwater Avenue (East) – This work will replace the existing 16-inch valve at Broadwater Avenue on the east side of the Broadwater Avenue/Shiloh Road intersection. Measurement and payment for this item shall be made on a lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, valve and pipe removal, pumping, dewatering, furnishing and installation of the pipe, valve and fittings, disinfection by swabbing, bedding, backfill, compaction, surface restoration and all other incidental work required to replace the valve.

Traffic control for this item shall consist of a closing the eastbound lane in Broadwater only. The westbound lanes shall remain open.

Phase II Temporary Water – Replacement of the existing valves at Broadwater Avenue (East) and Broadwater Avenue (North) will require temporary water at the “*original*” Faith Chapel. The “*original*” Faith Chapel temporary water will be the responsibility of the Contractor. Measurement and payment for the temporary water will be made on a lump sum basis of which work shall include piping installation, temporary service connection, fittings, testing, trenching, trench service restoration, user notification, system disassembly and all other incidental work necessary to complete this item.

PHASE III

This phase is scheduled to be complete in the Spring of 2009 and shall include the replacement of the valve at Central Avenue (North) and Central Avenue (South). The water will be shut down from Broadwater Avenue to Monad Road. The water shut down shall not exceed two days. If the work cannot be completed in two days, then the mains will need to be filled again to provide supply water to the City storage tanks. Once the tanks are filled, the Contractor may drain the line again to complete the work in Phase III.

Replace Existing 24-inch Butterfly Valve at Central Avenue (North) – This work will replace the existing 24-inch valve at Central Avenue on the north side of the Central Avenue/Shiloh Road intersection. Measurement and payment for this item shall be made on a lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, valve and pipe removal, pumping, dewatering, furnishing and installation of the pipe, valve and fittings, disinfection by swabbing, bedding, backfill, compaction, surface restoration and all other incidental work required to replace the valve.

Traffic control for this item is to assume a closure of the north and south lanes of Shiloh Road. If the closure of the north and south lanes of Shiloh Road is not allowed by the City, the Contractor shall reduce the traffic to one lane with flagging. Cost for flagging will be paid under a separate additive alternate bid item.

Replace Existing 24-inch Butterfly Valve at Central Avenue (South) – This work will replace the existing 24-inch valve at Central Avenue on the south side of the Central Avenue/Shiloh Road intersection. Measurement and payment for this item shall be made on a lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, valve and pipe removal, pumping, dewatering, furnishing and installation of the pipe, valve and fittings, disinfection by swabbing, bedding, backfill, compaction, surface restoration and all other incidental work required to replace the valve.

Traffic control for this item is to assume a closure of the north and south lanes of Shiloh Road. If the closure of the north and south lanes of Shiloh Road is not

allowed by the City, the Contractor shall reduce the traffic to one lane with flagging. Cost for flagging will be paid under a separate additive alternate bid item.

Phase III Temporary Water – Replacement of the existing valves at Central Avenue (North) and Central Avenue (South) will require temporary water for the Faith Chapel “*expansion*”, Shiloh Vet Clinic, Summit Senior Living and Emmanuel Baptist Church, which will be the responsibility of the Contractor. In addition, hydrant-to-hydrant jumpers will be required to serve Legends West Subdivision west of Shiloh Road, which will also be the responsibility of the Contractor. Measurement and payment for the temporary water will be made on a lump sum basis of which work shall include piping installation, temporary service connection, fittings, testing, trenching, trench service restoration, user notification, system disassembly and all other incidental work necessary to complete this item.

Phase III Traffic Control Flagging (Additive Bid Alternate) – In the event the City does not allow for a full closure of the north and south legs of Shiloh Road at Central Avenue, then the Contractor shall provide traffic control to reduce travel down to one lane with flagging. Measurement and payment for this item will be made on a lump sum basis of which work shall include the cost of labor for flagger, additional traffic control required for the flagging operation, and all other incidental work necessary to complete this item.

PHASE IV

This phase is scheduled to be complete in the Spring of 2009 and shall include the replacement of the valve at Broadwater Avenue (South) and the removal fire hydrant and assembly, 24-inch valves and removal of the 2-inch Air-Vac approximately 450 feet south of the intersection of Broadwater Avenue and Shiloh Road. The water will be shut down from Broadwater Avenue to Central Avenue (North). The water shut down shall not exceed two days. If the work cannot be completed in two days, then the mains will need to be filled again to provide supply water to the City storage tanks. Once the tanks are filled, the Contractor may drain the line again to complete the work in Phase IV.

Replace Existing 24-inch Butterfly Valve at Broadwater Avenue (South) – This work will replace the existing 24-inch valve at Broadwater Avenue on the south side of the Broadwater Avenue/Shiloh Road intersection. Measurement and payment for this item shall be made on a lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, valve and pipe removal, pumping, dewatering, furnishing and installation of the pipe, valve and fittings, disinfection by swabbing, bedding, backfill, compaction, surface restoration and all other incidental work required to replace the valve.

Traffic control for this item shall consist of a two-way traffic push to the east on Shiloh Road.

Remove Existing Fire Hydrant and Assembly, Two 24-inch Butterfly Valves, 2-inch Air-Vac and Replace with New 24-inch Water Main – This work will remove the fire hydrant assembly and two 24-inch butterfly valves located approximately 450 feet south of the Broadwater/Shiloh intersection. This work will also include the removal of an existing 2-inch Air-Vac located approximately 30-feet south of the existing fire hydrant. Contractor must remove 2-inch Air-Vac at the existing 24-inch water main and plug the corp. Measurement and payment for this item shall be made on a lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, valve and pipe removal, 2-inch Air-Vac removal and plugging, pumping, dewatering, furnishing and installation of piping, disinfection by swabbing, bedding, backfill, compaction, surface restoration and all other incidental work required.

Traffic control for this item shall consist of a two-way traffic push to the east on Shiloh Road.

Phase IV Temporary Water – Replacement of the existing valves at Broadwater Avenue (South) and removal of existing fire hydrant and assembly, 24-inch butterfly valves and 2-inch Air-Vac (located south of Broadwater Avenue) will require temporary water at the Faith Chapel “*expansion*” and Shiloh Vet Clinic, which will be the responsibility of the Contractor. Measurement and payment for the temporary water will be made on a lump sum basis of which work shall include piping installation, temporary service connection, fittings, testing, trenching, trench service restoration, user notification, system disassembly and all other incidental work necessary to complete this item.

PHASE V

This phase is scheduled to be complete in the Spring of 2009 and shall include the replacement of the valve at Monad Road (North). The water will be shut down from Central Avenue (South) to Monad Road. The water shut down shall not exceed two days. If the work cannot be completed in two days, then the mains will need to be filled again to provide supply water to the City storage tanks. Once the tanks are filled, the Contractor may drain the line again to complete the work in Phase V.

Replace Existing 24-inch Butterfly Valve at Monad Road (North) – This work will replace the existing 24-inch valve at Monad Road on the north side of the Monad Road/Shiloh Road intersection. Measurement and payment for this item shall be made on a lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, valve and pipe removal, pumping, dewatering, furnishing and installation of the pipe, valve and fittings, disinfection by swabbing, bedding, backfill, compaction, surface restoration and all other incidental work required to replace the valve.

Traffic control for this item shall consist of a two-way traffic push to the east on Shiloh Road. This push may require the existing roadway to be widened with a temporary gravel surface that must be maintained continuously by the Contractor.

Phase V Temporary Water – Replacement of the existing valve at Monad Road (North) will require temporary water at the Summit Senior Living and Emmanuel Baptist Church, which will be the responsibility of the Contractor. Measurement and payment for the temporary water will be made on a lump sum basis of which work shall include piping installation, temporary service connection, fittings, testing, trenching, trench service restoration, user notification, system disassembly and all other incidental work necessary to complete this item.

PHASE VI

This phase shall be completed in the Spring of 2009 of which work includes the replacement of the Grand Avenue (South) valve. The water will be shut down from Grand Avenue to Broadwater Avenue. The water shut down shall not exceed two days. If the work cannot be completed in two days, then the mains will need to be filled again to provide supply water to the City storage tanks. Once the tanks are filled, the Contractor may drain the line again to complete the work in Phase V.

Replace Existing 24-inch Butterfly Valve at Grand Avenue (South) – This work will replace the existing 24-inch valve at Grand Avenue on the south side of the Grand Avenue/Shiloh Road intersection. Measurement and payment for this item shall be made on a lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, valve and pipe removal, pumping, dewatering, furnishing and installation of the pipe, valve and fittings, disinfection by swabbing, bedding, backfill, compaction, surface restoration, and all other incidental work required to replace the valve.

Traffic control for this item shall consist of a two-way traffic push to the east side of the existing median on Shiloh Road from Avenue B through the work zone. This may also require a signal phasing modification.

Replacement of the existing valve at Grand Avenue (South) will not require temporary water as long as Phase I and II have been previously completed.

PHASE VII

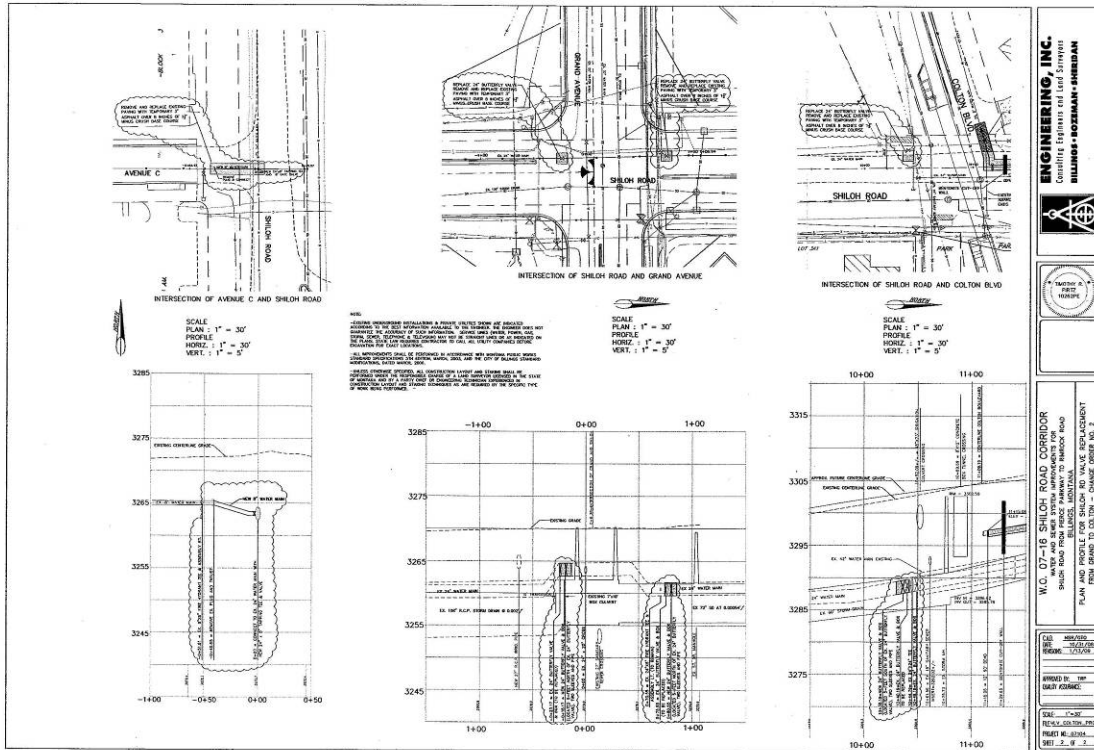
This phase shall be completed in the Spring of 2009 of which work includes the extension of the 8-inch water main in Avenue C. The water will be shut down from Colton Boulevard to Grand Avenue (North). The water shut down shall not exceed two days. If the work cannot be completed in two days, then the mains will need to be filled again to provide supply water to the City storage tanks. Once the tanks are filled, the Contractor may drain the line again to complete the work in Phase VII.

Connect Existing 8-inch Water Main to Existing 24-inch Water Main at Avenue C – This work will extend and connect the existing 8-inch water main in Avenue C to the existing 24-inch water main in Shiloh Road, a distance of approximately 40 feet. Measurement and payment for this item shall be made on a

lump sum basis of which work shall include traffic control, draining the existing pipe, excavation, pumping, dewatering furnishing and installation of the 24x8-inch tapping tee and 8-inch valve, fittings, disinfection by swabbing, bedding, backfill, compaction, surface restoration, and all other incidental work required to complete this item. The tapping and testing fees will be waived by the City in accordance with SP-35 of the original contract documents.

Traffic control for this item shall consist of a full closure of Avenue C in the area immediately adjacent to the work zone. The traffic control plan shall provide a detour back to Grand Avenue and Shiloh Road via 41st Street West and Avenue B. The Contractor shall provide access to the local businesses at all times.

Phase VII Temporary Water – Extension of the 8-inch water main in Avenue C may require temporary water to Sylvan Nursery and the commercial business on the north side of Avenue C if the conditions for commercial disruption set forth in Section 01580 cannot be met. If temporary water is required it is the responsibility of the Contractor and measurement and payment for this item will be made on a lump sum basis of which work shall include piping installation, temporary service connection, fittings, testing, trenching, trench service restoration, user notification, system disassembly and all other incidental work necessary to complete this item.



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: W.O. 08-22—Wastewater Treatment Plant Disinfection System Improvements, Professional Services Contract with HDR Engineering

DEPARTMENT: Public Works

PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Wastewater Treatment Plant (WWTP) has a need to hire a consultant to provide engineering services necessary for the design, bidding, and construction administration of an alternative disinfection system for the effluent of the WWTP. Proposals were requested from qualified consulting firms to provide these professional services. After an extensive review of proposals and conducting in-person interviews, HDR Engineering, Inc. was chosen by the selection committee as the preferred consultant for this project.

In addition to the services listed above, HDR's tasks will include, but are not limited to, project startup, planning, alternative analysis, preliminary design, final design, bidding administration, construction and inspection, development of operations & maintenance (O&M) manuals, and assistance with State Revolving Fund (SRF) loan requirements. The scope of work is based on disinfection improvements being constructed at the current location and constructing a full enclosure over the new system. The new standards of the NPDES (Montana Pollutant Discharge Elimination System) permit, the primary purpose of the improvements, must be operational by May 1, 2011, so the proposed contract will be in effect until July 1, 2011, allowing a small buffer period after the NPDES deadline.

FINANCIAL IMPACT: The project is being funded by Wastewater Construction funds. The associated FY 2009 CIP (\$590,000 for design services) and FY 2010 CIP (\$4,761,000 for construction and construction engineering services) have been approved by the Mayor and City Council. There are sufficient funds available to cover the costs of the Professional Services Contract.

Funding Sources: Wastewater Construction Improvements (account #421-8493-623-9340)
 Maximum amount being requested: \$844,600.00

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the Professional Services Contract with HDR Engineering, Inc. for W.O. 08-22—Wastewater Treatment Plant Disinfection Improvements in the not-to-exceed amount of \$844,600.00.

Approved By: **City Administrator** ____ **City Attorney** ____

ATTACHMENT

Attachment ‘A’: Professional Services Contract with HDR Engineering (33 pages)

ATTACHMENT 'A'

Contract for Professional Architectural and Engineering Services

W.O. 08-22—Wastewater Treatment Plant Disinfection System

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

- Part I, consisting of 15 Sections of Special Provisions;
- Part II, consisting of 11 Sections of General Provisions;
- Appendix A consisting of 16 pages (Basic Services of Contractor);
- Appendix B consisting of 1 page (Methods and Times of Payment);
- Appendix C consisting of 1 page (Additional Services of Contractor);
- Appendix D consisting of 1 page (Schedule of Professional Fees);
- Appendix E consisting of 1 page (Project Schedule);
- Appendix F consisting of 3 pages (Certificate(s) of Insurance); and

PART I SPECIAL PROVISIONS

Section 1. Definitions.

In this Contract:

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

Section 2. Scope of Services.

- A. The Contractor shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this Section by reference.

- B. Billings shall pay the Contractor in accordance with Section 4.
- C. Billings shall not allow any claim for services other than those described in this Section. However, the Contractor may provide, at its own expense, any other services that are consistent with this Contract.
- D. The Contractor shall provide hard copy as-built drawings and in digital pdf and Autocad format, as approved by the City of Billings, to the Administrator within 30 days after the project completion date. Final payment will be withheld until the as-built drawings are received by the City of Billings.
- E. The Contractor shall review the construction contractor's certified construction payrolls and provide them to the Administrator stating in writing that the payrolls have been reviewed and are acceptable.

Section 3. Time for Performance.

- A. This Contract becomes effective when signed on behalf of Billings.
- B. The Contractor shall commence performance of the Work described in Section 2 on receipt of written Notice to Proceed and complete that performance in accordance with the schedule set forth in Appendix E.
- C. This Contract shall terminate at midnight on July 1, 2011.

Section 4. Compensation; Method of Payment.

- A. Subject to the Contractor's satisfactory performance, Billings shall pay the Contractor no more than Eight Hundred Forty Four Thousand Six Hundred Dollars (\$844,600.00) in accordance with this Section and Appendix B.
- B. Each month, or at the conclusion of each phase of the Work for which payment is due, as negotiated on a per-task basis, the Contractor shall present a bill to the Administrator describing the Work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Contractor's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why. Billings will pay Contractor for all services provided not under dispute in the invoice. Billings will pay Contractor within 30 days of receiving an acceptable invoice.
- C. The Contractor is not entitled to any compensation under this Contract, other than is expressly provided for in this Section.
- D. As a condition of payment, the Contractor shall have paid all City taxes currently due and owing by the Contractor.

Section 5. Termination of the Contractor's Services.

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

- A. By mutual consent of the parties.

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

Section 6. Duties Upon Termination

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

Section 7. Insurance.

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

Section 8. Assignments.

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

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

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

- Contractor in writing of the specific information considered by Billings to be confidential and proprietary.
- B. Equipment purchased by the Contractor with Contract funds: See Appendix A, Section 3. Scope of Work.
 - C. Should Billings elect to reuse Deliverables provided under this Contract for other than the original project and/or purpose, Billings will indemnify and hold harmless the Contractor from any and all claims, demands and causes of action of any kind or character arising as a result of reusing the Deliverables developed under this contract. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation, and the original Contractor's or subcontractor's signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

Section 10. Notices.

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

Billings:	Debi Meling City of Billings Public Works Engineering 2224 Montana Avenue Billings, Montana 59101	e-mail: melingd@ci.billings.mt.us FAX: (406) <u>237-6291</u>
Contractor:	Mark Seip HDR Engineering, Inc 2913 Millennium Circle Billings, MT 59102	e-mail: Mark.Seip@hdrinc.com FAX: (406) 651-6600

Section 11. Contract Budget.

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

Section 12. Force Majeure.

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

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

Section 13. Financial Management System.

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

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

Section 14. Funding Requirements.

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

Section 15. Subcontracts.

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

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

PART II GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

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

Section 2. Nondiscrimination.

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

Section 3. Permits, Laws, and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this Contract. All actions taken by the Contractor under this Contract shall comply with all current and applicable

statutes, ordinances, rules and regulations at the time of the execution of this Contract. The Contractor shall pay all taxes pertaining to its performance under this Contract.

Section 4. Nonwaiver.

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

Section 5. Amendment.

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

Contractor: Department Manager
(title of position)

Billings: City Council or Authorized Designee

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

Section 6. Jurisdiction; Choice of Law.

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

Section 7. Severability.

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

Section 8. Integration.

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

communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

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

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

Section 10. Inspection and Retention of Records.

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

Section 11. Availability of Funds.

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

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

City of Billings

Contractor

Mayor or Designee

Name: Amanda B. McInnis

Title: Department Manager

Date: _____

Date: _____

ATTEST:

IRS Tax ID # 47-0680568

City Clerk

APPROVED AS TO FORM:

Date: _____

By _____
BRENT BROOKS, City Attorney

STATE OF MONTANA)

:SS.

COUNTY OF MISSOULA)

On this ____ day of _____, 2009, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the _____ of _____, and acknowledged to me that they executed the foregoing instrument on behalf of said corporation having first been authorized to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana
Residing at Missoula, Montana
My Commission Expires:_____

Note: **Final contract documents will require the Contractor's signature to be notarized.**

Appendix A
Basic Services of Engineer

Section 1. Engineer's Rights and Duties.

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

by the Engineer. Reports will be submitted in a timely manner to permit prompt resolution of problems.

- J. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project the Task Director designated for the Engineer is Mark Seip working under the Principal-in-Charge, Amanda McInnis.

Section 2. Billings Rights and Duties.

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

Section 3. Scope of Work.

The Engineer shall perform the work tasks outlined within this agreement for W.O. 08-22—Wastewater Treatment Plant Disinfection System Improvements. The NPDES permit has new standards that must be met by May 1, 2011.

The program consists of engineering services for the City of Billings Wastewater Treatment Plant (WWTP) Disinfection System Improvements. Included in the program are project startup, planning, alternative analysis, preliminary design, final design, bid administration services, construction and inspection services, operations & maintenance manual development, and state revolving fund (SRF) loan related assistance. The program is based on disinfection improvements at its current location and pre-purchasing equipment as necessary to allow for construction sequencing.

At the conclusion of each Task Series, the Engineer shall review the remaining scope of work with the City and adjust tasks and/or hours of service as necessary. The overall maximum budget of the project will be maintained unless additional tasks and associated fees are required, which will be addressed by Contract Amendment.

The project consists of the following facility components and improvements at the Billings WWTP:

♦ **Provide Engineering Services for New Disinfection Facilities**

- Disinfection Equipment (TBD)
- Chlorine Contact Basin Modifications
- Channels, piping, gates or other methods of conveyance and isolation to provide redundancy (if applicable)
- Flow measurement for flow through channel
- Sampling system for wastewater composite samples
- Provide building similar to or matching architecture of existing plant buildings

- Access doors
- Construction materials to handle wet corrosive atmosphere
- Means for equipment removal
- HVAC and electrical systems designed to handle requirements of wet areas
- Tour other disinfection facilities with City personnel to look at potential disinfection processes and types of applicable equipment and discuss equipment with operators using it
- Review provisions/options for bypassing chlorination system
- Sequence construction to allow new facilities to be built at existing chlorine contact tank area
 - Determine structure requirements to allow sequenced construction at existing location
 - Determine equipment and electrical sequencing requirements
- ♦ **Provide Engineering Services for hydraulics evaluation**
 - Evaluate hydraulics from river back to final clarifiers for the disinfection system selected
 - Evaluate best means for maintaining required water level range for disinfection equipment.
 - Identify 100 yr. flood elevations and outfall requirements
- ♦ **Provide Design Services for new electrical service for Disinfection Improvements**
 - Provide new dual secondary power
 - Identify temporary power needs for construction
 - Provisions for backup power generator to run disinfection
- ♦ **Provide Design Services for site work associated with Disinfection Improvements**
 - Evaluate condition of existing channels and pipe associated with the Chlorination System
 - Add new sidewalks and steps for building entrances if necessary
- ♦ **Provide Design Services to upgrade the plant SCADA system to incorporate disinfection system equipment automation and monitoring**
 - Provide new Allen-Bradley PLC
 - Provide for automatic operation with manual options for all equipment
 - Provide monitoring of flow measuring device
 - Add new fiber optic data highway for new PLC
- ♦ **Items not included in this Scope**
 - New outfall line
 - Final clarifier modifications other than replacing chlorine feed system
 - Separate equipment pre-purchase

DETAIL SCOPE OF SERVICES

The scope of services that will be utilized on the Billings WWTP project is presented in the summaries for Tasks 100 through 700. The scope of services is organized as follows:

<u>Task Series</u>	<u>Description</u>
100	Project Initiation, Coordination, Deliverables and Management
200	Preliminary Design
300	Final Design Phase
400	Bid Phase
500	Construction Phase
600	Operations & Maintenance Manual
700	State Revolving Fund

TASK SERIES 100

101– Project Initiation

The purpose of this task will be to establish lines of communication between the City and HDR staff. Key project goals and objectives will be established. This task will conclude with the preparation of a project initiation memorandum to summarize the key project requirements. Specific tasks will include the following:

101-1: Initiation Meeting

Key staff personnel from the City and Consultant will meet in a project initiation meeting. This meeting will finalize lines of communication and establish standard procedures for transferring and verifying data.

101-2: Review Project Goals and Objectives

The project goals and objectives as envisioned by the City will be reviewed. Modifications and additions to these goals and objectives will be finalized.

101-3: Review Project Budget and Schedule Requirements

Key personnel from the City and Consultant team will review the final budget and schedule requirements for all phases of the project. This information will be used

to monitor results and timing. Meeting schedules will be established for future team meetings.

101-4: Prepare Project Initiation Memorandum

The information initially gathered and established will be recorded in a project initiation memorandum. This memorandum will be distributed to all key project team members and City staff members.

102 – Data Collection and Review

During this task, data collection will be performed to obtain the most current available information. Physical features and existing facilities will be reviewed. Operational records will be reviewed during this phase. Specific tasks will include the following:

102-1: Review Existing Pertinent Data

Review previous design drawings, specifications, shop drawings, and associated information.

102-2: Collect Available Site Data

Consultant will collect available information pertaining to the plant site, including topographic data, as necessary.

102-3: Obtain Existing Facilities Inventory

Obtain data from the City on the existing plant facilities and associated equipment.

102-4: Review Pertinent Operations Records

Utilizing City-supplied records and data, review operational history with staff as it relates to plant operation. Identify existing limitations and parameters. Equipment design and operating characteristics will be reviewed.

103 – Meeting with City Staff

During the preliminary design and final design phases of the projects, key members of the Consultant design team will meet with the City staff to review the project. Specific tasks include the following:

103-1: Distribute Information

Distribute pertinent information to the City on items to be discussed prior to meetings. Information shall include technical memorandums, drawings, specifications, etc., prepared for the project.

103-2: Coordinate Meetings

Establish meeting objective with the City. Prepare meeting agenda and review with the City the personnel that should attend meetings. Schedule design team members to attend meetings as necessary.

103-3: Conduct Meetings

Conduct project meetings at the WWTP facilities. Provide exhibits and materials needed to facilitate completion of meeting objectives.

103-4: Prepare Meeting Minutes

Prepare meeting minutes and distribute to applicable City Staff and team members.

104 – Montana Department of Environmental Quality Coordination

As part of this task, the project will be coordinated with the State of Montana Department of Environmental Quality (DEQ). Specific tasks include:

104-1: Initial Meeting with DEQ

Meet with State to discuss general requirements for the project. Prepare memorandum summarizing meetings discussions.

104-2: Review DEQ Regulations

Review DEQ regulations that apply to project elements to determine potential impacts on the project.

104-3: Submit Disinfection Study

Submit draft of preliminary design pertinent to DEQ for review. Meet with DEQ to discuss report and finalize DEQ comments. The Disinfection Study will be used as PDR required for SRF Loan.

104-4: Consult with DEQ

When necessary, consult with DEQ regarding project design. Submit supplemental information as necessary to obtain DEQ direction on project.

104-5: Submit Drawings and Specifications

Submit final drawings and specifications to DEQ for final approval. Meet with DEQ to resolve review comments on project.

104-6: Submit Final Documents

Submit final plans and specifications to DEQ for the project. Obtain final DEQ approval for bidding.

105 – Construction Cost Estimate

The capital costs for the project will be developed in this task series. Specific tasks include:

105-1: Develop a Cost Estimating Methodology

Consultant will develop, with input from the City, the methodologies for preparing the cost estimates. Criteria such as cost indexing interest rates, and inflation rates will be reviewed with the City.

105-2: Prepare Quantity Take-Offs for Each Project

Material quantities will be determined and equipment requirements will be itemized.

105-3: Develop Capital Unit Costs

Unit costs for concrete, earthwork, piping, pumps, masonry, etc., will be established, utilizing local cost information and indexes as well as previous project experience.

105-4: Prepare Preliminary Construction Cost Estimate

Utilizing the finalized basis of design and preliminary drawings and specifications, a preliminary construction cost estimate will be prepared. This information will be used to identify significant variations from budget goals and objectives initially set.

105-5: Prepare Final Opinion of Construction Cost

Utilizing the final drawings and specifications, a final opinion of construction cost will be prepared.

106 – Document Submittals to City

As part of this task, documents developed as part of the project will be submitted to the City. Specific tasks include:

106-1: Submit Meeting Minutes

All meeting minutes prepared will be submitted to the City. Minutes will be reissued if City review comments warrant.

106-2: Submit Draft Disinfection Study

Draft disinfection study prepared as part of the preliminary design will be submitted for City review.

106-3: Submit Final Disinfection Study

Final disinfection study will be submitted to the City for incorporation into preliminary design notebooks. A total of four copies will be submitted to the City.

106-4: Submit Preliminary Plans and Specifications

The preliminary drawings and specifications will be presented to the City staff.

106-5: Submit Construction Documents to the City for Final Review

After in-house quality control reviews are completed and any necessary changes are made, the Consultant will present sets of construction documents to the City for final review.

106-6: Submit Bid-Ready Documents

The Consultant will submit a complete set of bid-ready documents for the project to the City for use in bidding.

107 – Project Management

Coordinate design team, monitor project status and prepare financial documents.

TASK SERIES 200 – PRELIMINARY DESIGN

This task series will involve an evaluation of disinfection system options. Specific areas of concern will be addressed in the investigations, with the feasible alternatives evaluated and recommended improvements identified. The tasks associated with the preliminary design include the following:

201 - Define Facilities Requirements

The system requirements for the project will be finalized. These requirements will establish the constraints for developing facility options. This will likely include various methods of chlorination including liquid chemical applications and ultraviolet disinfection systems.

202 - Visit Disinfection Facilities

Visit other disinfection systems with City staff. Locations will include a variety of disinfection systems. Evaluate these facilities and equipment for use and operation as they apply to Billings' requirements.

203 - Geotechnical Investigations (if necessary)

A soils sub-consultant will perform geotechnical investigations to determine the structural design requirements for new structures at the plant sites as required.

204 - Perform Design Surveys

Perform the necessary field surveys for the design of the project.

205 - Review Construction Constraints

Analyze site and existing facilities to determine areas suitable for constructing new improvements. Review site restrictions relative to excavation limits, construction phasing, construction staging and contractor storage needs.

206 - Review Access Requirements

Access for construction operations and future facility operation will be reviewed.

207 - Develop System Alternatives

Develop feasible alternatives, where appropriate, for the system facilities. Prepare conceptual layouts of each alternative. Establish construction material requirements and develop a basis of design for each alternative. Alternatives will be developed for each of the following: chlorine gas, sodium hypochlorite, vertical UV and horizontal UV. Basic hydraulic checks will be completed.

208 - Address Operational and Phasing Limitations

For each alternative identify operational benefits and deficiencies. Develop phasing requirements to allow installation of proposed improvements in the approximate location of existing facilities. Develop phasing requirements for constructing.

209 - Prepare Cost Effectiveness Analysis

Prepare cost effectiveness analysis for each alternative. Analysis will address construction costs, operational costs, maintenance costs, and other pertinent costs. Each alternative will be ranked based on its cost effectiveness based on a present worth analysis.

210 - Review Non-Cost Related Concerns

Address concerns that impact the alternatives that are not cost related, including environmental impacts, reliability and operability, implementation requirements, phasing potential and off-site issues such as chemical delivery and storage.

211 - Evaluate Each Alternative

Select criteria to be utilized in determining recommended improvements, including cost effectiveness, operability, maintainability, expandability, reliability, flexibility, etc. Evaluate each alternative with respect to the selected criteria.

212 - Evaluate Schedule for Each Alternative

Evaluate each alternative for construction schedule and identify applicability of prepurchasing equipment.

213 - Review Alternative Evaluation with the City

Present alternative evaluations to City staff and obtain City comments.

214 - Perform In-House Review on Alternatives

Senior in-house staff not directly involved in the project will review alternatives and perform a value engineering type review.

215 - Finalize Alternative Selection

Finalize evaluation of the alternatives and select a recommended alternative.

216 - Finalize Project Schedule

Review overall project schedule to assure timely completion of the project. Incorporate necessary modifications to schedule to meet project deadlines.

217 - Prepare Disinfection Evaluation Report

This report shall satisfy DEQ requirements for a PDR for SRF loan funding.

218 - Present Disinfection Study to the City/DEQ

Present the findings and recommendations of the Disinfection Study to the City staff and DEQ.

219 - Incorporate City/DEQ Comments

Review comments gathered from meetings and presentations and incorporate into final report (PDR).

225 – Prepare Design Report for Selected Alternative

For alternative selected from the disinfection study prepare a design report to summarize the design criteria for the process and associated building structures. Perform a cost estimate to verify project budget.

TASK SERIES 300 – FINAL DESIGN

In this task, recommended alternative identified in the disinfection study will be translated into engineered project elements. The basis of the design will be finalized and drawings and specifications will be prepared. Specific tasks will include the following:

302 - Utility Investigations

Investigate the availability of natural gas and electrical power supplies to the new facilities. Determine any potential existing underground and overhead utility conflicts at the site.

303 - Prepare Schematics

Establish location for all valves/gates and instrumentation appurtenances (as applicable).

304 - Select Equipment

Select equipment to be utilized not already prepurchased. Determine power and operating requirements pertinent to the design.

305 - Prepare Instrumentation Schematics

Determine interface requirements with the existing City instrumentation systems and prepare instrumentation schematics. Develop control loop descriptions and control logic for automatic control of planned facilities and for interfacing with existing facilities remote from the site.

306 - Prepare Preliminary Drawings

Utilizing approved layouts identified in the preliminary design, preliminary drawings for each major structure will be prepared. These drawings will locate major equipment components, equipment sizing and type, and major interfacing points.

307 - Prepare Electrical One-Line Diagrams

Utilizing the equipment power requirements from Task 304, prepare the preliminary electrical one-line diagrams.

308 - Prepare Preliminary Detailed Specifications

Preliminary detailed specifications for major pieces of construction, equipment, valves, gates, piping, instrumentation and controls, and site improvements will be prepared. The preliminary detailed specifications will establish general acceptable standards for equipment and materials.

309 - Perform Preliminary In-House Review

An engineering team of senior technical personnel not directly involved with the project, will review the preliminary drawings and specifications and the cost estimate for completeness, accuracy, and constructability.

310 - Resolve City Comments and Review Comments

Comments received in a review of preliminary drawings, specifications, and construction cost estimate will be resolved.

311 - Prepare Final Drawings

Utilizing the disinfection study and preliminary drawings and comments, the Consultant will prepare final construction drawings for the proposed improvements.

312 - Prepare Final Detail Specifications

Final detail specifications, suitable for bidding and construction, will be developed.

313 - Perform Final In-House Review

An engineering team of senior technical personnel not directly involved with the project will review the final drawings and specifications and the cost estimate for completeness, accuracy, and constructability.

314 - Incorporate Review Comments

Review comments received from the City, DEQ and In-House reviews will be compiled and incorporated into the documents as required.

315 - Assist in Obtaining Permits

Assist the City in submitting building permit.

TASK SERIES 400 – BID PHASE

401 – Bidding Administrative Assistance

Prepare bid documents and distribute to prospective bidders. Answer bidder questions and prepare addendum as needed. Schedule and conduct pre-bid meeting.

402 – Post-Bid Administrative Assistance

Receive, evaluate and tabulate bids. Assess completeness of bid. Make recommendations to the City on award of contract. Assist in preparation of contract documents.

TASK SERIES 500 – CONSTRUCTION PHASE

Construction Phase scoping is based on 40 week construction period at which time only minor punch list items would need to be completed.

501 – Construction Initiation Services

After award of the construction contract, the Consultant shall prepare a construction initiation memorandum, schedule and conduct a preconstruction conference and prepare a memo summarizing the conference. The consultant will provide the contractor with a reasonable number of “for construction” plans and specifications.

502 – Office Assistance and Administration

During the construction phase of the project, the Consultant will provide office assistance to the City on the administration of the project. This effort will include review and preparation of change orders, shop drawing review, interpretation of drawings and specifications, monitoring of compliance with procedural requirements on the project, coordinating with the contractor, preparation of pay estimates, confirmation of certified payrolls, conducting weekly construction meetings, and preparing and distributing meeting minutes.

503 – Field Services

The Consultant will provide on-site construction observation services. A resident project representative will be provided at half-time for 6 weeks and full-time for 34 weeks. The resident project representative will monitor the project for compliance with project plans and specifications. Consultant will provide field staking of new structures and as-built surveying of uncovered utilities in locations not indicated on the drawings. Consultant will provide periodic trips to the site beyond construction meetings. Allowance is included for geotechnical consultation. No testing services are included as these will be provided by the contractor.

504 – Construction Wrap-Up and Acceptance

Upon completion of the construction of the improvements, the Consultant will schedule and conduct a final project walk-through and assist the City in the final wrap-up of the project, including preparing record drawings, preparation of a punchlist, start-up of facilities, operations and maintenance information review, and recommending final acceptance.

505 – Post-Construction Warranty Services

Upon final acceptance, the Consultant will provide warranty item consultation, will assist in the eleven-month warranty inspection, and provide warranty follow-up.

TASK SERIES 600 – OPERATIONS AND MAINTENANCE MANUAL

601 – Operations and Maintenance Manual

To achieve compliance with State Revolving Fund (SRF) loan requirements, prepare Operations and Maintenance (O & M) Manual for equipment and operations associated with this project. Manual will include process description of components for disinfection system. Manual will not include Standard Operating Procedures (SOPS). Details of existing equipment and components that have not been modified will not be included but will be referenced when applicable in an existing O & M Manual. Two drafts of the manual will be submitted to the City and one to DEQ in Helena for comments. Drafts will be submitted approximately one month prior to startup for a two week review period by the City and DEQ. Comments will be incorporated within two weeks and (2) two final manuals will be submitted to DEQ in Helena and (2) two final manuals will be submitted to the City. The document will be produced in the latest version of Microsoft Word and the graphics will be produced in the latest version of AutoCAD. Manual to include:

1. Table of Contents
2. Chapter 1 - Manual Introduction
 - a. A description of this manual includes and references existing manuals.
 - b. Brief description of overall plant flow pattern including diagram indicating what components are new and included in this manual.
 - c. Operation and managerial responsibilities. Reference existing manual and update as required.
 - d. Operator certification. Reference existing manual and update as required.
3. Chapter 2 - MPDES Permit

- a. Include summary table of latest permit.
 - b. Include latest permit.
 - c. Reference existing manual for procedures for spills and self monitoring requirements.
 - d. Indicate renewal date for permit.
4. Chapter 3 - Description, Operation and Control of Disinfection System
- a. General operation
 - 1) Unit/process description.
 - 2) Relationship to other units including reference to existing O & M Manuals related to these other units.
 - 3) Control procedures.
 - 4) Major equipment.
 - 5) Troubleshooting.
 - b. Specific plant operation
 - 1) Normal operation.
 - 2) Alternate operation.
 - 3) Emergency operations.
5. Chapter 4 - Laboratory Testing
- a. Describe new sampling location
 - b. Reference existing manual for other information related to Laboratory Testing
6. Chapter 5 - Records
- a. List new equipment which should have maintenance records.
 - b. List items that should be recorded to facilitate O & M cost records.
 - c. Reference existing O & M for existing procedures related to records.
7. Chapter 6 - Maintenance
- a. Briefly describe importance of maintenance and reference additional information in existing manual.
 - b. Provide list of maintenance tasks and frequencies for all new equipment including lubrication.
 - c. Provide list of spare parts provided by the project and additional spare parts that should be maintained in inventory.
 - d. Indicate any special tools required for new equipment.
 - e. Provide warranty information including start and stop dates.
8. Chapter 7 - Safety

- a. Describe pertinent safety cautions related to new equipment and process.
 - b. Reference existing manual and other plant procedures manuals for additional information.
9. Chapter 8 - Utilities
- a. Generally describe utilities associated with the new disinfection system including:
 - 1) Electrical
 - 2) Instrumentation
 - 3) Telephone
 - 4) Natural Gas
 - 5) Potable, non-potable and plant water
 - 6) Sewer
 - 7) Standby power operation
10. Equipment O & M Manuals
- a. Include specific equipment O & M Manuals

The existing O & M manual(s) and plant procedures will be reviewed for applicable reference from the new manual.

DEQ checklist for review will be completed.

TASK SERIES 700 – STATE REVOLVING FUND

701 – State Revolving Fund Loan Application

Provide information as requested to the City to facilitate the City's application for SRF loan.

702 – State Revolving Fund Loan Design, Bidding and Construction Requirements

- Submit Design Drawings to DEQ in Helena.
- Submit Addendum Items to DEQ in Helena.
- Supply required bidding information to DEQ in Helena.
- Coordinate and submit Change Orders with DEQ in Helena.
- Attend construction walkthroughs with DEQ.

- Submit As-Built Drawings to DEQ in Helena

Provide other information as requested to the City for meeting the requirements of SRF Loan application.

703 – One Year Performance Standards Certification

Establish Performance Criteria for project components based upon the requirements instituted in the Contract Documents. Upon project components being in service one year, evaluate project components for established criteria and provide certification of meeting the performance standards.

Appendix B

Methods and Times of Payment

Section 4. Payments for Basic Services.

Billings shall authorize payment to the Engineer for services performed under Appendix A of this Agreement.

Partial payment shall be made to the Contractor upon receipt of the Contractor's pay estimate, said estimate being proportioned to the work completed by the Contractor. Contractor's pay estimate shall include a reasonable breakdown of hours and/or fees associated with the different Task Series. Billings shall deduct five percent (5%) from each monthly pay estimate. Partial release of retainage may be requested upon completion of milestone tasks. The final payment shall be made only after acceptance of final documents by Billings, and determination that the scope of work has been satisfactorily completed.

A. For services rendered on the tasks below, the Contractor shall be paid based upon actual time accrued, but not to exceed the following amounts:

1. Task Series 100 – Proj. Initiation, Coordination, and Management	\$	166,900.00
2. Task Series 200 – Preliminary Design		
3. Task Series 300 – Final Design	\$	365,500.00
4. Task Series 400 – Bidding Services		
5. Task Series 500 – Construction Services	\$	278,900.00
6. Task Series 600 – Operations & Maintenance Manuals		
7. Task Series 700 – State Revolving Fund Assistance	\$	33,300.00
TOTAL:		\$ 844,600.00

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

Section 5. Payments for Extra Services when Authorized by Billings.

Requests made or conditions identified by interested groups at the agency or public meetings, which are beyond the scope and intent of this study shall be paid for by a negotiated price.

Section 6. Corrections.

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

Section 4. Fee Increases

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

Appendix C

Additional Services of Engineer

Extra Services of the Engineer will be paid only with written prior authorization by Billings. These extra services may include, but are not limited to:

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

Appendix D

Schedule of Professional Fees

Not Used

Appendix E

Project Schedule

Based on a notice to proceed by Billings dated no later than February 9, 2009, the targeted completion dates for the Engineer's work through final construction shall be:

C. Preliminary Design

1. Disinfection Analysis Complete – May 1, 2009
2. Pilot Study Complete (if applicable) – July 3, 2009
3. Design Report Complete – July 1, 2009

D. Design

1. Final Design Complete – November 1, 2009

E. Bid – December 15, 2009

F. Award – January 15, 2010

G. Notice to Proceed – January 29, 2010

H. Construction Substantial Completion – November 29, 2010

The schedule is based on a UV Disinfection system being chosen from the alternatives analysis including piloting and equipment pre-purchase. The UV alternative is used as an example as it is seen as having the longest potential duration. A revised schedule may be mutually developed if/when an alternative other than UV is chosen.

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

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

Appendix F
Certificate(s) of Insurance

Certificate(s) of Insurance attached (2 pages)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: WO 07-16; Shiloh Road Corridor Water and Sewer System Improvements
Approval of Canyon Creek Ditch Crossing Agreement

DEPARTMENT: Public Works

PRESENTED BY: David D. Mumford, P.E., Director

PROBLEM/ISSUE STATEMENT: In order to install new water and sanitary sewer mains within the Shiloh Road Corridor to the north from the Zoo Montana intersection, Canyon Creek Ditch must be crossed. Canyon Creek Ditch Company requires the City to enter into its crossing agreement in order to make these utility crossings.

ALTERNATIVES ANALYZED: If the City is unable to enter into the crossing agreement, it will be unable to legally cross the Canyon Creek Ditch with new public water and sewer mains. Without these public utilities in place, it will be burdensome for private development to obtain City water and sewer service in the future.

FINANCIAL IMPACT: The \$500 ditch crossing fee will be paid by the project construction contractor (COP Construction) once the agreement is executed.

RECOMMENDATION

Staff recommends that Council approve and the Mayor execute the Canyon Creek Crossing Agreement.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Canyon Creek Crossing Agreement (4 pages)

CANYON CREEK CROSSING AGREEMENT

This agreement is made and entered into this _____ day of _____ by and between CANYON CREEK DITCH of 1555 Campus Way, Suite F, Billings, Montana 59102, hereinafter referred to as CANYON CREEK, and the City of Billings, Montana.

Whereas, CANYON CREEK owns an easement and operates its irrigation canal over and upon certain real property situated in the Shiloh Road Right-of-Way

Section 22, Township 1S, Range 25E, Yellowstone County, MT

Whereas, Billings has received permission from the underlying owners of the above tracts to construct, operate, maintain and remove such facilities from time to time as CANYON CREEK may require on said property; and,

Whereas, Billings wishes to place its service underneath or above the CANYON CREEK, crossing the easement owned by the CANYON CREEK at the site described above;

Now, therefore, in consideration of the mutual promised and covenants herein contained, the parties do now agree as follows:

1. For and in consideration of the sum of \$500 from Billings, receipt of which is hereby acknowledged, CANYON CREEK grants to Billings permission to install its services within a twenty-foot wide path, under, over or across the CANYON CREEK at the site described above only Billings agrees to notify CANYON CREEK and its superintendent of the exact location of the crossing site prior to any construction or installation. Billings shall notify CANYON CREEK and its ditch superintendent at least three (3) days prior to beginning initial construction.
2. Billings shall use the said twenty-foot wide path solely for installation of services and for incidental related purposes.
3. Billings shall be solely responsible for and it shall clearly mark the location of all services across the easement of the CANYON CREEK, and Billings shall be solely responsible for all maintenance, repair, inspection, and upkeep of their services. All services shall be buried at least four (4) feet below the ground surface at all points, including at least ~~four~~ feet below the lowest point inside the ditch canal itself.

In accordance with the 1/5/09 verbal agreement between Billings and Canyon Creek, utilities may be buried at least three (3) feet below the ground surface.

p. 2

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4. Billings shall indemnify and hold CANYON CREEK safe and harmless from and against any and all liability, claims, costs, demands and expenses, and from any and all liability and demands, for death, personal injury, and property damage, of whatever kind or nature, arising out of or in any way connected with installation of its services, its inspection, repair maintenance, and upkeep or lack thereof its services, and/or the fact of the services being located underneath the ditch canal and across the easement of the CANYON CREEK;
5. In the event any dispute arises out of this agreement Billings agrees to indemnify and hold CANYON CREEK safe and harmless from and against all costs and attorney's fees which it may incur in connection with this agreement. In the event any dispute between the parties hereto, CANYON CREEK shall be entitled to recover its reasonable costs of suit and attorney's fees incurred therein, including costs and fees incurred preliminary to actual filing of any suit.
6. Billings shall not assign, convey, or otherwise transfer any part of its permission granted herein, to install its services in and under the said twenty-foot wide path, to any other person or corporation, without the prior written consent of the CANYON CREEK. Billings shall not grant or permit anyone else to use the said crossings jointly or in conjunction with Billings, without the prior written permission of the CANYON CREEK.
7. After initial installation of the services, Billings shall not thereafter institute any major construction or excavation, nor shall it otherwise affect in any way the ditch canal and banks in maintaining or repairing its services, without first having obtained the prior written permission of CANYON CREEK. Billings understands and agrees that the permission granted hereunder shall be subject to and inferior to the right of CANYON CREEK to operate its canal in accordance with its past practices and the needs of its shareholders. CANYON CREEK shall not be obligated in any way to interrupt or interfere with its conveying of water or the flow of water in the canal at any time during operations of the canal in any year, in the event Billings services require maintenance or repair, Billings shall repair all damage to the ditch canal and shall return the canal to its original condition immediately upon performing any maintenance or repair activity involving excavation or dirt work.

8. Billings understands and agrees that the permission to install its services granted herein by the CANYON CREEK shall be non-exclusive and CANYON CREEK reserves the right to grant other, similar or non-similar concerns permission to install services or to use the same said twenty foot wide paths.
9. In the event that Billings violates or breaches obligations hereunder in any way, then upon such breach, CANYON CREEK may give sixty (60) days written notice of the breach or default to Billings and upon giving of the same, Billings shall have sixty (60) days in which to remedy its breach. If Billings fails to fully remedy its breach within the said 60 day period, then CANYON CREEK may, without any further right, notice, claim, or demand, immediately terminate and end this agreement. In the event of termination of this agreement by mutual consent or as a result of Billings breach and failure to remedy the same after notice, then Billings agrees to quietly and peaceably remove all of its services and other property from or under the easement of CANYON CREEK within a reasonable time after termination; and Billings shall be solely responsible for restoring the ditch canal and banks to their original conditions as of the date of this agreement.
10. Any notice required or permitted to be served upon a party hereunder shall be sufficient if it described the default, breach, or other event in general terms, and it shall be served upon the party by first class mail, with all postage prepaid, and sent certified, return receipt requested, addressed to the party at its address set forth above, and service shall be deemed complete and all notice periods shall begin to run as of the date the certified notice is postmarked by any United States Post Office depository.

IN WITNESS WHEREOF, the parties executed this agreement the day and year first above written.

CANYON CREEK DITCH COMPANY, INC.

BY _____

BY _____

BY _____

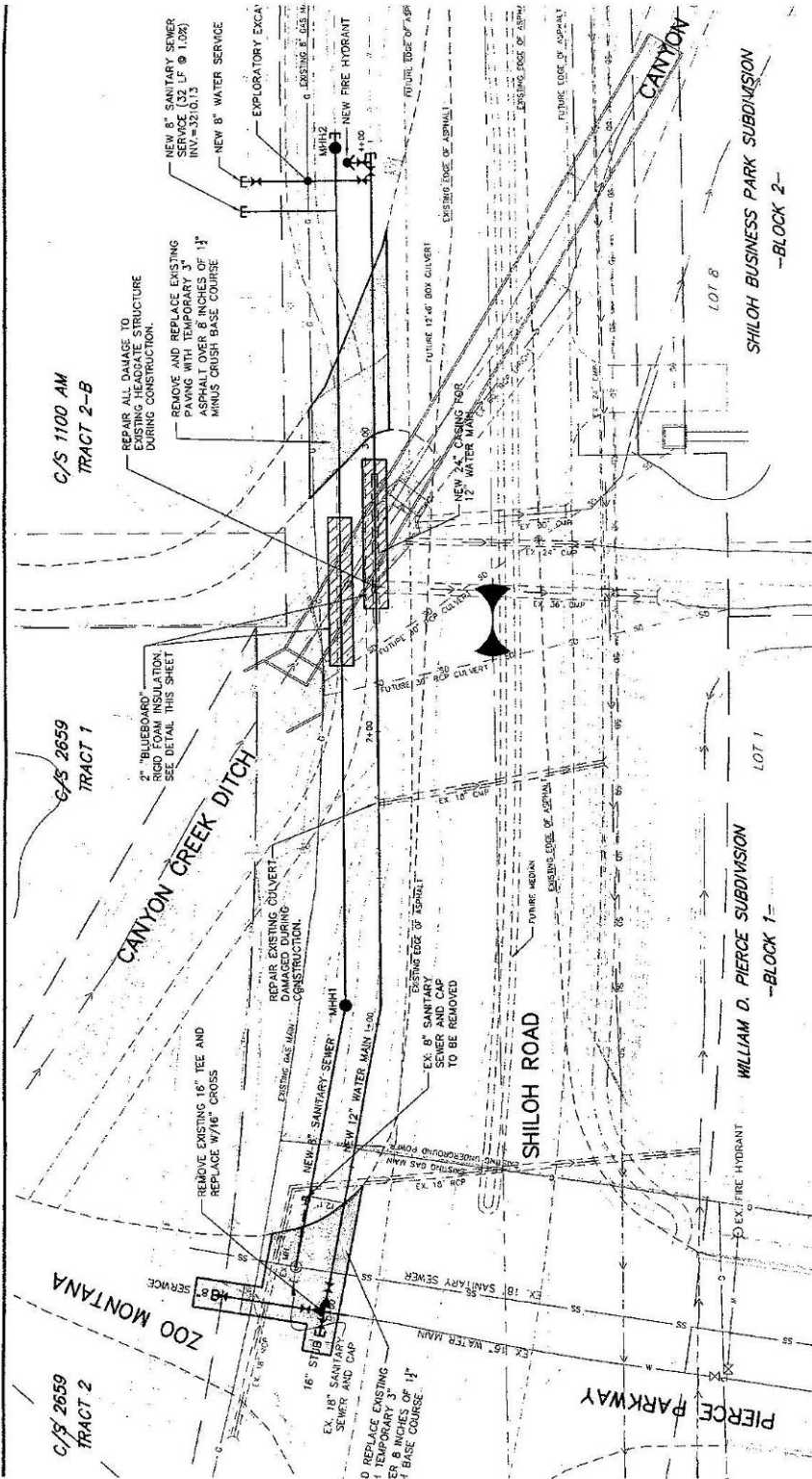
BY * Harold Ziller, president C.C.D. 1-889
SIGN HERE

P. 4

406 652 0999

Oct 13 2008 10:00AM WRLBORN#AND#ASSOCIATES

Canyon Creek Crossing Agreement Exhibit



THIS PROJECT WAS SURVEYED UTILIZING THE GLOBAL POSITIONING SYSTEM (GPS). ALL COORDINATES ARE US FOOT STATE PLANE NAD 83-1989. ALL SURVEY AND STATIONING IS IN FEET UNLESS OTHERWISE NOTED.

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Approval of Settlement Agreement and Release of Claims with Moira Murphy D'Alton

DEPARTMENT: City Administrator/City Attorney

PRESENTED BY: Brent Brooks, City Attorney

PROBLEM/ISSUE STATEMENT: The City and MMIA (Montana Municipal Insurance Authority) through assigned counsel have reached a tentative settlement agreement and release with a former City employee, Moira Murphy D'Alton, who was terminated from the City in late 2003. The matter resulted in litigation filed by Ms. D'Alton alleging wrongful termination. The settlement agreement and release is included with this memo as Attachment A and is conditioned upon City Council approval.

ALTERNATIVES ANALYZED:

- The Council may approve the proposed settlement agreement and release.
- The Council may disapprove the proposed settlement agreement and release.

FINANCIAL IMPACT: This is an Employer Practices Liability Insurance (EPLI) coverage through the MMIA, which means that defense costs and defense attorney fees are paid for by the MMIA, and any settlement is paid for by the City. The proposed settlement agreement provides that the City will pay Ms. D'Alton \$125,000 from which she will pay all her litigation expenses. The amount will come from the Property and Liability Fund. There may be a need in the future for a budget amendment, which will require City Council approval.

RECOMMENDATION

Staff recommends that the Council approve the settlement agreement and release appended as Attachment A.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT:

- A. Settlement Agreement and Release

ATTACHMENT "A"

**SETTLEMENT AGREEMENT
AND RELEASE OF CLAIMS**

This Settlement Agreement and Release of Claims (hereinafter "Release") is made by and between Moira Murphy D'Alton, 543 Lewis Avenue, Billings, Montana 59101 ("Releasor") and the City of Billings ("City" and/or "Releasee"), of 210 North 27th Street, Billings, Montana 59101 hereinafter collectively referred to as the "Parties".

RECITALS

WHEREAS, Moira Murphy D'Alton's employment with the City of Billings terminated on or about December 4, 2003, and

WHEREAS, disputes have arisen between the Parties regarding Moira Murphy D'Alton's termination from employment as evidenced by the proceedings entitled *Moira Murphy D'Alton v. City of Billings, a political subdivision of the State of Montana, and Jane and John Does 1 through 5, Municipal Officials, Administrators, and Employees*, DV 04-0265, Thirteenth Judicial District Court, Yellowstone County, and *Moria D'Alton v. City of Billings*, Montana Human Rights Bureau Case No. 0049010998, EEOC No. 32DA400192,

WHEREAS, the dispute between the Parties has been time consuming and burdensome for both parties and any further proceedings including a hearing, trial and/or appeal will only further delay the ultimate resolution of this disputed matter;

WHEREAS, without admission of liability or fault, the Parties have agreed to compromise and resolve any remaining differences and to settle and extinguish all claims Releasor has or may have against the City, including but not limited to, all claims asserted or which could have been asserted in the legal proceedings listed above or which arise from Moira Murphy D'Alton's former employment with the City or her termination from employment.

A G R E E M E N T

NOW, THEREFORE, for and in consideration of the Settlement Amount described below and other good and valuable consideration, the Parties voluntarily and knowingly enter into the following Settlement Agreement and Release and agree as follows:

1. In consideration of the sum of One Hundred Twenty-five Thousand and no/100 Dollars (\$125,000.00) (the "Settlement Amount") paid to Moira Murphy D'Alton, or on her behalf, receipt of which is hereby acknowledged, and other good and valuable consideration, Moira Murphy D'Alton entered into this Settlement Agreement and Release in full and final settlement of any claims she may have against the City. Releasor agrees that the Settlement Amount will be paid by remitting to counsel one check in the amount of \$125,000.00 made to the order of Moira Murphy D'Alton and her counsel of record, Robert L. Stephens.

2. Moira Murphy D'Alton hereby, on behalf of herself, her heirs, legal representatives, successors and assigns, acknowledges full and complete satisfaction of, and does hereby waive her rights to damages from and releases, waives, acquits, absolves and discharges the City, its principals, officials, officers, employees, individuals, agents, servants, representatives, individuals previously named in the legal proceedings listed herein, department heads, City Council members past and present, its insurer (MMIA), attorneys, and each of them (all hereinafter referred to collectively and individually as "Releasee"), from any and all claims, demands, liens, agreements, contracts, covenants, actions, suits, causes of action, complaints, wages, obligations, debts, labor grievances, expenses, damages, judgments, orders, demands, and liabilities of whatever kind or nature in law or equity or otherwise, under any theory of law whether, common, constitutional, statutory in any jurisdiction, including federal, state, administrative, internal, external, informal or formal forums, whether known or unknown,

suspected or unsuspected, which she owns or holds or at any time heretofore owned or held against said entities or persons or any of them, including specifically but not exclusively, without limiting the generality of the foregoing, (1) any and all claims arising out of or in any way connected with Moira Murphy D'Alton's employment with the City; (2) any and all claims arising out of or in any way connected with the termination of Moira Murphy D'Alton's employment with the City; (3) any and all claims arising out of, from or in connection with any facts, allegations or events described in, referred to or connected with any legal proceedings described herein or any papers, documents, complaints, motions or pleadings filed by Moira Murphy D'Alton or on her behalf; and (4) any and all claims that could arise under common (including civil tort) law and/or state or federal statutes, including but not limited to, any and all claims under the Montana Wrongful Discharge from Employment Act, the Montana Human Rights Act and any other federal, state or local laws, without limitation or exception. Moira Murphy D'Alton intends this Settlement Agreement and Release to have a broad effect and to settle all claims and disputes, without limitation of any kind or nature, existing between her and the City, whether known or unknown, relating to Moira Murphy D'Alton and her employment by the City, including any claims she may have for costs and/or attorneys fees. Releasor agrees that she will obtain an Order dismissing the Lawsuit with prejudice.

3. Moira Murphy D'Alton acknowledges that she has received full payment of all wages and compensation due to her including, but not limited to salary, sick leave, vacation pay, pension and other benefits. Moira Murphy D'Alton further agrees that she will not pursue, apply for, or seek employment with the City of Billings, any department or division thereunder or any corporation, company, or business that is owned or operated by the City of Billings.

4. The terms of this Settlement Agreement and Release are contractual and not a mere recital. Should any provision, or part of any provision, or application thereof, be held invalid, the invalidity shall not affect other provisions or applications of the Settlement Agreement and Release which can be given effect without the invalid provision or application, and to this end, the provisions of this Settlement Agreement and Release are declared to be severable.

5. The parties agree that this Settlement Agreement and Release of Claims speaks for itself, that after approval by the City Council, counsel for Releasor and counsel for Releasee will work in good faith and exercise their best efforts to prepare and issue a joint press statement on behalf of the parties and that none of the parties will initiate any separate statement or give a separate interview to the media regarding the terms and conditions of this Settlement Agreement and Release of Claims.

6. Releasor acknowledges that Releasee has not made and does not make any representations regarding the tax consequences of this Settlement Agreement and Release or any payments made hereunder. Releasor further agrees to defend, indemnify and hold Releasee harmless from any and all tax liability, interest, and/or penalties that may be or may become due thereon due to Releasor's own actions or inactions.

7. Apportionment of Payment to Lienholders. The Settlement Amount shall be apportioned by Releasor among doctors, hospitals, all other health care providers and services, and any other individuals, companies, agencies, workers' compensation insurers or agencies, political subdivisions, or attorneys who may have valid liens or rights of subrogation or reimbursement, and Releasor and her attorney agrees to indemnify Releasee from and against all such claims by such parties, including payment of attorney fees and costs.

8. Releasor represents that no additional claims are contemplated against any other party potentially liable for the losses, damages, and injuries for which this Release is given. In the event any additional claim is made which directly or indirectly results in additional liability exposure to Releasee for the losses, injuries, and damages for which this Release is given, Releasor covenants and agrees to indemnify and save Releasee harmless from all such claims and demands, including reasonable attorney fees and all other expenses necessarily incurred.

9. The Parties agree that this Settlement Agreement and Release of Claims shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any party. The terms of this Settlement Agreement and Release of Claims shall be enforced pursuant to Montana law.

10. Releasor acknowledges that she carefully read and understood the contents of this Settlement Agreement and Release. She further acknowledges and agrees that the consideration recited in this Settlement Agreement and Release is the sole and only consideration for this Settlement Agreement and Release, and no representations, promises, or inducements have been made by any party or its officers, employees, agents or attorneys thereof other than appear in this Settlement Agreement and Release. This Settlement Agreement and Release supersedes any other oral or written agreement or understanding between the Parties regarding any matter within the scope of this Settlement Agreement and Release.

11. Moira Murphy D'Alton agrees to authorize her counsel to execute a Stipulation for Dismissal of the Suit with prejudice substantially in the form of Exhibit A attached hereto, and to file the same with the District Court on or before the third day following her execution of this Settlement Agreement and Release.

12. The Releasee agrees that it shall maintain as confidential the employment records related to Releasor and the circumstances, proceedings and all records of termination, including investigative materials, and shall not release any of said materials to any third parties except as required under law or pursuant to a Court order. Should Releasee receive inquiry from a prospective employer or other third party inquiry regarding Releasor's employment with Releasee, dissemination of any information and response to said inquiries shall be limited to the City's usual practice of disclosing only: 1) the dates of employment; 2) general description of duties performed as part of the Releasor's former job description; and 3) the rate of compensation that Releasor received from Releasee during the period of her employment. All other matters, records, documents, reports, administrative actions, and the like shall remain sealed, and shall not be subject to any dissemination or disclosure.

13. Releasor understands and intends that, by this Settlement Agreement and Release of Claims she is waiving any claims she may have under the Federal Age Discrimination in Employment Act (ADEA), as amended, and represents and agrees that she has, either personally or through her attorney, considered all aspects of this Release and is fully advised and satisfied with the terms and effects of this Release; that she is fully aware of her right to discuss any and all aspects of this matter with an attorney of her choice; that she has carefully read and fully understands all of the provisions of this Release; and that she has voluntarily entered into this Release.

14. Releasor understands that she has been given a period of twenty-one (21) calendar days to review and consider this Release before signing it. Releasor further understands that she may use as much of this twenty-one day period as she wishes prior to signing.

15. Releasor understands that this Release can be revoked with seven (7) calendar days of signing it. Revocation can be made by delivering written notice of revocation to City of Billings, c/o Harlan B. Krogh, Crist, Krogh & Nord, LLC, 2708 First Avenue North, Suite 300, Billings, Montana 59101. For this revocation to be effective, written notice must be received no later than the close of business on the seventh day after Releasor signs this Release. If Releasor revokes this Release, it shall not be effective or enforceable and Releasor will not receive the benefits described in this Release, and the Settlement Amount shall be returned to Releasee in full.

Releasor acknowledges voluntarily entering into this Settlement Agreement and Release on the date written above, with full knowledge of the rights that she may be waiving.

Dated this ____ day of _____, 2009.

Moirra Murphy D'Alton

Approved As To Form:

Robert L. Stephens
Attorney for Moira Murphy D'Alton

County of Yellowstone)

On this ____ day of _____, 2009, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Moira Murphy D'Alton, known to me to be the person who executed the within instrument, and acknowledged to me that he executed the same.

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

(SEAL)

Signature _____

Print or Type Name _____

Notary Public for the State of Montana

Residing at Billings, Montana

My Commission expires:

MM/DD/YYYY

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Transportation Improvement Program 2009 Amendment
 DEPARTMENT: Planning and Community Services Department
 PRESENTED BY: Scott Walker, Transportation Planner

PROBLEM/ISSUE STATEMENT: Federal regulations require that Metropolitan Planning Organizations (MPOs) review and update their Transportation Improvement Program (TIP) periodically. Due to funding issues, the current 2007-11 TIP requires an amendment. This amendment will be called the 2009 TIP Amendment. A presentation on the TIP Amendment was made to the City Council on January 20, 2009 at the Work Session.

This TIP Amendment is being presented to Council for review of the current projects and costs associated with them. Due to a readjusting of project costs, it was necessary to undertake this amendment at this time. The project mix within the document has not changed. However, the delivery dates for some projects has been extended. Currently, Airport Road and Rimrock Road are on schedule. Shiloh Road is on schedule to be let in March 2009, and the Bench Boulevard projects are being moved out slightly on the design and construction schedule. The updates to the document are shown in blue font and yellow highlights within the attached draft 2009 TIP Amendment.

Recent discussions of a Federal Stimulus Funding Package has prompted staff to coordinate with the Montana Department of Transportation and Federal Highway officials to determine a draft list of possible projects that could be funded by the Stimulus Package. A list of these projects is attached to the TIP.

ALTERNATIVES ANALYZED: The current amendments include updates of federal funding for highway as well as transit projects, and a listing of when each project could be built. The Council may elect to recommend approval of the 2009 TIP Amendment in order to continue the implementation of federally funded transportation projects as presented. If Council chooses to recommend modifications to the proposed program, the Councils representative will present these recommendations to the PCC for further consideration.

FINANCIAL IMPACT: A range of federal funding sources is available to the Billings Urban Area for the purposes of funding transportation system improvements. A list of those sources is shown in the TIP. Project implementation is indicated as expected to occur during the pertinent program year.

INTRODUCTION

The Transportation Improvement Program (TIP) is a short-range program of highway and transit projects in the Billings Metropolitan Planning Organization area and is prepared by Planning Division staff in cooperation with state and local agencies. The basic purpose of the TIP is to provide the mechanism for scheduling federal funds for surface transportation projects, indicate regional priorities, and demonstrate a short range transportation vision for the area. A secondary purpose of the TIP is to provide information about other transportation projects in the urbanized area that are exempt from the TIP approval process, such as projects that do not utilize federal funds.

BACKGROUND

The development of the TIP document is the responsibility of the Billings urbanized area Metropolitan Planning Organization and provides an opportunity for local officials to determine priorities and spending for federal highway and transit funds. Any transportation project located in the Billings urbanized area must be included in the TIP prior to receiving federal funds. TIP projects must be included in the area's 20 year Transportation Plan and are proposed for the TIP by local elected officials, transit operating officials, or state highway agencies. The TIP is a required fiscal planning document for federally assisted highway and transit improvements in the Billings Urban Transportation Planning Area, and covers a five-year program period. The emphasis is on the first two (2) years of the program. Projects in these two years can be shifted around based on available funding. Also included in this document are the current transit projects. These projects must appear in an approved TIP before they can be funded.

The TIP is reviewed and endorsed annually by the PCC and may be modified through the TIP amendment process. The PCC includes the Mayor of Billings, Chair of the Yellowstone County Commission, President of the Yellowstone County Board of Planning and the District Administrator of the Montana Department of Transportation. After PCC endorsement, the TIP is submitted to the Montana Department of Transportation (MDT) and to the Federal Highway Administration and Federal Transit Administration for federal review of the document and approval of conformity determination.

The Technical Advisory Committee met January 21st to review the 2009 TIP Amendment and recommended approval of this document to the City Council, County Commissioners and Yellowstone County Board of Planning. The Planning Board reviewed and took affirmative action on the Amendment at its regular meeting on January 27th. The Board of County Commissioners reviewed the Amendment at its Discussion Session on January 20th and recommended its approval at its regular meeting on January 27th.

The City Council is scheduled to act on the 2009 TIP Amendment at its regular meeting on February 9 and forward the Council's recommendation to the Policy Coordinating Committee for final action.

ATTACHMENTS

- A:** 2009 TIP Amendment
- B:** 2009 Stimulus Projects

BILLINGS URBAN AREA



TRANSPORTATION IMPROVEMENT PROGRAM (TIP)

**FY 2007 – 2011
January, 2009
Amendment II**

(DRAFT)

*****Amendments to this draft are listed in blue and yellow.**

Prepared by:

Yellowstone County Board of Planning

In Cooperation With:

City of Billings

Yellowstone County

Yellowstone County Board of Planning

Montana Department of Transportation

Federal Highway Administration

Federal Transit Administration

Reviewed By:

Dates Reviewed Amendment Dates

Technical Advisory Committee	03/29/07	01/21/09
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Yellowstone County Board of Planning	03/27/07	01/27/09
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Billings City Council	04/09/07	01/20/09
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Yellowstone County Commissioners	03/29/07	01/20/09
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Approved By:

Dates Approved Amendment Dates

Billings Policy Coordinating Committee	04/12/07	
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Montana Department of Transportation	05/07	
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Federal Highway Administration	05/07	
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Federal Transit Administration	05/07	
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**METROPOLITAN TRANSPORTATION PLANNING PROCESS
SELF-CERTIFICATION**

The Billings Metropolitan Planning Organization for the Billings, Montana, urbanized area hereby certifies that the transportation planning process is addressing the major issues in the metropolitan planning area and is being conducted in accordance with all applicable requirements of:

- I. 49 U.S.C. Section 5303 and 23 U.S.C. 134 and CFR 450.334;
- II. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C 2000d-1) and 49 CFR, Part 21;
- III. Section 1101(b) of the SAFETEA-LU (Pub. L. 109-59) regarding the involvement of disadvantaged business enterprises in the FHWA and the FTA funded projects (49 CFR part 26);
- IV. The provision of the Americans With Disabilities Act of 1990 (42U.S.C. 12101 *et seq.*) and the U. S. DOT implementing regulation (49 CFR Parts 27, 37 and 38);
- V. The provisions of 49 CFR part 20 regarding restrictions on influencing certain activities; and
- VI. Sections 174 and 176(c) and (d) of the Clean Air Act as amended (42 U.S.C. 7504, 7506(c) and (d)).
- VII. 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex or age in employment or business opportunity.
- VIII. 23 CFR, part 230, regarding the implementation of an equal employment opportunity on Federal & Federal-aid highway construction contracts.
- IX. The Older Americans Act as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in program or projects receiving Federal financial assistance.
- X. Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender.
- XI. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR, part 27 regarding discrimination against individuals with disabilities.

**Billings, Montana
Metropolitan Planning Organization**

Signature
President-Yellowstone County Board of Planning

Printed Name

Date

INTRODUCTION

PREFACE

The Yellowstone County Board of Planning (YCBP) is the metropolitan planning organization (MPO) for the Billings urbanized area. The Transportation Improvement Program (TIP) is the funding mechanism for transportation projects requesting federal dollars in the Billings urbanized area. All MPO's are required by the current Federal Highway Bill SAFETEA LU to produce a TIP and update it at least biannually. SAFETEA LU was signed into law by President Bush in 2005. The act authorizes highway, highway safety, transit, and other surface transportation program for six years. This document contains a list of all surface transportation projects requesting the use of federal funds found in the SAFETEA LU. With SAFETEA LU, local jurisdictions working through YCBP's Policy Coordinating Committee (PCC) determine how the area's transportation system is put in place.

PURPOSE OF THE TIP

The Transportation Improvement Program (TIP) is a short-range program of highway and transit projects in the Billings Metropolitan Planning Organization area and is prepared by YCBP staff in cooperation with state and local agencies. The basic purpose of the TIP is to provide the mechanism for scheduling federal funds for surface transportation projects, indicate regional priorities, and demonstrate a short range transportation vision for the area. A secondary purpose of the TIP is to provide information about other transportation projects in the urbanized area that are exempt from the TIP approval process such as projects that do not utilize federal funds.

THE TIP PROCESS

The development of the TIP document is the responsibility of the Billings urbanized area Metropolitan Planning Organization and provides an opportunity for local officials to determine priorities and spending for federal highway and transit funds. Any transportation project located in the Billings urbanized area must be included in the TIP prior to receiving federal funds. TIP projects must be included in the area's 20 year Transportation Plan, and are proposed for the TIP by local elected officials, transit operating officials, or state highway agencies. The TIP is reviewed and endorsed annually by YCBP's PCC and may be modified through the TIP amendment process. The PCC includes the Mayor of Billings, Chair of the Yellowstone County Commission, President of the Yellowstone County Board of Planning and the District Administrator of the Montana Department of Transportation. After PCC endorsement, the TIP is submitted to the Montana Department of Transportation (MDT) and to the Federal Highway Administration and Federal Transit Administration for federal review of the document and approval of conformity determination.

FEDERAL REGULATIONS

The Transportation Improvement Program (TIP) is a required fiscal planning program for federally assisted Highway and Transit improvements for the Billings Urbanized Area and the Montana Department of Transportation (MDT) over a five-year period. The principal focus is given to the first two years of the program, the Biennial Element, which contains projects that could be implemented in 2009 and/or 2010.

The TIP is prepared annually and is in conformance with 23 CFR, Part 450 324-330.

FINANCIAL RESOURCES

A range of federal funding sources is available to the Billings Urban Area for the purposes of funding transportation system improvements. Following is a list of those sources which, when available to the Billings Urban Area, are shown in the Transportation Improvement Program. Project implementation is indicated as expected to occur during the pertinent program year. Billings also has had a favorable history of receiving federal earmarks. Currently for 2009, MDT has requested \$11,000,000 for the Shiloh Road project and Yellowstone County has requested \$20,000,000 for various projects in the Urban Area.

BILLINGS EARMARK HISTORY – 1998 Through 2006

YEAR	EARMARKS
1998	\$10, 729,715
2000	\$14,967,000
2001	\$ 728,113
2002	\$ 3,425, 985
2003	\$ 3,000,000
2004	\$ 2,000,000
2005	\$ 4,960,000
2006	\$35,173,900
TOTAL	\$74,984,713
8 YEAR AVERAGE	\$ 9,373,089

FUNDING SOURCES

- Surface Transportation Program Urban (STPU)
- Surface Transportation Program Primary (STPP)
- National Highway System (NHS)
- Interstate Maintenance (IM)
- Surface Transportation Railroad Program (STRRP)
- Surface Transportation Enhancement (STPE)
- Surface Transportation Program Hazard Elimination - Safety (STPHS)
- Bridge Replacement and Rehabilitation Program (BR)

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- Community Transportation Enhancement Program (CTEP)
- State Funded Construction (SFC)
- Congestion Mitigation Air Quality (CMAQ)
- Montana Air Congestion Initiative (MACI)
- FTA Section 5309 (Formerly Sec. 3)
- FTA Section 5307 (Formerly Sec. 9)
- FTA Section 5310 (Formerly Sec. 16)
- FTA Section 5310 Job Access and Reverse Commute (JARC)
- FTA Section 5317 New Freedom

AIR QUALITY CONSISTENCY

The City of Billings was designated as a non-attainment area for both Total Suspended Particulates (TSP) and Carbon Monoxide (CO) on May 26, 1988. As such, Billings was required to prepare a Transportation Control Plan (TCP). The TCP identified strategies to mitigate the TSP and CO problems. The TCP is the Billings element of Montana's State Implementation Plan (SIP). The TIP is required to be, and is, consistent with the TCP as discussed in the Billings conformity statement.

In 1987 the standard for TSP was dropped, and a new standard for particulate matter under 10 microns in size (PM - 10) was adopted (7/1/87 at 52 FR 24854). EPA has also adopted the PM 2.5 standard and Billings is considered to be in compliance with both of these new standards.

CONFORMITY OF THE BILLINGS AREA TRANSPORTATION IMPROVEMENT PROGRAM WITH THE 1990 CLEAN AIR ACT

The Billings Urbanized Area was designated non-attainment for carbon monoxide (CO) on 3/3/78 (43 FR 8962) with a secondary classification of "unclassified". EPA approved the Billings CO control Plan on 1/16/86 (51 FR 2397). Billings was then redesignated as "Not Classified" on 11/6/91 (56 FR 56697). The area meets the qualifications of the Clean Air Act (CAA) for classification as an attainment area for ozone.

The Billings "not classified" carbon monoxide (CO) nonattainment area was redesignated by the Environmental Protection Agency (EPA) to attainment for the CO National Ambient Air Quality Standards (NAAQS) with an approved limited maintenance plan effective April 22, 2002. Under a CO limited maintenance plan, the motor vehicle emissions budgeted may be treated as essentially non-constraining for the length of the maintenance period because growth would need to exceed reasonable expectations to create a violation of the NAAQS for transportation-related CO. Therefore conformity demonstration using regional emissions analysis is not required, however, individual projects may still be required to conduct "hot spot" analysis.

As demonstrated in the following sections, the Transportation Improvement Program (TIP) satisfactorily meets the requirements established by the 1990 amendments to the CAA regarding the conformity of TIP's.

- The most recent estimates of CO mobile source emissions have been developed by the Analytical Services Section, Montana Department of Environmental Quality and are based upon development and transportation data provided by the Yellowstone County Board of Planning.

TRANSPORTATION CONTROL MEASURES

Specific Transportation Control Measures have not been proposed for the Billings area recently, however, the SIP completed in 1986 included the widening of Exposition Drive (Main Street) and the signalization at Main Street and First Avenue North. Both of these projects were completed in 1983.

There are no Transportation Control Measures (TCM's) in the State Implementation Plan (SIP) and therefore there are no specific TCM's recommended for implementation in this TIP.

TIP CONFORMITY

As a prerequisite for receiving Federal-aid transportation funds through the TIP, a determination must be made that the proposed transportation projects do not cause or contribute to violations of the carbon monoxide ambient air quality standards. An analysis, which meets the EPA conformity determination regulations specified in 40 CFR Part 51 was performed in conjunction with the development of the Billings Urban Area 2005 Transportation Plan. The plan was found to conform at the federal level June 29, 2005. The analysis appears in Section 4, pages 49-52 of the Plan document and is titled "Air Quality/Conformity". As the transportation projects in the TIP are contained in the Transportation Plan's analysis, a separate analysis for the TIP is not necessary.

There are no new regionally significant projects in this 2007-2011 Billings Area TIP.

The following is a list of all projects that are part of the Exempt Scenario for purposes of air quality conformity analysis.

NEW PROJECTS EXEMPT FROM REGIONAL ANALYSIS

Project	Scope	Comments
Parkhill & 13th	Intersection Re-Alignment	New Project
27 th St. RR Crossing	Circuitry	New Project
28 th St. RR Crossing	Circuitry	New Project
Broadwater- 28 th to Shiloh	Overlay	New Project
Broadwater- Division to 12 th	Mill & Fill	New Project
Yellowstone River Road	Overlay	Bench to Iristen
Lockwood- Southeast	Mill & Fill	Lockwood Int. to Lockwood Ditch

(Table 1): EXEMPT PROJECTS

REGIONALLY SIGNIFICANT PROJECTS

Project	Scope	Comments
Billings Airport Road	Reconstruction	
Shiloh Road Corridor	Reconstruction	
6 th Avenue/Bench Connection	Reconstruction	
North By Pass	Location/Environmental	

(Table 2): REGIONALLY SIGNIFICANT PROJECTS

ENERGY CONSERVATION CONSIDERATIONS

Energy impact analyses have been conducted as a part of the urban transportation planning process. In addition, increased attention has been given to energy conservation and contingency planning on a project specific basis.

As part of the 2005 update of the Billings Urban Area Transportation Plan, energy conservation was considered in each of the proposed alternative transportation networks.

The City of Billings has a well-developed transit system, and ride-sharing opportunities have also been examined. Transit facilities and highway system proposals will continue to be considered in a comprehensive method through the adopted Transportation Planning process.

The detailed energy conservation analysis of specific projects has been conducted for each of the major highway construction projects recommended in the Billings Urban Area Transportation Plan.

PROGRAMMING OF NON-URBAN SYSTEM, FEDERAL AID AND STATE FUNDING

Proposed projects involving federal-aid funding, other than urban system funding, that are proposed within existing rights-of-way and which are determined to not significantly change traffic patterns, are not considered to be of appropriate scale to warrant a modification to a currently valid TIP.

When there is knowledge of such projects prior to the annual adoption of the TIP, each project will be included in the program. Generally, projects falling within this category are those which serve to preserve and maintain the integrity of the existing plant or facility such as: overlays to improve or maintain surface conditions; bridge expansion joints and deck repairs necessary to maintain structural and surface sufficiency; slope repair necessary to maintain drainage adequacy; etc. Projects of this nature will be identified by the Department of Transportation with appropriate justification when requesting program approval of federal highway funds.

Local urban area officials will be advised by the department through the local planning process of the Department's intent to expend federal funds (non-urban system) for such improvements in their area.

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(Table 3) - TRANSPORTATION REVENUE ESTIMATES (2007-2011)																	
BILLINGS, MONTANA																	
YEAR	SURFACE TRANS PROGRAM (STP)/URBAN	URBAN HIGHWAY PROGRAM (UHP)	MONTANA AIR CONNECTION INITIATIVE (MACI)	DEMOINT	SURFACE TRANSPORTATION ENHANCEMENT (STE) (CTEP)	TRANSIT SEC 5316 JARC	TRANSIT SEC 5317 NEW FREEDOM	UPPER HOSPITALITY FHS	TRANSIT SEC 5309	TRANSIT SEC 5307	TRANSIT SEC 5310	GAS TAX/CITY	GAS TAX COUNTY	TRANSACT	OTHER FUNDS (LOCAL)	TOTAL	
					CITY \$ 1,569,685										** OPER. \$ 3,025,322		
2007	\$ 11,738,697	\$ 1,365,583	\$ 10,035,510	\$ 35,581,877	COUNTY \$ 589,641			\$ 1,512,012	\$ 5,234,645	OPER. \$ 1,170,544	\$ 91,525	\$ 1,732,721	\$ 234,510	\$ 355,525	SEC 5310 \$ 23,381	\$ 74,246,602	
															SEC 5309 \$ 1,356,111		
					CITY \$ 470,497										** OPER. # \$ 3,234,091		
2008	\$ 2,659,282		\$ 1,070,893	\$ 13,531,655	COUNTY \$ 374,118	\$ 50,000	\$ 10,400	\$ 8,276,434		OPER. \$ 1,270,911	\$ 94,272	\$ 1,732,721	\$ 234,510	\$ 462,563	SEC 5310 \$ 31,564	\$ 33,445,125	
	***			***	CITY \$ 424,214										** OPER. \$ 3,206,632		
2009	\$ 7,937,636		\$ 1,145,166	\$ 13,136,922	COUNTY \$ 356,591			\$ 138,637		OPER. \$ 1,336,479	\$ 189,558	\$ 1,732,721	\$ 234,510	\$ 462,563	SEC 5310 \$ 47,339	\$ 30,244,221	
					CITY \$ 424,214										** OPER. \$ 3,206,632		
2010	\$ 2,587,636		\$ 1,145,166		COUNTY \$ 356,591			\$ 7,691,000		OPER. \$ 1,535,722	\$ 195,542	\$ 1,732,721	\$ 234,510	\$ 462,563	SEC 5310 \$ 48,384	\$ 19,596,239	
					CITY \$ 424,214										** OPER. \$ 3,354,771		
2011	\$ 2,587,636		\$ 1,145,166		COUNTY \$ 356,591			\$ 668,000		OPER. \$ 1,633,539	\$ 196,476	\$ 1,732,721	\$ 234,510	\$ 462,563	SEC 5310 \$ 49,129	\$ 12,685,679	
TOTAL	\$ 27,799,697	\$ 1,365,583	\$ 14,941,399	\$ 90,653,094	CITY \$ 3,912,634	\$ 50,000	\$ 10,400	\$ 18,766,063	\$ 5,234,645	OPER. \$ 6,526,264	\$ 787,373	\$ 8,663,605	\$ 1,372,550	\$ 2,207,177	OPER. \$ 16,126,302	\$ 170,701,585	
					COUNTY \$ 1,234,933										SEC 5310 \$ 191,345		
* Includes carryover balance																	
** Includes Local Match																	
*** STP Urban includes \$5.0M Bonus, DEMOINT includes Future Savings																	
# Includes JARC and New Freedom																	

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(TABLE 4-a) -TRANSPORTATION PRIORITY LIST						
BILLINGS, MONTANA						
RANK	PROJECT	TYPE OF WORK	PROJECT LENGTH	PHASE	ESTIMATED COST	FUNDING SOURCE
DEMONSTRATION PROJECT (MT)						
1	AIRPORT ROAD	Reconstruction	2	PE	3,024,910	DEMO
				RW	0	
				IC	0	
				CONST.	11,942,090	DEMO
				TOTAL	\$14,967,000	
SURFACE TRANSPORTATION PROGRAM-URBAN (STPU)						
1	AIRPORT ROAD PROJECT HAS BEEN LET	Reconstruction	2	PE	N/A	
				RW	2,218,500	STPU
				IC	3,909,539	STPU
				CONST.	6,360,361	STPU
				CONST.	7,389,082	CMAQ
				CONST.	3,966,896	NH
				TOTAL	\$23,844,378	
2	SHILOH ROAD TOTAL PROJECT COSTS:	Environmental	4	PE	4,217,947	STPU
				RW	8,000,000	MT
				IC	3,572,500	STPU
	\$34,184,480 - CONCRETE		(ASPHALT)	CONST.	30,741,323	STPU
				TOTAL	\$46,531,770	
3	MIDLAND ROAD/S. BILLINGS BLVD. PROJECT HAS BEEN LET	Traffic Signal	N/A	PE	140,079	STPU
				RW	0	STPU
				IC	0	STPU
				CONST.	299,036	STPU
				TOTAL	\$439,115	
4	GRAND AVENUE	Reconstruction	1	PE	UNKNOWN	
				RW	UNKNOWN	
				IC	UNKNOWN	
				CONST.	UNKNOWN	
				TOTAL	\$0	
5	32ND STREET WEST	Construction	1.5	PE	UNKNOWN	
				RW	UNKNOWN	
				IC	UNKNOWN	
				CONST.	UNKNOWN	
				TOTAL	\$0	
SURFACE TRANSPORTATION PROGRAM-HIGHWAY SAFETY (STPHS, HSIP)						
1	2002 SHILOH/MONAD TURN BAY	Construction	N/A	PE	63,585	STPHS
				TOTAL	\$63,585	
2	2002 SAFETY IMPROVEMENTS VARIOUS LOCATIONS	Upgrade	N/A	PE	405,279	HSIP
				RW	74,425	HSIP
				IC	49,617	HSIP
				CONST.	\$939,505	HSIP
				TOTAL	\$1,468,826	
3	N. FRONTAGE ROAD - SIGNAL/INT. UPGRADE	Upgrade	N/A	PE	\$87,761	HSIP
				CONST.	\$590,260	HSIP
				TOTAL	\$678,021	
4	PARKHILL /13th - INT. REALIGNMENT	Upgrade	N/A	PE	\$253,926	HSIP
				RW	\$84,187	HSIP
				IC	\$56,125	
				CONST.	\$667,895	HSIP
				TOTAL	\$1,062,133	

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(TABLE 4-b) - TRANSPORTATION PRIORITY LIST						
BILLINGS, MONTANA						
5	SIGNAL-SO. FRONTAGE & ZOO		N/A	PE	\$95,810	HSIP
				CONST	\$702,609	HSIP
					\$798,419	
INTERSTATE MAINTENANCE						
	PINEHILLS INTERCHANGE-WEST	Overlay	N/A	PE	\$42,656	IM
				IC	\$5,613	IM
				CONST.	\$1,163,786	IM
				TOTAL	\$1,212,055	
	PINEHILLS INTERCHANGE-SOUTHEAST	Minor Rehab	N/A	PE	\$171,090	IM
				RW	\$0	IM
				IC	\$57,030	IM
				CONST.	\$5,610,036	IM
				TOTAL	\$5,838,156	
	PINEHILLS INTERCHANGE-EAST	Pavement Preservation	N/A	PE	\$42,198	IM
				CONST.	1045077	IM
				TOTAL	\$1,087,275	
	MOSSMAIN INTERCHANGE - EAST	Structure/Safety	N/A	PE	\$162,979	IM
	CONSTRUCTION BEYOND TIME FRAME			RW	\$45,625	IM
	OF THIS TIP			IC	\$22,813	IM
				CONST.	\$3,054,558	IM
				TOTAL	\$3,285,975	
MONTANA AIR CONGESTION INITIATIVE (MACI)						
1	6TH AVE. TO BENCH BLVD. CONNECTION	Grade Separation	0.5	PE	\$1,609,000	CMAQ
	Phase I			RW	\$111,000	MT
				IC	\$555,000	MT
				CONST.	\$7,619,000	MT
	Phase II beyond the timeframe of this TIP.			TOTAL	\$9,894,000	
	RIMROCK ROAD-SHILOH TO 54TH			CN	\$1,305,583	MACI
	PROJECT HAS BEEN LET			CN	\$2,340,332	UHPPI
				TOTAL	\$3,645,915	
SURFACE TRANSPORTATION PROGRAM-RAIL PROGRAM (STPRP)						
1	MOORE LANE-BILLINGS	Circuitry Upgrade,	N/A	PE	\$317,328	STPRP/STPRR
		Relocate Crossing,		RW	\$95,625	STPRP/STPRR
	PROJECT HAS BEEN LET	Upgrade Traffic Signal		IC	\$29,698	STPRP/STPRR
				CONST.	\$1,715,090	STPRP/STPRR
				TOTAL	\$2,157,741	
2	27th STREET	R.R. Crossing	N/A	PE	\$3,882	STPRP
		Circuitry Upgrade		CONST.	\$158,650	STPRP
				TOTAL	\$162,532	
3	28th STREET	R.R. Crossing	N/A	PE	\$3,882	STPRP
				CONST.	\$197,974	STPRP
				TOTAL	\$201,856	
4	1ST AVENUE SOUTH	Circuitry Upgrade	N/A	PE	\$3,000	STPRP/STPRR
				CONST.	\$92,055	STPRP/STPRR
				TOTAL	\$95,055	
5	29th STREET	R.R. Crossing	N/A	PE	\$3,882	STPRP
				CONST.	\$239,526	STPRP
				TOTAL	\$243,408	
SURFACE TRANSPORTATION PROGRAM-URBAN PAVEMENT PRESERVATION						
1	BROADWATER - 28th TO SHILOH RD.	Mill & Overlay	N/A	PE	38,818	UPP
	PROJECT HAS BEEN LET			CONST.	396,522	UPP
				TOTAL	\$435,340	
2	BROADWATER - DIVISION TO 12th	Mill & Fill	N/A	PE	38,818	UPP
	PROJECT HAS BEEN LET			CONST.	612,774	UPP
				TOTAL	\$651,592	

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(TABLE 4-c)-TRANSPORTATION PRIORITY LIST						
BILLINGS, MONTANA						
3	YELLOWSTONE RIVER ROAD (BENCH TO IRISTEN)	Overlay	N/A	PE	38,818	UPP
				CONST.	210,608	UPP
	PROJECT HAS BEEN LET			TOTAL	\$38,818	
4	LOCKWOOD -SOUTHEAST (OLD HARDIN ROAD)	Mill & Fill	1.5	PE	122,259	UPP
				CONST.	602,657	UPP
				TOTAL	\$724,916	
NATIONAL CORRIDOR PLANNING & DEVELOPMENT (NCPD)						
1	NORTH BY PASS	Environmental Review & Location Study	14	PE	14,341,661	NCPD/DEMO
					6,946,808	MT
				TOTAL	\$21,288,469	
2005 CONGRESSIONAL EARMARK						
1	BENCH BLVD. NORTH	Reconstruction	3	PE	1,650,000	MT
				RW	1,664,000	MT
				IC	2,218,000	MT
				CONST.	6,949,000	MT
	* Construction beyond timeframe of this TIP			TOTAL	\$12,481,000	
1	ZIMMERMAN TRAIL	Reconstruction	1	PE		MT
				IC		MT
				CONST.		MT *
				TOTAL	\$0	
OTHER FUNDING						
	STP ENHANCEMENTS	Various Projects		OTHER	581,207	CTEP
	SAFE ROUTES TO SCHOOL	Various Projects		OTHER	0	SRTS
	ANNUAL OPERATION AND MAINTENANCE	Various Projects		OTHER	225,000	LOCAL
	ANNUAL OPERATION AND MAINTENANCE	Various Projects		OTHER	150,000	STATE
				TOTAL	\$956,207	
** CONST. Estimates Include CE Costs						

ADVANCEMENT OF PROJECTS

It is mutually agreed that the first two years of this program is best estimate of the project phase that will be undertaken during the Biennial timeframe. Occasionally, projects advance through the design process faster than anticipated. An approved project may accelerate into the next logical phase providing that the funding source does not change from that, which was initially identified in the TIP. Federal, State, and local governments have agreed that a TIP revision is

not required in order to accelerate a specific project phase, so long as other planned work is not unduly delayed.

- The priorities with regard to the FTA Section 5307 projects in the Biennial Element are: 1) Operating Assistance.
- The priorities with regard to the FTA Section 5310 projects in the Biennial Element are: 1) Four (4) replacement vehicles for MET Special Transit, 2) Two (2) replacement vehicles for MET Special Transit.
- The priorities with regard to the FTA Section 5309 projects are: 1) Buses and Bus Facilities, and 2) Billings Bus/Medical Facility (Deaconess) per Congressional appropriation.

PRIVATE ENTERPRISE PARTICIPATION

Both the City of Billings and Yellowstone County have locally developed policies and procedures to examine opportunities for private sector participation in the provision of transit services and related support services. The City of Billings adopted resolution 86-15346 which states said policy and provides a process for implementation. The Council approved that resolution on July 7, 1986. Further, a Private Transportation Enterprise Participation Policy (PEP) and implementing Procedures were adopted by the MPO's Technical Advisory Committee on April 24, 1986, by the Policy Coordinating Committee on May 8, 1986, and by the Yellowstone County Planning Board on May 13, 1986.

The City's MET Transit Division has examined various opportunities for private sector provision of services. The system utilizes private tire firms to handle parts of servicing of the tire inventory. The system also contracts with various private firms for radiator repair, air compressor rebuilds, as well as glass, bodywork on the vehicles, and occasional component rebuilds.

The required TIP documentation related to the PEP process is as follows:

- a) The City of Billings MET Transit System solicited the possible interest or involvement of the private sector in providing leased tires for the MET Transit fleet of coaches. In the spring of 1993 and again in the spring of 1996 and 2001, a Request for Bids was sent to potentially interested private vendors and was also advertised in a local newspaper and a national transit journal. In both 1993 and 1996, the bids were evaluated based on cost and ability to perform and the bid from Firestone was the low bid and accepted. In 2001, two firms requested bid packages but only Firestone submitted a bid. That bid was lower than the previous contract from them and that bid was accepted. The current contract for the tire lease is in effect through June 30, 2006.
- b) No other proposals were received from the private sector.
- c) There are no known impediments to holding service out for competition.
- d) There are no known private sector complaints.

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The Yellowstone County Planning Department has and will continue to follow their adopted policy and procedures regarding private sector participation. The mailing list of private providers has been updated and used to provide notice about TAC and PCC meetings, including those that deal with the UPWP projects and process as well as the TIP process. Through these mailings the private providers are aware of the development of the proposed transit capital and operating projects as well as the proposed paratransit capital projects for the five years covered in the TIP.

FEDERAL TRANSIT ADMINISTRATION PROJECTS


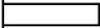

The Federal Transit Act funded projects, including FTA Section 5309 grant projects, (Biennial Element) are intended to insure the continued efficient operation, maintenance and administration of the MET Transit system fleet and facilities, including meeting federal regulations such as the Americans with Disabilities Act (ADA). The operating grants are for the fiscal years of July 2005 to June 2006 and July 2006 to June 2007 and the Section 5309 grant projects will permit Bus and Bus Facilities projects in Fiscal Years 2005-2006 through 2009-2010.

The vehicles for MET Special Transit are projects to enable the City to continue providing the required specialized demand-responsive paratransit service for citizens who are unable to use the MET Transit System due to their disabling conditions. The projects to purchase a vehicle for COR Enterprises address some of the transportation needs of developmentally impaired or disabled residents.

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(Table 5) -TRANSPORTATION PROJECT PRIORITY LIST		
BILLINGS, MONTANA		
SECTION/PROJECT		PROJECT ESTIMATE
FTA SECTION 5307		
	OPERATING PROJECT (7-1-07 TO 6-30-2008)	4,195,866
	OPERATING PROJECT (7-1-2008 TO 6-30-2009)	4,363,701
	TOTAL	\$8,559,567
TRANSADE		
	MET SPECIALIZED TRANSPORTATION-OPERATING (2007)	355,325
	MET SPECIALIZED TRANSPORTATION-OPERATING (2008)	462,963
	TOTAL	\$818,288
FTA SECTION 5310		
	TWO (2) REPLACEMENT VEHICLES FOR MET SPECIALIZED TRANSIT (FY 2007)	114,406
	TWO (2) REPLACEMENT VEHICLES FOR MET SPECIALIZED TRANSIT (FY 2008)	117,840
	* DEPENDENT ON FUNDING AND APPLICATION APPROVALS BY MDT	
	*TOTAL	232,246
FTA SECTION 5309		
	BUSES & BUS FACILITIES (2007)	3,036,806
	BILLINGS BUS/MEDICAL FACILITY (DEACONESS)	3,093,750
	MET TRANSIT TECHNOLOGY IMPROVEMENTS**	350,000
	MET TRANSIT WASH FACILITY REPLACEMENT**	300,000
	TWO REPLACEMENT BUSES FOR MET TRANSIT**	760,000
	FOUR 16 PASSENGER VANS FOR MET TRANSIT**	260,000
	** FUNDING YET TO BE DETERMINED	
	*TOTAL	7,800,556
FTA SECTION 5316		
	JARC (OPERATING)	90,000
	TOTAL	90,000
FTA SECTION 5317		
	NEW FREEDOM (OPERATING)	10,401
	2 REPLACEMENT VEHICLES MET TRANSIT	99,200
	TOTAL	109,601
	TOTAL	\$17,610,258

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(Table 6) - MULTI-YEAR STAGING PROGRAM CALENDAR YEARS 2007 - 2011 BILLINGS, MONTANA						
SURFACE TRANSPORTATION PROGRAM	2007	2008	2009	2010	2011	2012
SHILOH ROAD CORRIDOR (ENVIRONMENTAL)						
GRAND AVENUE						
32ND STREET WEST						
SHILOH ROAD CORRIDOR						
MIDLAND/S. BILLINGS BLVD. SIGNAL						
2002 SAFETY IMPROVEMENTS						
MACI MT FUNDED						
6TH AVE.-BENCH BLVD. CONNECTION (PHASE I)						
PILOT FUNDED						
RIMROCK ROAD						
VARIOUS FUNDED						
AIRPORT ROAD (RECONSTRUCTION)						
PINEHILLS INTERCHANGE-WEST						
PINEHILLS INTERCHANGE-SOUTHEAST						
MOORE LANE R.R. CROSSING						
PARKHILL /13th INTERSECTION						
N. FRONTAGE ROAD - SIGNAL						
MOSSMAIN INTERCHANGE - EAST						
PINEHILLS INTERCHANGE - EAST						
1st AVE. S. R.R. CROSSING						
27th STREET R.R. CROSSING						
28th STREET R.R. CROSSING						
BROADWATER - 28TH TO SHILOH						
BROADWATER - DIVISION TO 12TH						
YELLOWSTONE RIVER RD. - BENCH TO IRISTEN						
LOCKWOOD - SOUTHEAST/OLD HARDIN RD.						
JOHNSON LANE-1-90 SIGNAL						
NORTH BY PASS (ENVIRONMENTAL & LOCATION)						
CTEP PROJECTS (VARIOUS)						
BENCH BLVD. NORTH						
ZIMMERMAN TRAIL						
***ALL TIMEFRAMES ARE APPROXIMATE						
	PRELIMINARY ENGINEERING					
	RIGHT OF WAY/UTILITIES					
	CONSTRUCTION					

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(Table 7) - HIGHWAY/TRANSIT MULTI-YEAR IMPROVEMENT PROGRAM FY 2007 BILLINGS, MONTANA										
PROJECT DESCRIPTION	PHASING	STP URBAN (STPU)	MT. AIR CONGESTION INITIATIVE (MACI)	SURFACE/TRANSPORTATION ENHANCEMENT (STE)		PILOT PROGRAM	DEMO/MT FUNDS	IM	STPFP/UPP/STPIS/H SIP	TOTAL
				CITY	COUNTY					
Estimated carryover balance		9,131,661	9,396,818	1,169,689	389,842	1,365,583	24,246,412	1,128,842	783,170	
Estimated allocation		2,587,036	1,036,700	424,216	156,991		9,335,463			
Estimated beginning balance		11,738,697	10,433,518	1,593,905	746,833		33,581,877			
AIRPORT ROAD							227,144			
AIRPORT ROAD	RW	607,000								607,000
SHILOH ROAD CORRIDOR	PE	861,599								861,599
SHILOH ROAD CORRIDOR	RW	0					8,000,000			8,000,000
MIDLAND/S. BILLINGS (SIGNAL)	PE	120,079								120,079
CITY PROJECTS	CONST.			865,722						865,722
DEMOCK ROAD (SHILOH TO 54TH)	RW					60,000				60,000
2002-SAFETY IMP.	RW								72,369	72,369
2002-SAFETY IMP.	IC								48,246	48,246
PINEHILLS INT. W.	IC							100,706		100,706
PINEHILLS INTERCHANGE-EAST	CONST.							961,590		961,590
MOSSMAN INT. EAST	RW							44,364		44,364
MOSSMAN INT. EAST	IC							22,182		22,182
RAILROAD CROSSING (1st AVE. S.)	PE								3,882	3,882
RAILROAD CROSSING (27th STREET)	PE								3,882	3,882
RAILROAD CROSSING (28th STREET)	PE								3,882	3,882
RAILROAD CROSSING (29th STREET)	PE								3,882	3,882
N. FRONTAGE RD - SIGNAL	PE								53,273	53,273
PARKHILL/13th	PE								64,364	64,364
BROADWATER - 28TH TO SHILOH RD.	PE								38,818	38,818
BROADWATER - DIVISION TO 12TH STREET W.	PE								38,818	38,818
YELLOWSTONE RIVER RD - BENCH TO BRYDEN	PE								38,818	38,818
LOCKWOOD-SOUTHEAST (OLD HARDIN RD)	PE								38,818	38,818
NORTH BY PASS (ENVIRONMENTAL & LOCATION)	PE						**			0
SAFE ROUTES TO SCHOOL***	PE/OTHER									0
OPERATION AND MAINTENANCE - STATE	OTHER								150,000	150,000
OPERATION AND MAINTENANCE - LOCAL	OTHER								225,000	225,000
CLOSED PROJECT		-74,132								-74,132
TOTAL (HIGHWAY)		1,514,545	0	865,722		60,000	8,227,144	1,128,842	783,170	12,426,412
* SEE BIENNIAL ELEMENT (FUNDS OBLIGATED)										
** NCPD & MT FUNDS PREVIOUSLY OBLIGATED										
***DEPENDENT ON FUNDING & APPLICATION APPROVALS BY MDT										

2007-2011 Billings Traffic Improvement Plan (Amended January 2009)

[illegible]

2007-2011 Billings Traffic Improvement Plan (Amended January 2009)

(Table 9) - HIGHWAY/TRANSIT MULTI-YEAR IMPROVEMENT PROGRAM FISCAL YEAR 2009													
BILLINGS, MONTANA													
PROJECT DESCRIPTION	PHASING	STP URBAN (STPU)	MT. AIR CONGESTION INITIATIVE (MACT)	MT FUNDS	BRIDGE/STP SAFETY IM FUNDS	SURFACE TRANSPORTATION ENHANCEMENT (STE)		TRANSIT SEC 5307	TRANSIT SEC 5309	TRANSIT SEC 5310 **	TRANSIT SEC 5310 **	TRANSIT SEC 5310 **	TOTAL
						CITY	COUNTY						
Estimated carryover balance		-561,315	1,776,997	26,406,003	138,617	0	0	1,336,479		189,538	250,000	3,468,985	
Estimated allocation****		7,987,036	1,145,166	13,139,922									
Estimated beginning balance		7,423,721	2,922,163	39,545,927									
6th Ave N-BENCH CONNECTION	FE		919,934										919,934
SHILOH ROAD CORRIDOR****	FE	789,595											789,595
SHILOH ROAD CORRIDOR****	IC	973,238											973,238
SHILOH ROAD CORRIDOR****	CONST.	3,831,911	1,942,906	6,991,210									12,766,027
SHILOH ROAD CORRIDOR****	CONST.			11,700,000									11,700,000
AIRPORT ROAD	IC	1,900,000											1,900,000
ZIMMERMAN TRAIL	IC												0
ZIMMERMAN TRAIL	CONST.												0
6TH AVENUE/BENCH - PHASE I	RW			111,000									111,000
6TH AVENUE/BENCH - PHASE I	IC			555,000									555,000
6TH AVENUE/BENCH - PHASE I	CONST.			7,619,000									7,619,000
JOHNSON LANE/50 SIGNAL	CONST.							314,811					314,811
PINEHILLS INT. SR.	IC				55,455								55,455
PARKHILL/19th	RW				83,182								83,182
TRANSIT OPERATING (07/6/09)								1,336,479				3,708,637	5,045,111
MET SPECIALIZED TRANSIT VANS **										189,538		47,300	236,848
MET SPECIALIZED TRANSIT OPERATING **											250,000	212,961	462,961
TOTAL		7,494,674	2,862,740	26,876,210	138,637			1,336,479	0	189,538	250,000	3,468,985	43,032,094

* LOCAL MATCH FOR TRANSIT

** DEPENDENT ON FUNDING AND APPLICATION APPROVALS BY MDT

***AVAILABILITY DEPENDENT ON CONGRESSIONAL ACTION

****STPU ESTIMATED ALLOCATION INCLUDES \$5.4M BORROWING FUNDING INCLUDES PROPOSED 2009 FARMARK

2007-2011 Billings Traffic Improvement Plan (Amended January 2009)

Table 10 - HIGHWAY/TRANSIT MULTI-YEAR IMPROVEMENT PROGRAM FISCAL YEAR 2010 BILLINGS, MONTANA															
PROJECT DESCRIPTION	PHASING	SEP URBAN (STP)	MT AIR CONGESTION INITIATIVE (MAIC)	MT FUNDS	NATIONAL HIGHWAY SYSTEM (NEE)	INTERSTATE MAINTENANCE (IM)	SURFACE TRANSPORTATION IMPROVEMENT (STE)		TRANSIT SEC 5307	TRANSIT SEC 5305	TRANSIT SEC 5310**	TRANSIT SEC 5310**	OTHER FUNDS*	TOTAL	
							CITY	COUNTY							
												155,542	250,000	3,567,335	
Estimated carryover balance		-5,400,000	59,403	12,569,717							1,555,722				
Estimated allocation		2,587,036	1,145,166			6,148,700	424,616	156,591	1,542,300						
Estimated beginning balance		-2,812,964	1,204,569	12,569,717											
PINEHILLS INT. ST.	CONST					6,148,700								6,148,700	
LOCKWOODS SOUTHEAST	CONST								400,700					400,700	
2000 SAFETY IMPVMT	CONST								939,600					939,600	
TRANSIT OPERATING (2008-610)											1,555,722		3,305,436	4,861,208	
MT SPECIALIZED TRANS 4 YRS												155,542	48,886	244,428	
MT SPECIALIZED TRANS OPERATING													250,000	212,003	
TOTAL		0	0	0	0	6,148,700	0		1,542,300	1,555,722	0	155,542	250,000	3,567,335	

* LOCAL MATCH FOR TRANSIT

** DEPENDENT ON FUNDING AND APPLICATION APPROVAL BY MDT

2007-2011 Billings Traffic Improvement Plan (Amended January 2009)

(Table 11) - HIGHWAY/TRANSIT MULTI-YEAR IMPROVEMENT PROGRAM FISCAL YEAR 2011														
BILLINGS, MONTANA														
PROJECT DESCRIPTION	PHASING	STP URBAN (STPU)	MT. AIR CONGESTION INITIATIVE (MACT)	NATIONAL HIGHWAY SYSTEM (NHS)	STATE FUNDED CONSTRUCTION URBAN (SFCT) HSIP	SURFACE TRANSPORTATION ENHANCEMENT (STE)		MT FUNDS	TRANSIT SEC 5307	TRANSIT SEC 5309	TRANSIT SEC 5310**	TRANSADP	OTHER FUNDS*	TOTAL
						CITY	COUNTY							
Estimated carryover balance		\$ (2,812,964)	\$ 1,204,589					12,569,717	\$ 1,633,508	\$ 196,476	\$ -	\$ 250,000		
Estimated allocation		\$ 2,587,036	\$ 1,145,166		668,000	\$ 424,616	\$ 156,991							
Estimated beginning balance		\$ (225,928)	\$ 2,349,755					12,569,717						
PARK/HILL/13TH					668,000									668,000
TRANSIT OPERATING (7/10-6/11)									1,633,508				3,354,771	4,988,279
MET SPECIALIZED TRANS.-OPERATING												250,000	212,963	462,963
TOTAL		\$ -	\$ -					0	1,633,508			250,000	3,567,734	6,119,242

* LOCAL MATCH FOR TRANSIT

** DEPENDENT ON FUNDING AND APPLICATION APPROVALS BY MDT

2007-2011 Billings Traffic Improvement Plan (Amended January 2009)

(Table 12) - BIENNIAL ELEMENT JULY 1, 2007 - JUNE 30, 2009 (HIGHWAY)							
BILLINGS, MONTANA							
PROJECT/PHASE	PROJECT NUMBER	PROJECT DESCRIPTION	TOTAL ESTIMATED COST	FEDERAL FUNDS AND SOURCES	NON-FEDERAL FUNDS AND SOURCES	RECIPIENT OF FUNDS	RESPONSIBLE IMPLEMENTING AGENCY
AIRPORT ROAD (RWIC/CONST)	MT/STPU/CM (009)	RECONSTRUCTION	27,860,656	25,847,253 FHWA	2,013,403 MATCH	MDT	MDT
6TH AVE.-BENCH BLVD. CONNECTION (PE)	CM 1099 (32)	CONSTRUCTION	919,834	796,392 FHWA	123,442 STATE MATCH	MDT	MDT
2002 SAFETY IMPROVEMENTS (RWIC/CONST)	HSP 1099 (43)	CONSTRUCTION	670,615	350,615 FHWA	320,000 STATE MATCH	MDT	MDT
SHILOH ROAD CORRIDOR (PE/RWIC)	STPU/MT/CM 1031	RECONSTRUCTION	12,156,052	10,524,709 FHWA	1,631,343 STATE MATCH	MDT	MDT
MIDLAND RD./S. BILLINGS BLVD. (PE/RWIC/CONST)	STPU 1033 (1)	SIGNAL	471,519	408,242 FHWA	63,277 STATE/LOCAL MATCH	MDT	MDT
CTEP PROJECTS (IC/CONST)	STPE VARIOUS	LISTED BELOW *	865,722	749,542 FHWA	116,180 LOCAL MATCH	MDT	MDT
KIMBROCK ROAD (SHILOH-54TH) (RWIC/CONST)	1034 1	RECONSTRUCTION	3,705,915	3,208,581 FHWA	497,334 STATE MATCH	MDT	MDT
PINEHILLS INT. W. (IC)	DM 90-2 (157)	RECONSTRUCTION	100,706	87,191 FHWA	13,515 STATE MATCH	MDT	MDT
PINEHILLS INTERCHANGE E. (CONST.)	DM 94-1 (73)	RECONSTRUCTION	961,590	832,545 FHWA	129,045 STATE MATCH	MDT	MDT
1ST AVE. S. R.R. CROSSING (PE/CONST.)	1022	CIRCUITRY UPGRADE	95,055	85,549 FHWA	9,506 STATE MATCH	MDT	MDT
S. 27TH STREET R.R. CROSSING (PE/CONST.)	53-1	CONCRETE CROSSING	201,856	181,670 FHWA	20,186 STATE MATCH	MDT	MDT
S. 28TH STREET R.R. CROSSING (CONST.)	53-1	CONCRETE CROSSING	201,856	181,670 FHWA	20,186 STATE MATCH	MDT	MDT
MOORE LANE R.R. CROSSING (RWIC/CONST.)	1099 33	RELOCATE CROSSING	2,331,328	2,098,195 FHWA	233,133 STATE MATCH	MDT	MDT
MOSSMAIN INTERCHANGE E. (RWIC)	DM 90-2 (155)	RECONSTRUCTION	66,546	57,616 FHWA	8,930 STATE MATCH	MDT	MDT
NORTH FRONTAGE ROAD SIGNAL (PE/CONST.)	HSP 16-1 -47	CONSTRUCTION	512,440	443,671 FHWA	68,769 STATE MATCH	MDT	MDT
PARKHILL 13TH INTERSECTION (PE)	HSP 1099 51	RECONSTRUCTION	66,566	57,928 FHWA	8,638 STATE MATCH	MDT	MDT
BROADWATER 28TH TO SHILOH (PE/CONST.)	UPP 1006	RECONSTRUCTION	329,221	285,040 FHWA	44,181 STATE MATCH	MDT	MDT
BROADWATER DIVISION TO 12TH (PE/CONST.)	UPP 1006	RECONSTRUCTION	615,188	532,630 FHWA	82,558 STATE MATCH	MDT	MDT
YELLOWSTONE R. RD. BENCH TO IRISTEN (PE/CONST.)	UPP 1027	RECONSTRUCTION	178,565	154,602 FHWA	23,963 STATE MATCH	MDT	MDT
LOCKWOOD SE-OLD HARDIN RD. (PE/CONST.)	UPP 1028	RECONSTRUCTION	327,184	283,276 FHWA	43,908 STATE MATCH	MDT	MDT
OPERATION AND MAINTENANCE - STATE (PE/CONST.)	N/A	OP/MAINT.	596,000	0 FHWA	596,000 STATE	MDT	MDT
OPERATION AND MAINTENANCE - LOCAL (PE/CONST.)	N/A	OP/MAINT.	450,000	0 FHWA	450,000 LOCAL	MDT	MDT
SHILOH/MONAD INTERSECTION (RWIC/CONST)	1031 3	TURN BAYS	222,847	200,562 FHWA	22,285 STATE MATCH	MDT	MDT

*LAKE ELMO RD. BIKEPATH, MAIN STREET UNDERPASS, LAUREL BIKE/PED. BRIDGE **BIENNIAL ELEMENT HAS NOT BEEN UPDATED.

2007-2011 Billings Traffic Improvement Plan (Amended January 2009)

(Table 13) BIENNIAL ELEMENT JULY 1, 2007-June 30, 2009 (TRANSIT)

BILLINGS MONTANA					
PROJECT/FUNDING SOURCE	TOTAL EST COST	FEDERAL FUNDS AND SOURCES	NON-FEDERAL FUNDS AND SOURCES	RECIPIENT OF FUNDS	RESPONSIBLE IMPLEMENTING AGENCY
FTA SECTION 5307 OPERATING PROJECT (7-1-07 TO 6-30-08)	4,195,866	1,170,544	3,025,322	CITY	CITY
OPERATING PROJECT (7-1-08 TO 6-30-09)	4,363,701	1,230,011	3,133,690	CITY	CITY
FTA SECTION 5309					
BILLINGS PUBLIC BUS & TRANSFER/FACILITY	3,093,750	2,475,000	618,750	TBD	TBD
BILLINGS BUS/MED. FACILITY (DEACONESS) (2007)	3,036,806	2,429,445	607,361	TBD	TBD
BILLINGS MET TECH. IMPROVEMENTS FOR VANS/BUSES**	350,000	280,000	70,000	CITY	CITY
BILLINGS MET TRANSIT BUS WASH FACILITY***	300,000	240,000	60,000	CITY	CITY
TWO 35' BUSES FOR MET TRANSIT	760,000	608,000	152,000	CITY	CITY
FOUR 16 PASSENGER VANS FOR MET TRANSIT	260,000	208,000	52,000	CITY	CITY
FTA SECTION 5310*					
MET TRANSIT VAN (2) PURCHASE (2007)	114,406	91,525	22,881	CITY	CITY
MET TRANSIT VAN (2) PURCHASE (2008)	117,810	94,272	23,538	CITY	CITY
1 NEW VEHICLE FOR COR (FY 07)	52,000	41,600	10,400	STATE	COR
1 NEW VEHICLE FOR RSS (FY 07)	36,000	28,800	7,200	STATE	RSS
2 NEW HEAD START VEHICLE PURCHASES FY (07)	128,000	102,400	25,600	STATE	HEAD START
TRANSIDE*					
MET SPECIALIZED TRANSIT OPERATING-2007	355,325	200,000	155,325	CITY	CITY
MET SPECIALIZED TRANSIT OPERATING-2008	462,963	250,000	212,963	CITY	CITY
FTA SECTION 5316					
JARC OPERATING	180,000	90,000	90,000	CITY	CITY
FTA SECTION 5317					
OPERATING	20,802	10,901	10,401	CITY	CITY
MET REPLACEMENT VEHICLES (2)	124,000	99,200	24,800	CITY	CITY

*Dependent on Funding & Application Approvals by MDT

**Funding To Be Determined

(Table 14) - TRANSPORTATION PROJECT PRIORITY LIST	
BILLINGS, MONTANA	
PROJECT	ESTIMATED TOTAL
FTA SECTION 5307	
OPERATING PROJECT (7-1-05 TO 6-30-2006)	3,774,974
OPERATING PROJECT (7-1-2006 TO 6-30-2007)	3,907,811
TOTAL	\$7,682,785
FTA SECTION 5310	
TWO (2) REPLACEMENT VEHICLES FOR MET SPECIAL TRANSIT (FY 2005)	104,000
ONE (1) REPLACEMENT VEHICLE FOR MET SPECIAL TRANSIT (FY 2006)	66,000
ONE (1) REPLACEMENT VEHICLE FOR COR (FY 2006)	51,600
TWO (2) REPLACEMENT VEHICLES FOR MET SPECIAL TRANSIT (FY 2007)	104,000
TOTAL	\$325,600 *
* DEPENDENT ON FUNDING AND APPLICATION APPROVALS BY MDT	
FTA SECTION 5309	
BILLINGS DOWNTOWN BUS FACILITY	5,479,546
MET TRANSIT BUS PURCHASE	103,874
BILLINGS BUS/MEDICAL FACILITY/DEACONESS	3,036,806
TOTAL	\$8,620,226
TRANSIDE	
MET SPECIALIZED TRANSIT-OPERATING (2005)	70,000
MET SPECIALIZED TRANSIT-OPERATING (2006)	130,000
TOTAL	\$200,000

2007-2011 Billings Traffic Improvement Plan (Amended January 2009)

(Table 15) TRANSIT MULTI YEAR IMPROVEMENT PROGRAM FY 2008

BILLINGS, MONTANA								
PROJECT DESCRIPTION	TRANSIT SEC 5307	TRANSIT SEC 5309	TRANSIT SEC 5310	TRANSIT SEC 5316	TRANSIT SEC 5317	TRANSADE	OTHER ** FUNDS	TOTAL
TRANSIT OPERATING (7/08-6/09)	1,170,544			90,000	10,401		3,125,723	4,396,668
BILLINGS BUS/MED. FACILITY (DEACONESS)		2,429,445					607,361	3,036,806
MET SPECIALIZED TRANSIT OPERATING						200,000	155,325	355,325
2 CORE INT. VEHICLE PURCHASES			41,600				10,400	52,000
2 HEAD START VEHICLE PURCHASES			102,400				25,600	128,000
1 RSS VEHICLE PURCHASE			28,800				7,200	36,000
TOTAL - TRANSIT	1,170,544	2,429,445	172,800	90,000	10,401	200,000	3,931,609	8,004,799

* LOCAL MATCH FOR TRANSIT

** DEPENDENT ON FUNDING AND APPLICATION APPROVAL BY MET

Attachment B: Billings MPO Transportation & Transit Projects-Stimulus Package

TRANSIT CAPITAL PROJECTS			
	Bus Wash	\$	300,000
	2- Low Floor Buses	\$	660,000
	2 - 19- Passenger Buses	\$	200,000
	CCTVs	\$	150,000
		\$	1,310,000
NON-MOTORIZED TRANSPORTATION PROJECTS			
	Main Street Underpass Bike/Ped Facility (CTEP Approved, links trails being built on West side with trails built on east side	\$	2,451,000
	Bannister Trail (CTEP Approved, at-grade crossing of King Ave.W. with trail connection on south side of King linking to existing trail sections)	\$	535,000
	Lampman Strip Park Trail (CTEP Approved, at-grade crossing of Monad with trail connection from Stewart Park to trail section on King providing link to Bannister)	\$	420,000
	Millenium Trail (Private property to be deeded to City if built to City standards, fix side slope and drainage issues on trail that will connect to Bannister Trail)	\$	20,000
	TOTAL	\$	3,426,000
TOTAL CATEGORY 1 PROJECTS		\$	80,626,000
CATEGORY 2 PROJECTS (4 - 12 MONTHS)			
	ZIMMERMAN TRAIL ***	TBD	
NON-MOTORIZED TRANSPORTATION PROJECTS			
	Swords Park, Phase 2 (continuation of trail through Swords Park that will connect phase 1 with Airport Road underpass)	\$	699,000
	Earl Guss Park Trail (Trail connection between existing Dutcher Trail at Metra Park with Main Street Underpass)	\$	179,600
	Broadwater Crossing (at-grade crossing of Broadwater from Lillis to Descro)	\$	116,000
	Broadwater Connection (Trail connection between Zimmerman Trail Road and Lillis Park by Broadwater Crossing with link to Will James School)	\$	388,000
	TOTAL CATEGORY 2 PROJECTS	\$	1,382,600
CATEGORY 3 PROJECTS (13 - 18 MONTHS)			
NON-MOTORIZED TRANSPORTATION PROJECTS			
	25 th Street Bridge over MRL (bike/pedestrian bridge would link Montana Ave. with Minnesota Ave. and to bike lanes along So. 25 th with eventual linkage to trail along riverfront)	\$	619,000
	Alkali Creek Connection (extend trail from Swords Park No. along Swords Park Lane to Main Street Underpass)	\$	250,000
	TOTAL CATEGORY 3 PROJECTS	\$	869,000
ALL CATEGORIES TOTAL		\$	82,877,600

***Projects highlighted in yellow are for discussion purposes - To Be Discussed with PCC

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA

 Monday, February 9, 2009

TITLE: Northwestern Energy Easement for Shiloh Road Power line Relocations
DEPARTMENT: Public Works Department and Parks, Recreation and Public Lands
PRESENTED BY: David D. Mumford, P.E., Public Works Director, Mike Whitaker, Parks, Recreation and Public Lands Director

PROBLEM/ISSUE STATEMENT: Northwestern Energy has requested easements from the City of Billings in two areas to relocate the power lines for the Shiloh Road Project. One easement is in Ann Ross Park between King and Monad. The second easement is Shiloh drain property owned by the city between Central and Broadwater.

ALTERNATIVES ANALYZED:

1. Approve Easements for power line relocation; or
2. Do not approve easements for power line relocation.

FINANCIAL IMPACT: Staff is recommending that the easements be issued at no cost due to the fact that the power line is being moved to accommodate the new Shiloh Road construction.

RECOMMENDATION

Staff recommends that Council approve the easements request from Northwestern Energy at no cost.

Approved By: **City Administrator** ____ **City Attorney** ____

ATTACHMENTS

- A. Easement-Shiloh Drain Property
- B. Easement-Ann Ross Park

RETURN TO:
NORTHWESTERN ENERGY
LANDS and PERMITTING DEPARTMENT
40 East Broadway
Butte, MT 59701-9989

Form No. 3443 06/07

EASEMENT - OVERHEAD ELECTRIC POWERLINE

City of Billings

of Billings, Mt, Zip 59103, "Grantor", in consideration of \$1.00 and other good and valuable consideration, in hand paid, the receipt of which is acknowledged, does grant and convey to **NORTHWESTERN CORPORATION d/b/a NORTHWESTERN ENERGY**, a Delaware Corporation, of 40 East Broadway, Butte, MT 59701-9989, "Grantee", and to its successors, assigns and apportionees, an easement 15 feet in width upon which to construct, operate, maintain, replace, upgrade and remove an overhead electric powerline, communications system, and necessary appurtenances, including any guy wires which may extend beyond the easement width over, under, along and across that certain real property located in Yellowstone County, Montana, and particularly described as follows:

TOWNSHIP 1 South, **RANGE** 25 East, **P.M.M.**

SECTION(S) 3: SE $\frac{1}{4}$ SE $\frac{1}{4}$, The West fifteen Feet (15) of a Tract of Land shown as Tract No. 22 on the MDOT Right of Way Plan Maps all lying West of Shiloh Drain, as shown on the attached Exhibit "A", attached hereto and made a part hereof.

TOGETHER with reasonable right of access to and from the easement area over lands of the Grantor using existing roads and trails where practicable; the right to use and keep the easement area free and clear of any and all obstructions or structures, except fences; and the right to clear and remove all timber, brush or vegetation outside of the easement that may in the Grantee's opinion endanger the powerline, communications system, necessary appurtenances or guy wires.

THE GRANTOR covenants with the Grantee that the Grantor is lawfully seized and possessed of the real estate above-described, and that the Grantor has a good and lawful right to convey it, or any part thereof.

DATED this _____ day of _____, 20 09.

City of Billings

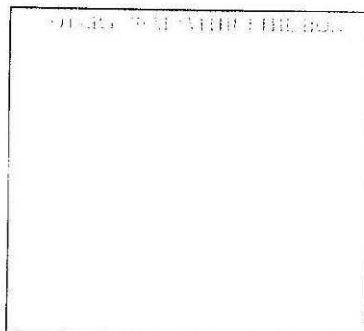
By: _____ Its: _____

STATE OF Mt)

)ss.

COUNTY OF Yellowstone)

On this _____ day of _____, 20 09, before me, personally appeared _____ being the _____ of _____ known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



Signature: _____
Print Name: _____
Notary Public for the State of _____
Residing at _____
My Commission Expires _____, 20 _____
Project: Shiloh Road Relocate
Map No.: _____
Order No.: 6012380-0210
Acquired by: Steve McFarland
E No.: _____

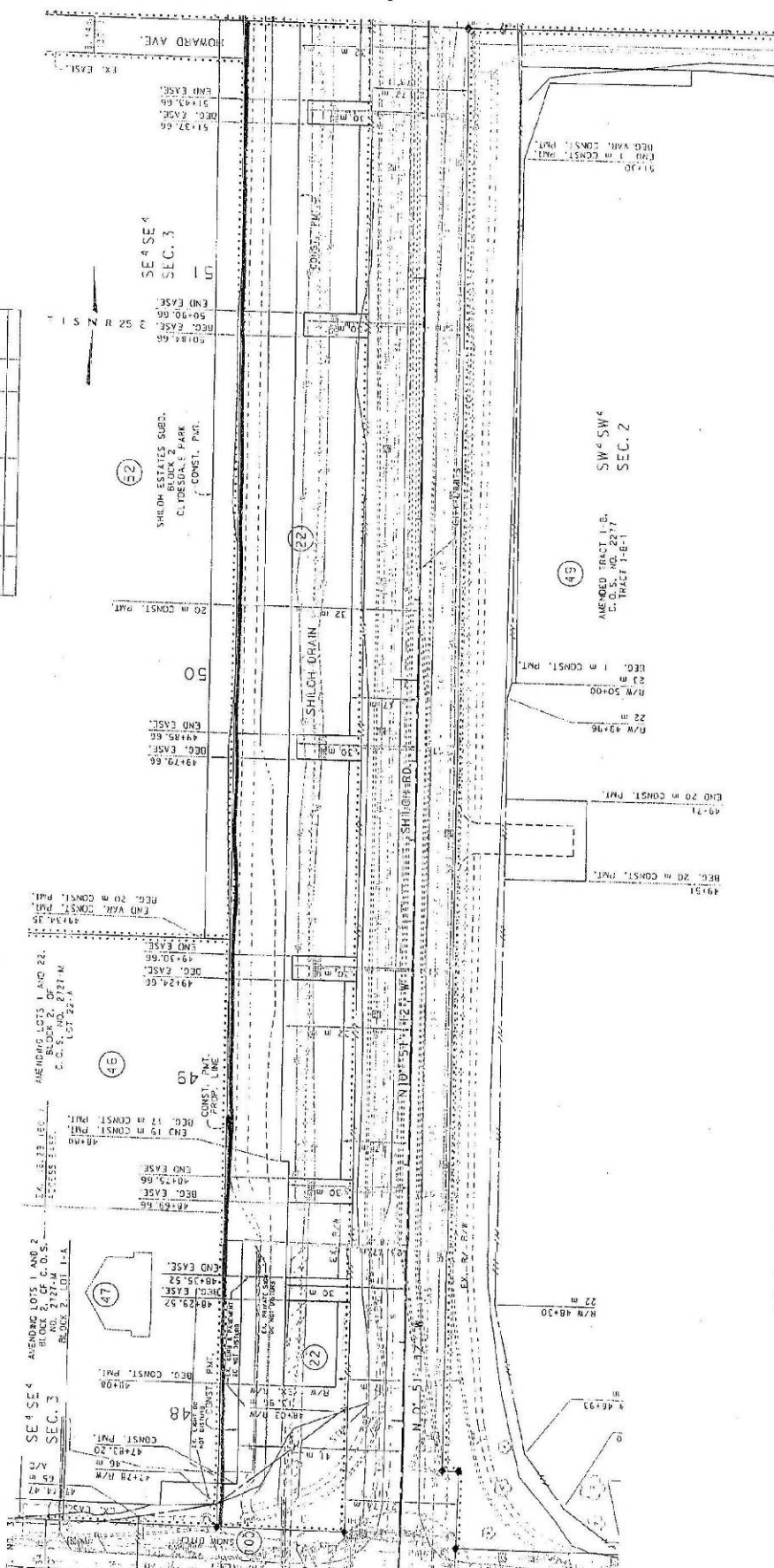
DATE	PROJECT NAME
10/10/04	SHILOH RD

ROAD APPROACHES			
APPROACH	TO	FROM	TYPE
1	SHILOH RD	SHILOH RD	RIGHT-OF-WAY
2	SHILOH RD	SHILOH RD	RIGHT-OF-WAY
3	SHILOH RD	SHILOH RD	RIGHT-OF-WAY
4	SHILOH RD	SHILOH RD	RIGHT-OF-WAY
5	SHILOH RD	SHILOH RD	RIGHT-OF-WAY
6	SHILOH RD	SHILOH RD	RIGHT-OF-WAY
7	SHILOH RD	SHILOH RD	RIGHT-OF-WAY
8	SHILOH RD	SHILOH RD	RIGHT-OF-WAY
9	SHILOH RD	SHILOH RD	RIGHT-OF-WAY
10	SHILOH RD	SHILOH RD	RIGHT-OF-WAY

STATE	COUNTY	PROJECT NAME
MONTANA	BT	SHILOH RD

SEE SHEET NO. 2-3 FOR OWNERSHIP NAMES, ADDRESSES, AREAS, ETC.

Attached to and made part of that Overhead Electric Powerline Easement, dated 2009, between the City of Billings and Northwestern Energy, describing a portion of Section 3: SE 1/4 SEC. 3, Township 1 South, Range 25 East, being part of the Shiloh Road Relocation Project.



DATE	PROJECT NAME
10/10/04	SHILOH RD

NOTES: 1. ALL MEASUREMENTS ARE IN FEET AND INCHES. 2. THE PARCELS ARE THE SAME AS SHOWN ON THE 1997 SURVEY. 3. THE PARCELS ARE THE SAME AS SHOWN ON THE 1997 SURVEY. 4. THE PARCELS ARE THE SAME AS SHOWN ON THE 1997 SURVEY.

FOR EXISTING R/W REPLACEMENT, SEE SURVEY NO. 10-10-04-001. THE SCALE PLAT IS 0.00000000.

STATE PLANE COORDINATE PROJECT. ALL DISTANCES AND AREAS ON THIS MAP ARE BASED ON THE 1983 DATUM, EXCEPT FOR THE EXISTING 1/2 SECTION, WHICH IS BASED ON THE 1983 DATUM. THE SCALE PLAT IS 0.00000000.

RETURN TO:
NORTHWESTERN ENERGY
LANDS and PERMITTING DEPARTMENT
40 East Broadway
Butte, MT 59701-9989

Form No. 3443 08/07

EASEMENT – OVERHEAD ELECTRIC POWERLINE

City of Billings-Parks Division

P.O. Box 1178

of Billings, Mt, Zip 59103, "Grantor", in consideration of \$1.00 and other good and valuable consideration, in hand paid, the receipt of which is acknowledged, does grant and convey to **NORTHWESTERN CORPORATION d/b/a NORTHWESTERN ENERGY**, a Delaware Corporation, of 40 East Broadway, Butte, MT 59701-9989, "Grantee", and to its successors, assigns and apportionees, an easement 15 feet in width upon which to construct, operate, maintain, replace, upgrade and remove an overhead electric powerline, communications system, and necessary appurtenances, including any guy wires which may extend beyond the easement width over, under, along and across that certain real property located in Yellowstone County, Montana, and particularly described as follows:

TOWNSHIP 1 South, **RANGE** 25 East, P.M.M.

SECTION(S) 10: E&E, The West Fifteen Feet (15) of Ann Ross Park, Blocks 1 and 4, The Village Subdivision, for relocation of an existing Overhead Powerline. Being part of Parcel No. 25 on the MDOT Right of Way Plan Maps.

See Exhibit "A" attached hereto and made a part hereof.

TOGETHER with reasonable right of access to and from the easement area over lands of the Grantor using existing roads and trails where practicable; the right to use and keep the easement area free and clear of any and all obstructions or structures, except fences; and the right to clear and remove all timber, brush or vegetation outside of the easement that may in the Grantee's opinion endanger the powerline, communications system, necessary appurtenances or guy wires.

THE GRANTOR covenants with the Grantee that the Grantor is lawfully seized and possessed of the real estate above-described, and that the Grantor has a good and lawful right to convey it, or any part thereof.

DATED this _____ day of _____, 2009.

City of Billings-Parks Department

by: _____ Its: _____

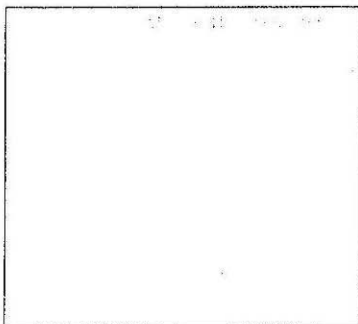
STATE OF Mt)

)ss.

COUNTY OF Yellowstone)

On this _____ day of _____, 2009, before me, personally appeared

City of Billings-Parks Department being the _____ of _____ known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



Signature: _____

Print Name: _____

Notary Public for the State of _____

Residing at _____

My Commission Expires _____, 20____

Project: Shiloh Road Relocate

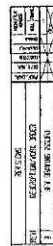
Map No.: _____

Order No.: 6012380-0210

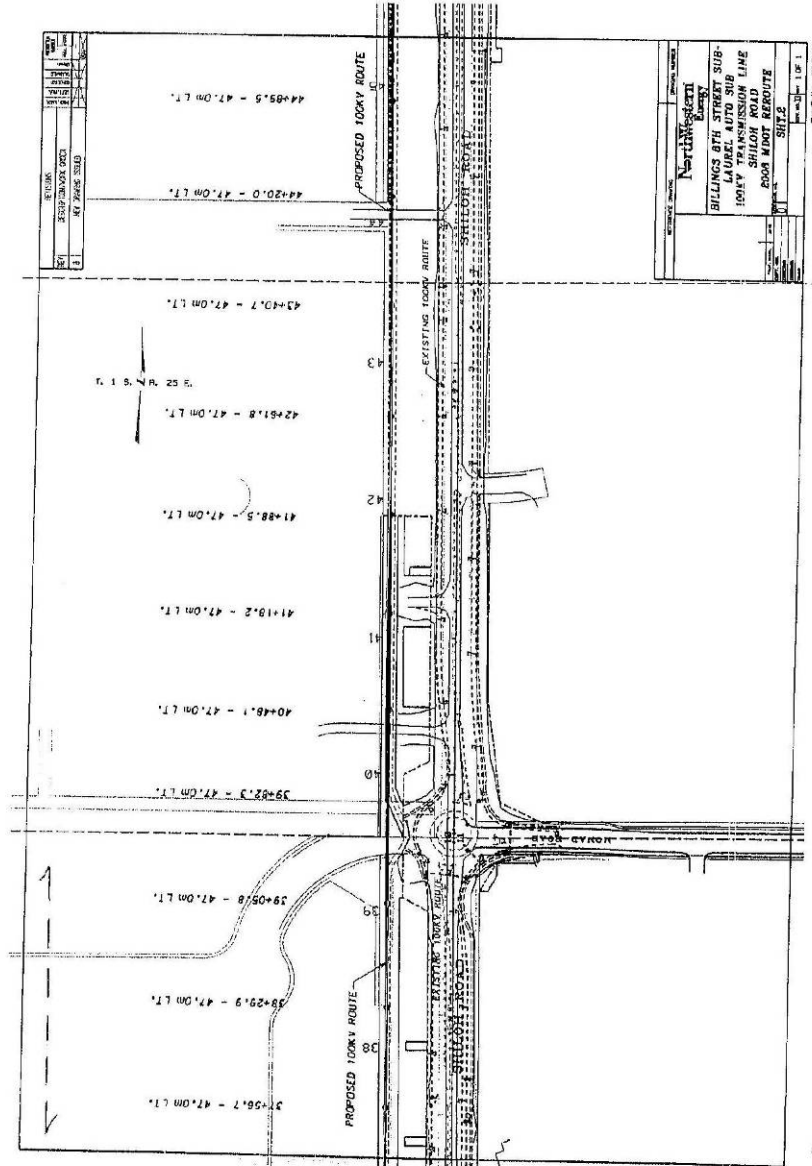
Acquired by: Steve McFarland

E No.: _____

PAGE 1 OF 2



PAGE 2 OF 2



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Sidewalk Easements from Pierce Flooring and Big Sky Florists Supply
DEPARTMENT: Public Works Department – Engineering Division
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: WO 06-10 will construct a multi-use path along the Bannister Drain from King Avenue West to South 29th Street West. There are two areas in which the path will be located within easement areas. These areas include along Pierce Flooring and east of South 29th Street within private property owned by Big Sky Florists Supply. Both parties have agreed to grant a sidewalk easement to the City for the multi-use path. The area through Pierce Flooring's property is landscaped and this project will restore the landscaping. The area along Big Sky Florist's Supply is undeveloped and this project will be installing the backbone of an irrigation system. The property owner has agreed to landscape the area and maintain the landscaping.

ALTERNATIVES ANALYZED:

- Approve sidewalk easements from Pierce Flooring and Big Sky Florists Supply.
- Do not approve sidewalk easements from Pierce Flooring and Big Sky Florists Supply.

FINANCIAL IMPACT: There are no costs associated with approval of the easements.

RECOMMENDATION

Staff recommends that Council approve the sidewalk easements from Pierce Flooring and Big Sky Florists Supply.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT**A. Sidewalk Easements**

RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

PUBLIC SIDEWALK EASEMENT

THIS INDENTURE, made and entered into this _____ day of _____, 20____, by and between the following:

Big Sky Florists Supply
P.O. Box 1157
Billings, MT 59103,
hereinafter referred to as **GRANTOR**

and

CITY OF BILLINGS, a Municipal Corporation
City Hall – 210 North 27th Street
PO Box 1178
Billings, Montana 59103-1178,
hereinafter referred to as **GRANTEE**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged;

WITNESSETH THAT GRANTOR does hereby grant and convey unto the **GRANTEE**, perpetual easement to construct, reconstruct, maintain, operate, repair and improve necessary fixtures and appurtenances for sidewalk, accessibility ramps, multi-use paths and/or accessibility drive approaches over, across, under, and through the real property more particularly described as follows:

AN EASEMENT TWELVE (12) FEET IN WIDTH, BEING SIX (6) FEET LYING ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: BEGINNING AT A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF 29TH STREET WEST WHICH IS N 00°04'32" E A DISTANCE OF 9.00 FEET FROM THE SOUTHWEST CORNER OF LOT 12-A-2, BLOCK 3 OF MIDLAND SUBDIVISION, FIFTH FILING. THENCE, FROM SAID POINT OF BEGINNING, N 89°50'57" E A DISTANCE OF 145.71 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 300.00 FEET AND A LENGTH OF 57.32 FEET (CHORD BEARING N 84°22'32" E, CHORD DISTANCE 57.23 FEET); THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 300.00 FEET AND A LENGTH OF 57.32 FEET (CHORD BEARING N 84°22'32" E, CHORD DISTANCE 57.23 FEET); THENCE N 89°50'57" E A DISTANCE OF 225.14 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 400.00 FEET AND A LENGTH OF 63.16 FEET (CHORD BEARING N 85°19'33" E, CHORD DISTANCE 63.09 FEET); THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 400.00 FEET AND A LENGTH OF 63.16 FEET (CHORD BEARING N 85°19'33" E, CHORD DISTANCE 63.09 FEET); THENCE

N 89°50'57" E A DISTANCE OF 232.24 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 300.00 FEET AND A LENGTH OF 45.58 FEET (CHORD BEARING N 85°29'48" E, CHORD DISTANCE 45.53 FEET); THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 300.00 FEET AND A LENGTH OF 45.58 FEET (CHORD BEARING N 85°29'48" E, CHORD DISTANCE 45.53 FEET) TO THE POINT OF TERMINUS; WHENCE SAID POINT BEARS N 00°06'39" W A DISTANCE OF 36.86 FEET FROM THE SOUTHEAST CORNER OF LOT 12-A-2, BLOCK 3, MIDLAND SUBDIVISION, FIFTH FILING; SIDELINES OF SAID EASEMENT BEING EXTENDED OR SHORTENED AS NECESSARY TO ELIMINATE GAPS AND/OR OVERLAPS; SAID EASEMENT HAVING AN AREA OF 11,222 SQUARE FEET.

TO HAVE AND TO HOLD unto **GRANTEE** and to its successors and assigns forever.

IN WITNESS WHEREOF, the **GRANTOR** warrants that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.

BIG SKY FLORISTS SUPPLY

BY: _____

PRINTED
NAME: _____

ITS: _____

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Washington, personally appeared _____, known to me to be the _____ of BIG SKY FLORIST SUPPLY whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of Washington

Printed Name: _____

Residing at _____

My commission expires _____

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

Mayor, City of Billings

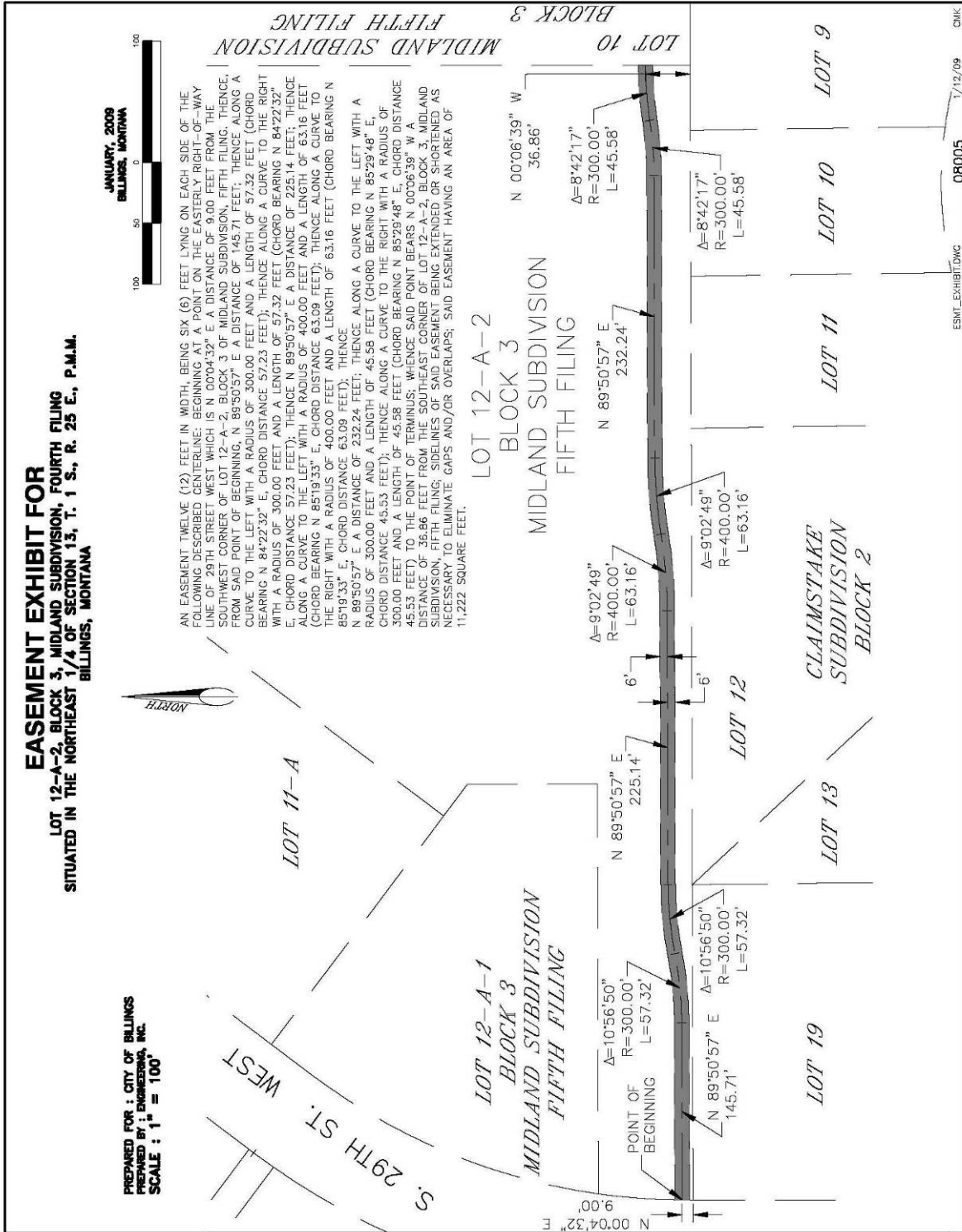
ATTEST:

City Clerk

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared RON TUSSING and _____, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

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



RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

PUBLIC SIDEWALK EASEMENT

THIS INDENTURE, made and entered into this _____ day of _____, 20____, by and between the following:

King Condo LLP
P.O. Box 80667
Billings, MT 59108,
hereinafter referred to as **GRANTOR**

and

CITY OF BILLINGS, a Municipal Corporation
City Hall – 210 North 27th Street
PO Box 1178
Billings, Montana 59103-1178,
hereinafter referred to as **GRANTEE**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged;

WITNESSETH THAT GRANTOR does hereby grant and convey unto the **GRANTEE**, perpetual easement to construct, reconstruct, maintain, operate, repair and improve necessary fixtures and appurtenances for sidewalk, accessibility ramps, multi-use paths and/or accessibility drive approaches over, across, under, and through the real property more particularly described as follows:

AN EASEMENT TWELVE (12) FEET IN WIDTH, BEING SIX (6) FEET LYING ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF KING AVENUE WEST WHICH IS N 89°56'39" E A DISTANCE OF 7.01 FEET FROM THE NORTHWEST CORNER OF LOT 1A-1-A, BLOCK 2 OF MIDLAND SUBDIVISION, FOURTH FILING, FROM SAID POINT OF BEGINNING, S 21°59'36" W A DISTANCE OF 155.15 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 500.00 FEET AND A LENGTH OF 79.73 FEET (CHORD BEARING S 17°25'31" W, CHORD DISTANCE 79.65 FEET); THENCE S 12°51'25" W A DISTANCE OF 131.07 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 500.00 FEET AND A LENGTH OF 22.11 FEET (CHORD BEARING S 14°07'25" W, CHORD DISTANCE 22.10 FEET) TO THE POINT OF TERMINUS; WHENCE SAID POINT BEARS S 23°00'24" E A DISTANCE OF 51.88 FEET FROM THE SOUTHWEST CORNER OF LOT 1A-1-A, BLOCK 2 OF MIDLAND SUBDIVISION, FOURTH FILING; SIDELINES OF SAID EASEMENT BEING EXTENDED OR SHORTENED AS NECESSARY TO ELIMINATE GAPS AND/OR OVERLAPS; SAID DESCRIBED EASEMENT HAVING AN AREA OF 4656 SQUARE FEET.

TO HAVE AND TO HOLD unto **GRANTEE** and to its successors and assigns forever.

IN WITNESS WHEREOF, the **GRANTOR** warrants that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.

KING CONDO LLP

BY:_____

PRINTED
NAME:_____

ITS:_____

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Washington, personally appeared _____, known to me to be the _____ of KING CONDO LLP whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of Washington

Printed Name:_____

Residing at _____

My commission expires _____

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

Mayor, City of Billings

ATTEST:

City Clerk

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared RON TUSSING and _____, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of Montana

Printed Name: _____

Residing at _____

My commission expires _____

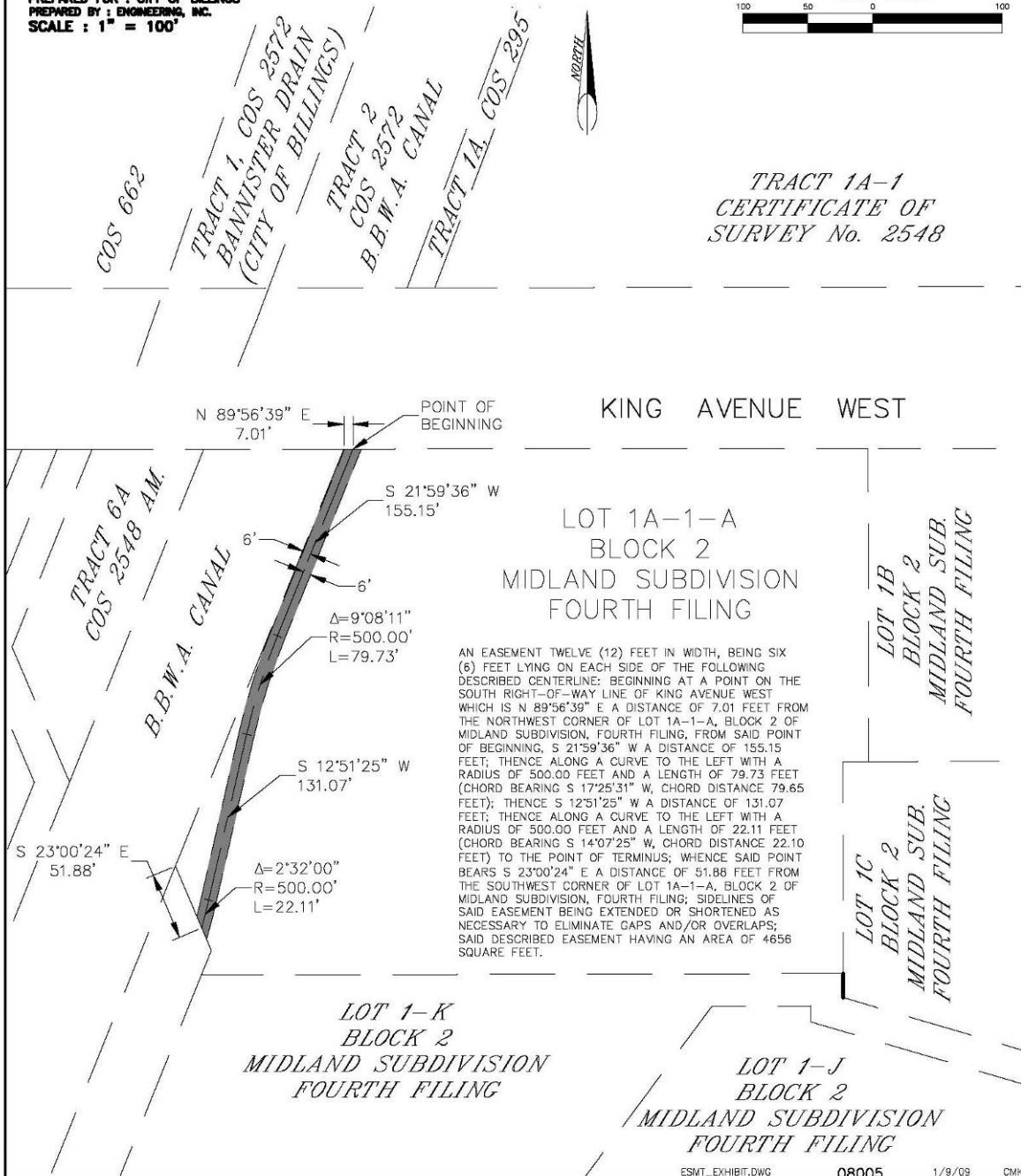
EASEMENT EXHIBIT FOR
LOT 1A-1-A, BLOCK 2, MIDLAND SUBDIVISION, FOURTH FILING
SITUATED IN THE NORTHEAST 1/4 OF SECTION 13, T. 1 S., R. 25 E., P.M.M.
BILLINGS, MONTANA

PREPARED FOR : CITY OF BILLINGS
 PREPARED BY : ENGINEERING, INC.
 SCALE : 1" = 100'

JANUARY, 2009
 BILLINGS, MONTANA



TRACT 1A-1
CERTIFICATE OF
SURVEY No. 2548



P:\CADD\1003-LAND DEV-PROJ\08005_Bannister Drain Trail_LP\dwg\ESMT_EXHIBIT.dwg, LOT 1A-1-A, 1/12/2009 2:39:53 PM, ckromer, 1:1

ESMT_EXHIBIT.DWG 08005 1/9/09 CMK



AGENDA ITEM:

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Sidewalk Easement from South Billings Center LLC
DEPARTMENT: Public Works Department – Engineering Division
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: WO 07-22 King Avenue East is constructing a multi-use path along the south side of the City-County Drain. There exists a guy wire from an electrical line that is conflicting with the path. The cost to move the guy wire exceeds the cost to move the path around the wire. It becomes necessary to gain a sidewalk easement from South Billings Center LLC to move the path.

ALTERNATIVES ANALYZED:

- Approve sidewalk easement from South Billings Center LLC.
- Do not approve sidewalk easement from South Billings Center LLC.

FINANCIAL IMPACT: There are no costs associated with approval of the easement.

RECOMMENDATION

Staff recommends that Council approve the sidewalk easement from South Billings Center LLC.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A. Sidewalk Easement

RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

PUBLIC SIDEWALK EASEMENT

THIS INDENTURE, made and entered into this _____ day of _____, 20____, by and between the following:

South Billings Center LLC
5850 Avenida Encinas, Suite A
Carlsbad, CA 92008
hereinafter referred to as **GRANTOR**

and

CITY OF BILLINGS, a Municipal Corporation
City Hall – 210 North 27th Street
PO Box 1178
Billings, Montana 59103-1178,
hereinafter referred to as **GRANTEE**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged;

WITNESSETH THAT GRANTOR does hereby grant and convey unto the **GRANTEE**, perpetual easement to construct, reconstruct, maintain, operate, repair and improve necessary fixtures and appurtenances for sidewalk, accessibility ramps, multi-use paths and/or accessibility drive approaches over, across, under, and through the real property more particularly described as follows:

AN EASEMENT COMMENCING AT THE NORTHWEST CORNER OF LOT 3, BLOCK 1 OF MILLER CROSSING SUBDIVISION, SECOND FILING; THENCE S 00°05'34" E ALONG THE WESTERLY LINE OF SAID LOT 3, A DISTANCE OF 15.00 FEET; THENCE N 89°54'26" E, A DISTANCE OF 94.37 FEET TO THE POINT OF BEGINNING. THENCE S 74°44'42" E, A DISTANCE OF 17.18 FEET; THENCE N 89°54'26" E, A DISTANCE OF 20.00 FEET; THENCE N 74°33'26" E, A DISTANCE OF 17.18 FEET; THENCE S 89°54'26" W, A DISTANCE OF 53.13 FEET TO THE POINT OF BEGINNING; SIDELINES OF SAID EASEMENT BEING EXTENDED OR SHORTENED AS NECESSARY TO ELIMINATE GAPS AND/OR OVERLAPS; SAID EASEMENT HAVING AN AREA OF 166 SQUARE FEET, MORE OR LESS.

TO HAVE AND TO HOLD unto **GRANTEE** and to its successors and assigns forever.

IN WITNESS WHEREOF, the **GRANTOR** warrants that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.

SOUTH BILLINGS CENTER LLC

BY:_____

PRINTED
NAME: _____

ITS:_____

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of California, personally appeared _____, known to me to be the _____ of SOUTH BILLINGS CENTER LLC whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of California

Printed Name:_____

Residing at _____

My commission expires _____

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

Mayor, City of Billings

ATTEST:

City Clerk

STATE OF MONTANA)

:ss

County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared RON TUSSING and _____, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of Montana

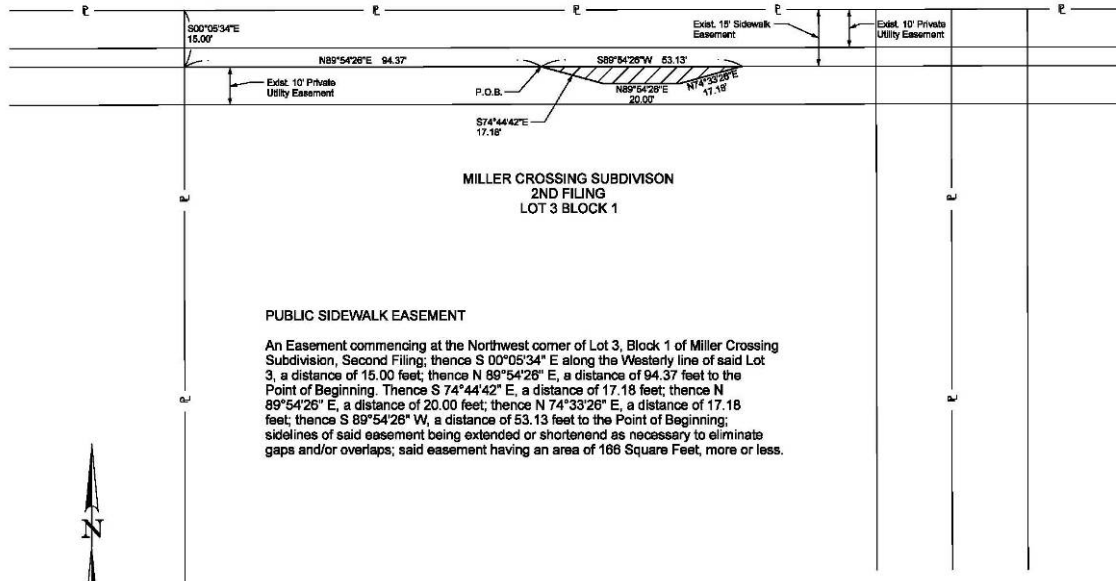
Printed Name:_____

Residing at _____

My commission expires _____

EXHIBIT 'A'

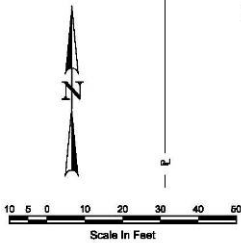
PUBLIC SIDEWALK EASEMENT



MILLER CROSSING SUBDIVISION
2ND FILING
LOT 3 BLOCK 1

PUBLIC SIDEWALK EASEMENT

An Easement commencing at the Northwest corner of Lot 3, Block 1 of Miller Crossing Subdivision, Second Filing; thence S 00°05'34" E along the Westerly line of said Lot 3, a distance of 15.00 feet; thence N 89°54'28" E, a distance of 94.37 feet to the Point of Beginning. Thence S 74°44'42" E, a distance of 17.18 feet; thence N 89°54'26" E, a distance of 20.00 feet; thence N 74°33'26" E, a distance of 17.18 feet; thence S 89°54'28" W, a distance of 53.13 feet to the Point of Beginning; sidelines of said easement being extended or shortened as necessary to eliminate gaps and/or overlaps; said easement having an area of 166 Square Feet, more or less.



CITY OF BILLINGS W.O. 07-22
KING AVENUE EAST
SOUTH BILLINGS BLVD TO ORCHARD LN
PERMANENT EASEMENT FOR SIDEWALK
LOT 3, BLOCK 1, MILLER CROSSING SUB 2ND FILING

DATE	JANUARY 2009
FIGURE	07-22.02

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: St Vincent Healthcare Foundation-World Water Day Walk
DEPARTMENT: Public Works/Engineering
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: St. Vincent's Health Care Foundation is the lead sponsor of World Water Day Walk on March 21, 2009 from 8:00 a.m. to 12:00 p.m. This is a free event open to the public to create awareness about the Water Crisis throughout the world.

Recommended conditions of approval include St. Vincent's Health Care:

1. Have no alcohol consumption in the public right of way
2. Contact all businesses and make them aware of the event
3. Coordinate with Police Department to ensure proper assistance is provided for traffic control
4. Clean the area to be used following the event and provide and empty waste cans
5. Notify all emergency facilities, bus lines and media as soon as possible
6. Provide a certificate of insurance with required liability amounts naming City of Billings as additional insured
7. Follow all guidelines from Erin S. Claunch, P.E.

ALTERNATIVES ANALYZED:

1. Approve request to close streets for the event
2. Deny the street closure

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process permit. Traffic control and litter removal are to be paid for by the Black Heritage Foundation.

RECOMMENDATION

Staff recommends that Council approve the closures named above for the annual World Water Day Walk.

Approved By: **City Administrator** ____ **City Attorney** ____

ATTACHMENTS

- A. Letter from St. Vincent Healthcare Foundation outlining the event
- B. Right of Way Special Activity Permit Application
- C. Map outlining event
- D. Certificate of insurance
- E. Guidelines from Erin S. Claunch, P.E.



St. Vincent Healthcare Foundation

Benefiting the Healing Ministry of St. Vincent Healthcare

January 5, 2009

City of Billings
Public Works Office
510 North Broadway
Billings, MT 59101

Dear City of Billings:

I am pleased to submit the enclosed application for a Right-of-Way Special Activity Permit. Attached, you should find:

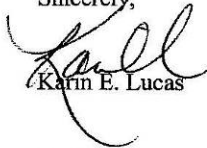
- Completed Application
- Map outlining Walk Routes
- Certificate of Insurance – submit March 2009 (St. Vincent Healthcare complied with this requirement last year and will again; however, our insurer will not rewrite the policy until last year's expires on March 1, 2009).

St. Vincent Healthcare Foundation, Inc. is the lead sponsor of World Water Day, March 21, 2009, here in Billings. This is a free event open to the public to create awareness about the Water Crisis throughout the world. The event will begin at 9 a.m. at MSU-Billings with a walk (1 mile or 5K) and will follow with water well demonstrations at MSU-Billings. As you will note on the enclosed map, participants will not cross North 27th Street; instead, they will access the tunnel which runs underneath that street. The committee will hire City Police to help monitor Virginia Lane.

Should you have any questions regarding the application or the event, please contact me at 237-3608. We appreciate the City of Billings for reviewing this application.

This is the 2nd Annual event. Last year's walk went without trouble and in compliance with all city requests.

Sincerely,



Karin E. Lucas

Enclosure

*Please consider including St. Vincent Healthcare in your Will or Estate Planning...
your legacy will live on in the lives of grateful patients for years to come.*

1106 North 30th Street, Billings, Montana 59101

406-237-3600 Fax 406-237-3619 www.stfoundation.org



City of Billings
RIGHT-OF-WAY ACTIVITY
PERMIT

Please check the type of activity you are applying for:

☐ Parade ☒ Run/Walk/Procession ☐ Street/Alley Closure ☐ Block Party

Submit this application with attachments to either the: Public Works office, 510 N. Broadway, Billings, MT 59101 or Downtown Billings office, 2815 2nd Ave North, Billings, MT 59101. Application packet should be turned in at least 60 days prior to the date of the proposed event for approval.

PERSON MAKING APPLICATION Karin Lucas

ORGANIZATION MAKING APPLICATION St. Vincent Healthcare Foundation, Inc

PHONE 1-406-237-3608

ADDRESS 1106 N 30th St. Billings MT 59101

EMAIL ADDRESS Karin.Lucas@svh-mt.org

APPROXIMATE TIME EVENT WILL:

Assemble 8:00 a.m. Start 9:00 a.m. Disband Noon

DATE OF EVENT March 21, 2009

PURPOSE/DESCRIPTION OF EVENT: (Description and detail of the event.)

To raise awareness on water crisis on World Water Day, an international day of observance. More than 1.1 billion people lack access to water.

There is no charge to attend this event. See attached flyer. This is the 2nd year event will be held.

EVENT ROUTE DESIRED (IF APPLICABLE): (Please attach map.)

attached - will remain the same as last year

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

CLEAN UP IMPLEMENTAION: (Company contracted or services you will provide)

Volunteers will pick up any water bottles or trash that may be discarded along the route. All other activities will take place at MSU-B. Committee will handle all cleanup.

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$750,000 per claim/ \$1.5 million per occurrence general liability, and (2) the City of Billings named on the Certificate of Insurance as the additional insured. (Refer to the sample insurance copy. Please note a certificate of insurance is not required for Block Parties)

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY MUST BE APPROVED BY THE CITY TRAFFIC/ENGINEERING DEPARTMENT PRIOR TO PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFLICT WITH EXISTING MARKINGS.

FOR DOWNTOWN EVENTS: YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY. IT IS YOUR RESPONSIBILITY TO PROVIDE THE APPROPRIATE BARRICADES FOR THE STREET CLOSURE.

IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF-WAY ARE REQUIRED TO OBTAIN AN OPEN-CONTAINER PERMIT FROM THE POLICE DEPARTMENT

UPON SIGNING OF THIS APPLICATION, THE APPLICANT AGREES NOT TO VIOLATE ANY STATE OR CITY CODES IN THE PRESENTATION OF THE REQUESTED SPECIAL ACTIVITY.

In consideration for permission to conduct its activity as requested, applicant agrees to indemnify, defend and hold harmless the City of Billings, its officers, agents, employees and volunteers from damage to property and for injury to or death of any person and from all liability claims, actions or judgments which may arise from the activity.

Applicants also agree to obtain valid "save or hold harmless agreements" from all participants in its activity, protecting the City of Billings from all losses arising out of its activity, including damages of any kind or nature.

APPLICANT SIGNATURE Karl DATE 11/25/08

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES [] NO ☒
(IF YES, ATTACH COPY)

FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

COPIES TO:
CITY ADMINISTRATOR
DEPUTY CITY ADMINISTRATOR
POLICE CHIEF
FIRE CHIEF
FIRE MARSHALL
MET TRANSIT MANAGER
STREET/TRAFFIC SUPERINTENDANT
TRAFFIC ENGINEER
PRPL DIRECTOR
PARKING SUPERVISOR
CITY ATTORNEY

World Water Day 2009

Over 1.1 billion people do not have access to clean water. Over 2.6 billion people lack adequate sanitation. 4,900 children die each day from contaminated water.

You can help.

Walk for Water

Free 5K or 1 Mile Walk

Saturday, March 21

MSU-Billings Student Union, Lower Level

Registration begins at 8:30

Walk begins at 9:00

Guest Speaker

Father Patrick Samway, S.J.

"Educating Darfur Refugees"

March 20, 7:00 pm, Mansfield Center

Informational Booths for

*Amani Development Organization, Tanzania

*New Hope International Hospital, Tanzania

*Family Empowerment Farm, Uganda

*Calvary Chapel-Entebbe and Lake Victoria Islands, Uganda

*Tender Mercies Outreach Ministries, Kayunga, Uganda

*For more information, please visit www.svfoundation.org.
or call 237-3608 or 248-1954 or email hope2onelife@gmail.com*

Donations for World Water Day are gladly accepted.



St. Vincent Healthcare
Foundation

HOPE
2
ONE
LIFE

World Water Day Map

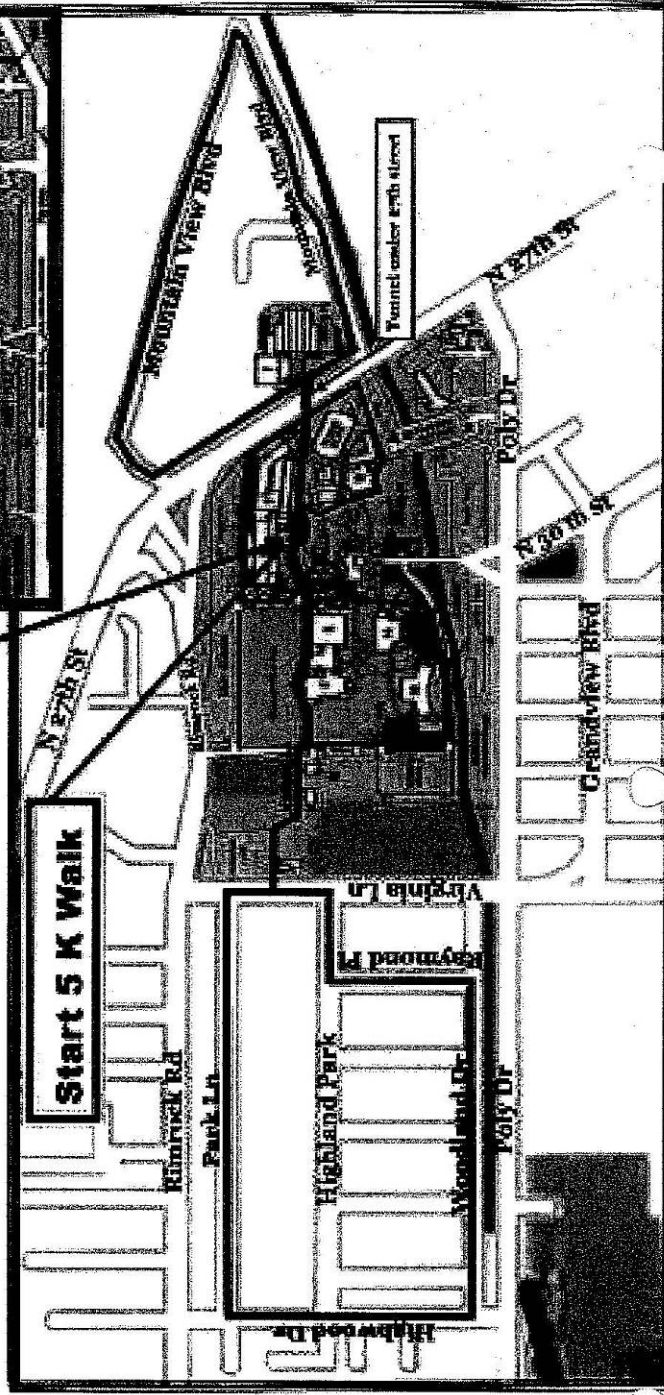
March 29th 2008

9:00 - 12:00 MSU-Billings



Start 1 Mile walk

Start 5 K Walk



ACORD <small>TM</small> CERTIFICATE OF LIABILITY INSURANCE		Page 1 of 2	DATE 11/13/2008
PRODUCER 877-945-7378 Willis HRH 26 Century Blvd. P. O. Box 305191 Nashville, TN 372305191		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED St. Vincent Healthcare 1233 N. 30th St. PO Box 35200 Billings, MT 59107-5200		INSURERS AFFORDING COVERAGE INSURER A: SELF INSURED TRUST INSURER B: INSURER C: INSURER D: INSURER E:	NAIC# 00000-002

COVERAGES						
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
INSR ADD'L LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	SELF - INSURED TRUST	3/1/2008	3/1/2009	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS-COMP/OP AGG \$ 3,000,000	
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$	
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$	
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$	
	OTHER					
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS With regards to the World Water Day Event.						

CERTIFICATE HOLDER St. Vincent Healthcare & City of Billings Dept. of Parks Recreation & Public Lands Attn: Joe Sedin P. O. Box 1178 Billings, MT 59101	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE <i>Taren A. Chambers</i>
---	---

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

Please include the following in the approval conditions for this event.

1. Participants will walk on the left-hand side of the roadway facing on-coming traffic where no sidewalk is available.
2. Participants will be required to walk as a group. Late arrivals will not be allowed to walk the 5K route as individuals. The leading and trailing walkers in the group shall wear orange or green safety vests.
3. Warning signs and course guards shall be placed at strategic locations along the route to warn motorists the event is in progress. At a minimum signing will be required coming into the event route off major roadways (Poly, Virginia, Rimrock, and N. 27th) and at the base of the hill where Mountain View Boulevard becomes a single lane roadway.
4. The event sponsor shall notify the residents along the upper portion of Mountain View Boulevard of the date and approximate times for the event at least two weeks prior to the event.
5. The event sponsor shall make arrangements for the use of off-duty law enforcement officers or State certified flaggers where the event route crosses Virginia Lane. All costs therefore shall be the responsibility of the event sponsor.
6. Participants shall not be allowed to walk within the roadway on N. 27th. They will be required to use trails or sidewalks adjacent to 27th, and to cross N. 27th using the pedestrian underpass.

Let me know if you have any questions or concerns. Thanks for your help!

Erin S. Claunch, PE
City of Billings - Public Works-Engineering Division
(406-657-8242)

ACORD TM CERTIFICATE OF LIABILITY INSURANCE		03/01/2008	DATE (MM/DD/YY) 12/28/2007		
INSURER: Marsh Management Services Cayman, Ltd. Governors Square, Building 4, 2nd Floor 23 Lime Tree Bay Avenue P.O. Box 1051 Grand Cayman KY1-1102 CAYMAN ISLANDS		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
INSURED 1078249 ST. VINCENT HEALTHCARE 1233 N. 30TH ST. PO BOX 35200 BILLINGS MT 59107-5200		INSURERS AFFORDING COVERAGE INSURER A: SELF - INSURED TRUST RE-INSURED* INSURER B: *BY LEAVEN INSURER C: INSURER D: INSURER E:			
COVERAGES SISOF01-M O2 THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.					
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR	SELF-INSURED TRUST RE-INSURED BY LEAVEN	03/01/2007	03/01/2008	EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any one fire) \$ XXXXXXXX MED EXP (Any one person) \$ XXXXXXXX PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMPROP AGG \$ 3,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	NOT APPLICABLE			COMBINED SINGLE LIMIT (Ea accident) \$ XXXXXXXX BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO	NOT APPLICABLE			AUTO ONLY - EA ACCIDENT \$ XXXXXXXX OTHER THAN EA ACC \$ XXXXXXXX AUTO ONLY: AGG \$ XXXXXXXX
A A	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> UMBRELLA FORM RETENTION \$	SELF-INSURED TRUST RE-INSURED BY LEAVEN	03/01/2007	03/01/2008	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ XXXXXXXX \$ XXXXXXXX \$ XXXXXXXX
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				NOT APPLICABLE
	OTHER				
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENTS/SPECIAL PROVISIONS THE CERTHOLDER IS AN ADDITIONAL INSURED WITH RESPECT TO THE LIABILITY COVERAGE, ONLY AS REQUIRED BY WRITTEN CONTRACT. RE: WITH REGARDS TO THE WORLD WATER DAY EVENT					
CERTIFICATE HOLDER 3011172 SVH & CITY OF BILLINGS DEPT. OF PARKSM RECREATION & PUBLIC LANDS ATTN: JOE SEDIN PO BOX 1178 BILLINGS, MT 59101		ADDITIONAL INSURED; INSURER LETTER:		CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE	

AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM**

CITY OF BILLINGS, MONTANA

Monday, February 9, 2009

TITLE: Donations to provide funding for design services of a 3rd base deck area at Dehler Park.

DEPARTMENT: Park, Recreation, and Public Lands

PRESENTED BY: Mike Whitaker, Director

PROBLEM/ISSUE STATEMENT:

The City of Billings Park, Recreation, and Public Lands has received a donation from the Billings Mustangs in the amount of \$8,000.00 to pay for Architectural and engineering fees to design a concrete deck area to take the place of the existing grass berm along the 3rd base side of the stadium. As currently configured the grass berm is not utilized because of the difficulty in viewing activities on the field. A single level deck at grade with the concourse will allow better viewing of the field and provide an opportunity for hosing groups.

ALTERNATIVES ANALYZED:

- Decline the donation.
- Accept the donation to begin the design process.

FINANCIAL IMPACT:

There will be no financial impact to the City.

RECOMMENDATION

Staff recommends that Council accept this generous donation to begin design work on this new feature to Dehler Park and publicly acknowledge this gift to the community.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENTS:

None

L

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Acceptance and Recognition of Donation to the Billings Animal Shelter
DEPARTMENT: Police Department, Animal Shelter Division
PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: On December 29, 2008 the Billings Animal Shelter received a \$500.00 donation from the High Plains Psychiatric Association. The donation has been placed in the Animal Shelter General Donation Fund as requested by the donator. City Council is now asked to accept and deposit this donation into the City of Billings, Animal Shelter donation account as instructed.

ALTERNATIVES ANALYZED:

- Approval and acceptance of the donation.
- Denial and return of the donation.

FINANCIAL IMPACT: This donation to the General Donation account will be used to benefit our community's animals.

RECOMMENDATION

Staff recommends City Council's approval and acceptance of this \$500 donation to the Billings Animal Shelter.

Approved By: City Administrator ____ City Attorney ____

Attachment

- A – Copy of CR deposit slip
Copy of Donor Verification Form

CITY OF BILLINGS DONOR VERIFICATION

Department Animal Shelter

Please complete the information below concerning your recent donation to the City of Billings. As soon as we receive the completed verification form, your donation will be acknowledged and forwarded to the City Council for acceptance. Thank you for your generosity.

Donor: High Plains Psychiatric Associates

Address: 1601 Lewis Avenue Suite #104

Phone Number 294-9373

Donation: \$500.00

Value of Donation: \$500.00

Purpose of Donation: (Montana Law allows you to designate a specific purpose for which your donation will be used)

716 - General

Please print below how you wish your name to be listed: High Plains Psychiatric Associates, PC

Donor Signature: Ann Rathke, MD

Date: 1/5/09

☐ I wish to remain anonymous.*

*If you wish to make a donation and remain anonymous, the City will attempt to keep your donation anonymous. However, the City cannot guarantee your anonymity as most financial records of the City are matters of public record and are available to the public upon request. Please check here if you wish to remain anonymous.

**CITY OF BILLINGS
DEPOSIT SLIP/RECEIPT**

CR N° 23565

FROM (DEPT-DIV) Police Dept/ Admin BATCH TYPE: AS
 PREPARED BY KW DATE 12-29-08

RECEIPT

When validated this is your receipt. All deposits accepted subject to verification.
 Checks, warrants and department receipts must be accompanied with adding machine tape.

VALIDATION (FINANCE) _____ BATCH #: _____

TYPE	NO.	AMOUNT
CHECKS		977 50
WARRANTS		
CURRENCY		493 -
COINS		50
OTHER		
TOTAL DEPOSIT		1471 -

CUST. #	CUSTOMER NAME or DEPOSIT DESCRIPT.	PAYMENT TYPE	ACCOUNT #	FUND	DP	DV	ACT.	EL	OB	PROJECT NUMBER	AMOUNT
				XXX	XX	XX	XXX	XX	XX		
1	Dog	DA									150 -
2	Cat	DC									30 -
3	Imp	DI									100 -
4	board	DJ									225 -
5	Newt	DB									250 -
6	Rat	DF									5 -
12	Kenel	DK									30 -
17	Mic	Dm									50 -
18	VAC	DV									25 -
24	Newk	DY									40 -
25	parvu	DZ									60 -
	716 2178 365 6620	DN									506 -
TOTAL DISTRIBUTION											1471 -

Billings Times

M

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: DUI Task Force \$10,000 Donation
DEPARTMENT: Billings Police Department
PRESENTED BY: Chief Rich St. John

PROBLEM/ISSUE STATEMENT: The DUI Task Force has informed the Billings Police Department by copy of the attached letter, of their \$10,000 donation for the purchase of light bars for the patrol vehicles. The light bars will be purchased, an invoice sent to DUI Task Force, and reimbursement will be made.

FINANCIAL IMPACT: The light bars will be purchased from an expenditure account in Fund 709. When reimbursement is made by the DUI Task Force, the amount will be placed in the revenue account for Fund 709.

RECOMMENDATION

Staff recommends that Council approve the \$10,000 donation from the DUI Task Force.

Approved By: **City Administrator** _____ **City Attorney** _____

ATTACHMENTS

A – Letter from DUI Task Force



YELLOWSTONE COUNTY DUI TASK FORCE

P.O. Box 20982 • Billings, Montana 59104

January 16, 2009

Captain John Bedford
Billings Police Department
PO Box 1554
Billings, MT. 59103

Dear Captain Bedford:

This letter provides documentation that on Thursday, January 15, 2009, the Yellowstone County DUI Task Force voted to approve a donation in the amount of \$10,000.00 to the Billings Police Department for purchase of light bars for patrol cars. The Task Force believes that supporting this project is very much in line with our mission of stopping drivers under the influence in the County. Upon receipt of your invoice, I will process payment.

This item of business will also be documented in the January 2009 Task Force meeting minutes.

If you have any questions or need further information, please contact me at (406) 855-9388 or dtylermcsherry@hotmail.com.

Thank you for your time.

Sincerely,

Darla Tyler-McSherry, Coordinator
Yellowstone County DUI Task Force

Cc: David Carter, Task Force Chair

Stop drivers under the influence

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Donation from the Billings Police Foundation in the amount of \$6,983
DEPARTMENT: Billings Police Department
PRESENTED BY: Chief Rich St. John

PROBLEM/ISSUE STATEMENT: The Billings Police Foundation will donate \$6,983 for the purchase of two light bars with related siren controller, siren and strobe power supply and two radars. The Police Department is retaining two vehicles that were slated for auction in order to support an increase in officers. By retaining the vehicles, this will reduce wear and tear on the fleet whereby increasing the number of years they will be in service. This will also help us delay the capital outlay for a new vehicle, yet still keep us on our plan to retire vehicles at the limit of their cost effectiveness. Because we transfer equipment from car to car, the two hold-over cars need to be fully equipped with newly ordered equipment. The Billings Police Foundation wants to assist the Police Department with equipment purchases and would like to present the check to Chief St. John at this evening's Council meeting for the cost of two light bars, related equipment, and two radars.

FINANCIAL IMPACT: The donation will be placed in Fund 709 for the purchase of the 2 light bars, related equipment, and two radars.

RECOMMENDATION

Staff recommends that Council approve the \$6,983 donation from the Billings Police Foundation.

Approved By: City Administrator _____ City Attorney _____



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Second Reading of an Ordinance Expanding Ward I: Annexation #08-09
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: On January 12, 2009 the City Council approved the annexation of a total of 28.222 gross acres and 5.027 net acres (Annexation #08-09). The net acreage, the subject property, is located on the north side of Midland Road east of the Motor Power Equipment business and across the street from the west end of the City of Billings Operation Center. The remaining acreage is portions of rights-of-way of Interstate 90 (I-90) and the South Billings Boulevard interchange. The request for annexation was submitted by owner and petitioner, Brumar Corporation, represented by Bruce E. Sunwall. Upon annexation, the property must be added to one of the City's election wards. The first reading and public hearing on the ordinance to add the property to Ward I was conducted on January 26, 2009. The second reading of the ordinance will be conducted at this meeting.

FINANCIAL IMPACT: There are no direct financial impacts if this ordinance is approved.

RECOMMENDATION

Staff recommends that the City Council approve the second reading of this ordinance that adds property to City Ward I.

Approved by: **City Administrator** _____ **City Attorney** _____

ATTACHMENT

A. Ward Ordinance and Exhibit A

ATTACHMENT A

ORDINANCE NO. 09-_____

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD I PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to the following designated Ward the following described real property:

Tracts of land situated in the NW1/4 of Section 16, and the NE1/4 of Section 17, T.1S., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:

Lots 1-3, Block 1, Cereus Subdivision, Recorded May 19, 1995, under Document No. 1784237, Records of Yellowstone County; Including all adjacent right-of-way of Midland Road.

Also the east bound on ramp, the east bound exit ramp and the west bound on ramp of Exit #447 (South Billings Boulevard) Interstate Highway 90, described as follows:

Tract 1A of Certificate of Survey 2244, Recorded April 5, 1984, Under Document No. 1302820, Records of Yellowstone County, also being Parcel 13 of Montana Highway Project No. IR 90-8(120)447;

Tract 1B of Certificate of Survey 2244, Recorded April 5, 1984, Under Document No. 1302820, Records of Yellowstone County, also being Parcel 14 of Montana Highway Project No. IR 90-8(120)447, Recorded June 14, 1991, in Book 1361, Page 2155, Under Document No. 1598192, Records of Yellowstone County;

Parcel 15 of Montana Highway Project No. IR 90-8(120)447, Recorded June 14, 1991, in Book 1361, Page 2157, Under Document No. 1598193, Records of Yellowstone County;

Parcel 17 of Montana Highway Project No. IR 90-8(120)447, Recorded June 14, 1991, in Book 1361, Page 2161, Under Document No. 1598194, Records of Yellowstone County;

Parcel 11 of Montana Highway Project No. IR 90-8(120)447, Recorded September 13, 1991, in Book 1364, Page 4805, Under Document No. 1608169, Records of Yellowstone County;

Parcel 16 of Montana Highway Project No. IR 90-8(120)447, Recorded September 18, 1991, in Book 1365, Page 0282, Under Document No. 1608605, Records of Yellowstone County;
Containing 28.222 gross acres and 5.027 net acres.

(# 08-09) See Exhibit "A" Attached

2. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.
3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 26th day of January, 2009.

PASSED by the City Council on the second reading this 9th day of February, 2009.

THE CITY OF BILLINGS:

Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN 08-09)

[illegible]

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: High Sierra Subdivision 4th Filing, Block 1, Amended Lots 22-25
DEPARTMENT: Public Works Department – Engineering Division
PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: High Sierra Subdivision 4th Filing, Block 1, Amended Lots 22-25 is a lot line relocation that also dedicates the necessary right of way for Cortez Avenue. Cortez Avenue will connect to Marisela Subdivision, which has been previously approved by the City Council.

ALTERNATIVES ANALYZED:

1. Approve High Sierra Subdivision 4th Filing, Block 1, Amended Lots 22-25.
2. Do not approve High Sierra Subdivision 4th Filing, Block 1, Amended Lots 22-25.

FINANCIAL IMPACT: There is no financial impact with the approval of High Sierra Subdivision 4th Filing, Block 1, Amended Lots 22-25.

RECOMMENDATION

Staff recommends that the City Council approve High Sierra Subdivision 4th Filing, Block 1, Amended Lots 22-25.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

- A. Copy of Subdivision Plat

Q

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Preliminary Subsequent Minor Plat of Amended Lots 3A & 4A, Blaesius Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: On January 2, 2009, the preliminary subsequent minor plat application of Amended Lots 3A & 4A, Blaesius Subdivision was submitted to the Planning Division. The proposed plat would create four lots on approximately .64 acres of land. The subject property is zoned Residential 6000 (R-60) and is located on North 16th Street between 8th Avenue North and Vuecrest Drive. The property owner and agent is T.P. Renovators, LLC.

ALTERNATIVES ANALYZED: In accordance with state law, the City Council has 35 working days to act upon this subsequent minor plat; the 35 working day review period for the proposed plat ends on February 23, 2009. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 35 day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FINANCIAL IMPACT: The property is currently vacant land. The proposed subdivision will allow for future multi-family residential development which could increase tax revenue for the City.

RECOMMENDATION

Staff recommends conditional approval of the preliminary subsequent minor plat of Amended Lots 3A & 4A, Blaesius Subdivision, and adoption of the Findings of Fact as presented within the staff report to the City Council.

Approved by: **City Administrator** _____

City Attorney _____

ATTACHMENTS

- A. Preliminary Plat
- B. Findings of Fact
- C. Mayor's Approval Letter

INTRODUCTION

On January 2, 2009, the preliminary subsequent minor plat application of Amended Lots 3A & 4A, Blaesius Subdivision was submitted to the Planning Division. The proposed plat would create four lots on approximately .64 acres of land. The subject property is zoned Residential 6000 (R-60) and is located on North 16th Street between 8th Avenue North and Vuecrest Drive. The property owner and agent is T.P. Renovators, LLC.

PROCEDURAL HISTORY

- A pre-application meeting was held on this property on November 1, 2007
- The completeness review was submitted on April 30, 2008 and completed on November 21, 2008.
- The preliminary plat application for this subdivision was submitted to the Planning Division on January 2, 2009.
- The City Council will consider the preliminary plat application on February 9, 2009.

BACKGROUND

General location:	North 16 th Street between 8 th Avenue North and Vuecrest Drive
Legal Description:	Amended Lots 3A & 4A, Blaesius Subdivision
Subdivider/Owner:	T.P. Renovators, LLC
Engineer and Surveyor:	Engineering Incorporated
Existing Zoning:	R-60
Existing land use:	Vacant
Proposed land use:	Multi-family Residential
Gross area:	.64 acres
Net area:	.64 acres
Proposed number of lots:	4
Lot size:	max. 7000 square feet min. 7000 square feet
Parkland requirements:	A parkland dedication is not required, as this is a minor subdivision.

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potential negative effects of property subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments have reviewed this application and provided input on effects and mitigation. The Planning Division staff develops and recommends conditions of approval that are based on departmental comments. The Findings of Fact, which are presented as an attachment, discuss the potential negative impacts of the subdivision and the following conditions of approval are recommended as measures to further mitigate any impacts.

RECOMMENDED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the final plat. *(Recommended by the Engineering Division)*
2. To ensure the correct language in the SIA concerning utility connection fees, the applicant shall delete the second paragraph in the SIA under Section VI Utilities. *(Recommended by the Public Works Division)*
3. To ensure the correct language in the SIA concerning location of utilities, the applicant shall add the following language to the SIA in Section VI Utilities A. Water 2. "The separate water service for each lot shall tie into the existing water main located in North 16th Street. Where applicable, the sewer services shall be located within an easement when run across an adjoining lot." *(Recommended by the Public Works Division)*
4. To ensure the correct language in the SIA concerning location of utilities the applicant shall add the following language to the SIA in Section VI Utilities B. Sanitary Sewer 1. The applicant shall add to the end of the sentence, "and within the alley right-of-way near the southwest corner of Lot 3C." *(Recommended by the Public Works Division)*
5. To ensure the correct language in the SIA concerning location of utilities, the applicant shall add the following language to the SIA in Section VI Utilities B. Sanitary Sewer 2. "The separate sanitary sewer service for each lot shall tie into the existing sanitary sewer mains located in the public right-of-way. Where applicable, the sewer services shall be located within an easement when run across an adjoining lot." *(Recommended by the Public Works Division)*
6. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall provide a sidewalk easement along property frontage along North 16th Street. The subdivider, working with the City Engineering Division, shall determine where the sidewalk easement will be located. *(Recommended by the City Engineering Division)*
7. To ensure the provisions of City Subdivision Regulations Section 23-404 C are met, the subdivider shall provide a 32 foot wide easement from North 16th Street to the subject property. *(Recommended by the City Planning Division)*
8. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.

9. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

STAKEHOLDERS

A public hearing is not scheduled for the City Council meeting; however nearby property owners may attend the City Council meeting. The Planning Division has received no public comments or questions regarding the proposed subdivision.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the 2005 Transportation Plan Update, and Heritage Trail Plan are discussed within the Findings of Fact.

RECOMMENDATION

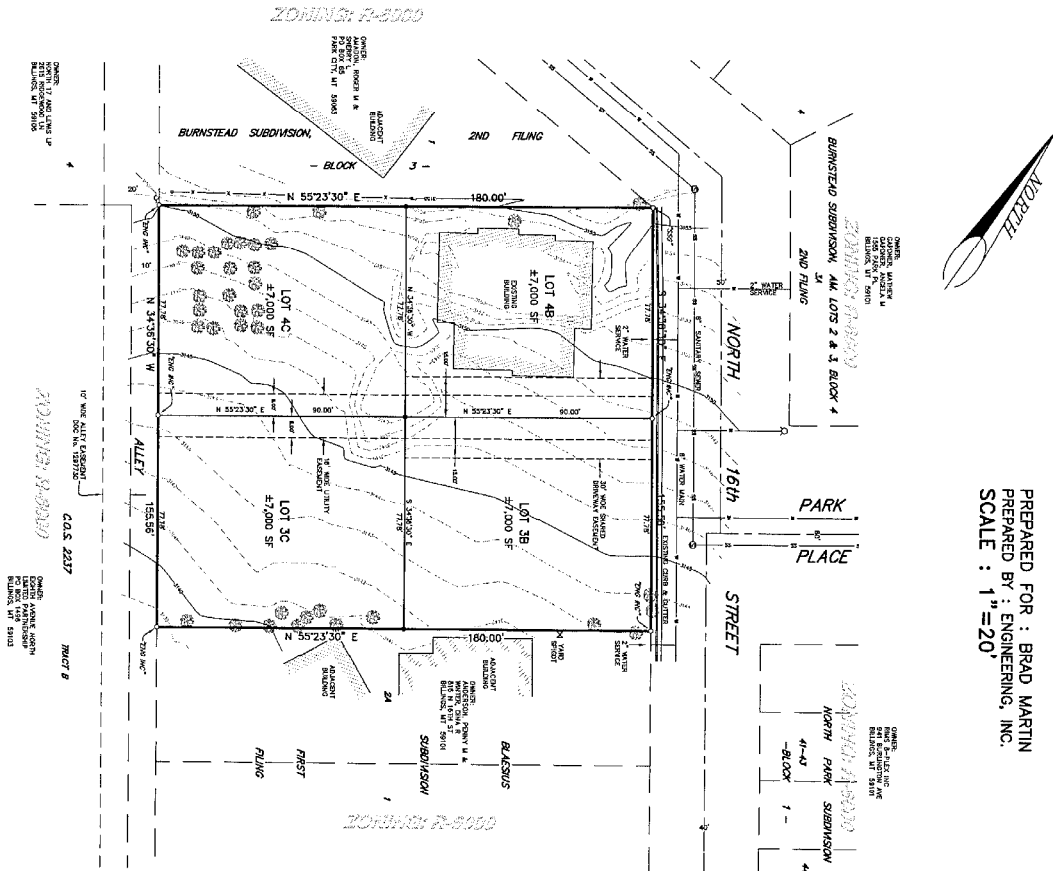
Staff recommends conditional approval of the preliminary subsequent minor plat of Amended Lots 3A & 4A, Blaesius Subdivision, and adoption of the Findings of Fact as presented within the staff report to the City Council.

ATTACHMENTS

- A. Preliminary Plat
- B. Findings of Fact
- C. Mayor's Approval Letter

ATTACHMENT A

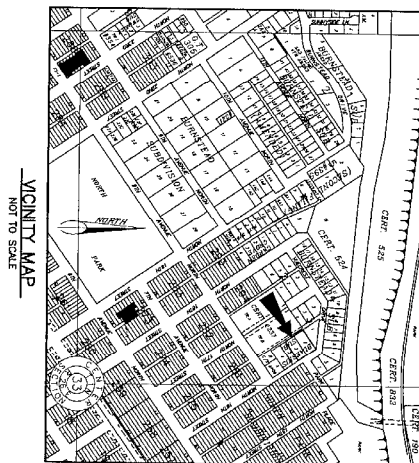
Preliminary Plat



PRELIMINARY AMENDED PLAT OF LOTS 3A AND 4A OF AMENDED LOTS 2, 3, AND 4 OF
BLAESIUS SUBDIVISION FIRST FILING
 SITUATED IN THE NW1/4 OF SECTION 33, T. 1 N., R. 26 E., P.M.M.
 IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : BRAD MARTIN
 PREPARED BY : ENGINEERING, INC.
 SCALE : 1" = 20'

OCTOBER, 2008
 BILLINGS, MONTANA



PLAT DATA

GROSS AREA	= 141,000 SF
NET AREA	= 128,000 SF
NUMBER OF LOTS	= 4
MINIMUM LOT SIZE	= 47,000 SF
MAXIMUM LOT SIZE	= 47,000 SF
ADJACENT STREETS	= NONE
PARKING REQUIREMENT	= NONE
EXISTING ZONING	= R-6000
SURROUNDING ZONING:	
NORTH	= R-6000
SOUTH	= R-6000
EAST	= R-6000
WEST	= R-6000
EXISTING LAND USE	= VACANT / NEW CONSTRUCTION
PROPOSED LAND USE	= RESIDENTIAL DEVELOPMENT

ATTACHMENT B
Findings of Fact

Staff is forwarding the recommended Findings of Fact for Amended Lots 3A & 4A, Blaesius Subdivision, for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Article 23-100, BMCC).

A. What are the effects on agriculture and agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat and public health and safety? (76-3-608 (3)(a), MCA) (23-302(H)(2), BMCC)

1. Effect on agriculture and agricultural water user facilities

There are no agricultural uses on this property or surrounding properties.

2. Effect on local services

- a. **Utilities** – An 8 inch water line and an 8 inch sanitary sewer line are currently in place in the public right-of-way, North 16th Street. New water and sanitary sewer services will have to be installed for the additional lots when they are developed. The location of the existing utilities and connection to them are outlined in the SIA, conditions 2 through 5 request additional information be added to this section of the SIA to ensure accurate information is provided to prospective owners.
- b. **Stormwater** – Storm drainage improvements will have to be constructed upon development of the lots. All Drainage improvements shall comply with the provision of the Stormwater Management Manual and section 23-706 MBMCC. A stormwater management plan will be submitted to and approved by the City Engineering Division before being installed.
- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – Access to the lots will be via private access easements and a driveway from North 16th Street. North 16th Street is a paved street with curb and gutter along the front of the subdivision, but there are no sidewalks. The submitted plat currently show a 30 foot access and utility easement for the subdivision off of North 16th Street, Section 23-404 C of the City Subdivision Regulations require a 32 foot street frontage for residential properties. Condition #7 requires the subdivider to provide the correct width of 32 feet for the access and utility easement. There will be no additional right-of-way required from this subdivision. Sidewalks will be installed at the time of development as required by the City Engineering Division. This site currently does not have sidewalks along North 16th Street. Since North 16th Street is an existing built street within a developed neighborhood and the street right-of-way is not wide enough to provide a sidewalk in the right-of-way, the City Engineering Division is requesting that the subdivider provide a 5

foot easement for a sidewalk along North 16th Street, see Condition #6. Language about street improvements will be included in the Waiver of Right to Protest.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 2305 8th Avenue North (Station #1). The subdivision is located within the ambulance service area of American Medical Response (AMR).
- f. **Schools** – The subdivision is located within School District #2. Since this is a multi-family residential subdivision there will be an anticipated effect on the schools. McKinley Elementary School responded stating that they have capacity to handle additional students and there is already an established bus route in the area. No other input was received from School District #2.
- g. **Parks and Recreation** – A parkland dedication is not required for this subsequent minor subdivision.

3. Effect on the natural environment

A geotechnical report was submitted to the Building Division with the subdivision application.

No streams, lakes or reservoirs will be altered by the subdivision.

4. Effect on wildlife and wildlife habitat

As this is a residential neighborhood within the city, there are no known endangered or threatened species on the property.

5. Effect on the public health, safety and welfare

There are no known health or safety hazards on the property. This property is not within a mapped floodway or flood zone and should not create flooding hazards for surrounding properties.

B. Was an Environmental Assessment required? (76-3-210, MCA) (23-901, BMCC)

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the 2005 Transportation Plan Update, and the Heritage Trail Plan? (23-301, BMCC)

1. Yellowstone County-City of Billings 2008 Growth Policy

The proposed subdivision is consistent with the following goals of the Growth Policy:

- a. **Goal: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (p. 8).**

The proposed subdivision will provide the opportunity for infill development in a residential area within this portion of the city and is compatible with the surrounding developed residential properties.

- b. **Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 8).**

The subject property is surrounded by multi-family dwellings and newer small homes. The new multi-family buildings will be similar in nature and compatible with the character of the surrounding neighborhood.

- c. **Goal: Contiguous development focused in and around existing population centers separated by open space (p. 8).**

The subject property has been a vacant lot for several years in a developed part of the city. The new subdivision and the building of multi-family buildings on the site will be good infill development.

2. Urban Area 2005 Transportation Plan Update

The proposed subdivision adheres to the goals and objectives of the 2005 Transportation Plan Update and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

No specific trails are identified in this area and none are proposed with this subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? (76-3-608 (3)(b), MCA) (23-301, BMCC)

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? (23-408, BMCC)

The subdivision will utilize City water, City sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? (23-402, BMCC)

The subject property is located within Controlled Industrial zoning and shall comply with the standards set forth in Section 27-309, BMCC.

G. Does the proposed plat provide easements for the location and installation of any utilities? (76-3-608 (3)(c), MCA) (23-410(A)(1), BMCC)

The City Engineering Division will work with the utility companies to provide easements in acceptable locations on the plat. The City maintains that utility easements provided on front lot lines creates conflicts with sanitary water and sewer lines and has requested that they be located on the rear and sides of lots for public health and safety. Condition #1 requires the subdivider to work with the City Engineering Division and the private utility companies to provide acceptable utility easements on the plat.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608 (3)(d), MCA) (23-406, BMCC)

Access to the lots will be via private access easements and a driveway from North 16th Street.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Amended Lots 3A & 4A, Blaesius Subdivision, does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, February 9, 2009

Ron Tussing, Mayor

ATTACHMENT C
Mayor's Approval Letter

February 10, 2009

T.P. Renovators, LLC
1922 9th Avenue North
Billings, MT 59101

Dear Applicant:

On February 9, 2009, the Billings City Council conditionally approved the preliminary plat of Amended Lots 3A & 4A, Blaesius Subdivision, subject to the following conditions of approval:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the final plat. *(Recommended by the Engineering Division)*
2. To ensure the correct language in the SIA concerning utility connection fees, the applicant shall delete the second paragraph in the SIA under Section VI Utilities. *(Recommended by the Public Works Division)*
3. To ensure the correct language in the SIA concerning location of utilities, the applicant shall add the following language to the SIA in Section VI Utilities A. Water 2. "The separate water service for each lot shall tie into the existing water main located in North 16th Street. Where applicable, the sewer services shall be located within an easement when run across an adjoining lot." *(Recommended by the Public Works Division)*
4. To ensure the correct language in the SIA concerning location of utilities the applicant shall add the following language to the SIA in Section VI Utilities B. Sanitary Sewer 1. The applicant shall add to the end of the sentence, "and within the alley right-of-way near the southwest corner of Lot 3C." *(Recommended by the Public Works Division)*
5. To ensure the correct language in the SIA concerning location of utilities, the applicant shall add the following language to the SIA in Section VI Utilities B. Sanitary Sewer 2. "The separate sanitary sewer service for each lot shall tie into the existing sanitary sewer mains located in the public right-of-way. Where applicable, the sewer services shall be located within an easement when run across an adjoining lot." *(Recommended by the Public Works Division)*
6. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall provide a sidewalk easement along property frontage along North 16th Street. The subdivider, working with the City Engineering Division, shall determine where the sidewalk easement will be located. *(Recommended by the City Engineering Division)*
7. To ensure the provisions of City Subdivision Regulations Section 23-404 C are met, the subdivider shall provide a 32 foot wide easement from North 16th Street to the subject property. *(Recommended by the City Planning Division)*
8. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.

9. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact David Green with the Planning Division at 247-8654 or by email at greend@ci.billings.mt.us.

Sincerely,

Ron Tussing, Mayor



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2008

TITLE: Preliminary Major Plat of The Estates at Briarwood Subdivision, 2nd Filing

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On November 3, 2008, the subdivider, KW Signature Homes, applied for preliminary major plat approval for The Estates at Briarwood, 2nd Filing, which contains 14 lots on approximately 52 acres of land. The subject property is located east of Blue Creek Road and north of McMasters Road. The subject property is zoned Planned Development (PD) with an underlying zoning of Residential 9600 (R-96). The Planning Board conducted the public hearing on January 13, 2009. The owner is PM & M, LLC, the subdivider is KW Signature Homes and the representing agent is Engineering, Inc.

ALTERNATIVES ANALYZED: In accordance with state law, the City Council has 60 working days to act upon this major plat. The Planning Board conducted the public hearing for the subdivision on January 13, 2009. Since there was a delay between the plat review and the public hearing, staff received a 30-day extension of the 60-day review period from the subdivider's representative on November 13, 2008. The 60-day review period and the extension will expire on February 23, 2009. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 day review period, the City Council is required to:

4. Approve;
5. Conditionally Approve; or
6. Deny the Preliminary Plat

FINANCIAL IMPACT: Should the City Council approve the preliminary plat, the subject property may further develop under private ownership, resulting in additional tax revenues.

RECOMMENDATION

The Planning Board recommends conditional approval of the preliminary major plat of The Estates at Briarwood Subdivision, 2nd Filing and adoption of the Findings of Fact as presented in the staff report to the City Council.

Approved by: **City Administrator** _____ **City Attorney** _____

ATTACHMENTS

- A. Preliminary Plat
- B. Proposed Emergency Access Route
- C. Findings of Fact
- D. Mayor's Approval Letter

INTRODUCTION

On November 3, 2008, the subdivider, KW Signature Homes, applied for preliminary major plat approval for The Estates at Briarwood, 2nd Filing, which contains 14 lots on approximately 52 acres of land. The subject property is located east of Blue Creek Road and north of McMasters Road. The subject property is zoned PD with an underlying zoning of R-96. The Planning Board conducted the public hearing on January 13, 2009.

PROCEDURAL HISTORY

- On October 11, 2007, a pre-application meeting was conducted between the staff and the subdivider regarding the proposed subdivision.
- On October 19, 2007, a letter was sent to the subdivider from the Planning Division regarding the emergency access that was required to be constructed with The Estates at Briarwood, 1st Filing. This access was required to be constructed by May 15, 2007.
- On September 4, 2008, a second pre-application meeting was conducted between staff and the subdivider regarding the proposed subdivision.
- On November 3, 2008, a preliminary plat for The Estates at Briarwood Subdivision, 2nd Filing was submitted for review.
- On November 13, 2008, a 30-day extension letter for the 60-day review period was submitted to the Planning Division.
- On November 20, 2008, the departmental review meeting for the preliminary plat was conducted.
- On December 9, 2008, the Planning Board conducted the plat review on the proposed major subdivision.
- On January 13, 2009, the Planning Board conducted a public hearing on the proposed major subdivision and forwarded a recommendation of conditional approval to the City Council.
- On February 9, 2009, the preliminary plat will be approved, conditionally approved, or denied by the City Council.

BACKGROUND

On November 3, 2008, the subdivider, KW Signature Homes, applied for preliminary major plat approval for The Estates at Briarwood, 2nd Filing, which contains 14 lots on approximately 52 acres of land. The subject property is bordered on the south and east by The Estates at Briarwood, 1st Filing, and on the north, east and west, by the Briarwood Golf Course.

General location:	East of Blue Creek Road and north of McMasters Road
Legal Description:	Tract 5A, C/S 2544, 4 th and 5 th Amended (less The Estates at Briarwood, 1 st Filing)
Subdivider/Owner:	KW Signature Homes
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	PD with underlying R-96

Existing land use:	Vacant Land
Proposed land use:	Single-Family Residences
Gross area:	52 acres
Net area:	50.94 acres
Proposed number of lots:	14
Lot size:	Max: 44.83 acres Min.: 14,300 square feet
Parkland requirements:	0.632 acres of parkland required

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potential negative effects of the subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments have reviewed this application and provided input on effects and mitigation. The Planning Division develops and recommends conditions of approval that are based on departmental comments. The Findings of Fact, which are presented as an attachment, discuss the potential negative impacts of the subdivision and the following conditions of approval are recommended as measures to further mitigate any impacts.

RECOMMENDED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the final plat. *(Recommended by the Engineering Division)*
2. To minimize effects on local services, the applicant shall provide centralized delivery boxes with sufficient pullouts to accommodate mail carrier vehicles. The location of the boxes shall be reviewed and approved by the post office. *(Recommended by the United States Postal Service)*
3. To bring the subdivision into compliance with state and local laws, the Tract and Certificate of Survey number shall be included with the legal description on the plat. *(Recommended by City-County Planning)*
4. To minimize effects on public health and safety, the emergency access road from McMasters Road to Colleen Drive shall be fully constructed prior to final plat approval. The road design and section plans, including any gates, shall be submitted to and

approved by the Fire Department prior to construction. An easement document shall be provided with the final plat and shall include an exhibit of the road. No building permits shall be issued for the subject property until the emergency access road is complete. *(Recommended by the City Fire Department and the City-County Planning Division)*

5. To clarify the SIA, Section VII of the Subdivision Improvements Agreement (SIA) shall be revised to specify that 0.632 acres of parkland is required for the subdivision. *(Recommended by City-County Planning)*
6. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Department to clarify the documents and bring them into the standard acceptable format.
7. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

STAKEHOLDERS

A public hearing is not scheduled for the City Council meeting; however nearby property/business owners may attend the City Council meeting. A public hearing was conducted on January 13, 2009, by the Planning Board. The subdivider's representative was present at the meeting; however no members of the public spoke in favor or opposition to the application.

At that meeting, the Planning Board requested further information regarding the location of the emergency access road in relation to the golf course. In response, Will Ralph with Engineering, Inc. stated that the road will cross the #10 fairway between the 10th and 11th tee box. The previous concept for an access road included the need for a bridge. Bill Iverson, the Planning Board Vice President, stated that the easement should be made sizeable enough to make it a public road in the future. In clarification, staff specified that the easement would be replaced by a road dedication at the time the vacant property to the west is developed and McMasters Road, a collector street, is constructed. At this time, the emergency access will provide a second access to this portion of Briarwood during emergency situations. As proposed, the subdivision only contains one access from McMasters Road on the southeast. Section 23-406.A.5, BMCC specifies that all major subdivisions shall provide a minimum of two access roads built to city standards. This section further states that if, in the judgment of the Planning Board, a second access cannot be provided for reasons of topography or other physical conditions, the subdivider shall provide an emergency access road. In this case, the connection of McMasters Road to the south would require building through developed and undeveloped properties owned by other parties. The Fire Department has reviewed this request and finds that the provision of an emergency access road is acceptable.

Board Member Alex Tommerup questioned the subdivider's representative about the location of the emergency access easement. John Stewart stated that the owners in the 1970's depicted this easement in the Master Plan for the Briarwood Subdivision. Staff further clarified that the collector connecting Briarwood with Colleen Drive was added to the Functional Classification Map in 2005 when an administrative update of the Transportation Plan was completed, as staff

recognized a need for a second access for Briarwood and eligibility for federal funding. The collector status of this road would allow construction in the future, even if the property to the west never fully develops.

In response to a question from Planning Board Vice Chairman Iverson regarding this subdivider funding the completion of an entire second access from The Estates at Briarwood Subdivision, 2nd Filing, staff stated that other subdivisions in this area will benefit from this access and it is not incumbent on this developer to pay for improving accesses to surrounding properties. The subdivider could be required to pay a proportionate share for the secondary access and when enough money is collected the road will be completed. The Planning Board did not require a condition for a proportionate share of the second access construction, as they found that it is likely that the adjacent properties to the west will develop in the future, which will trigger the need for each piece of Colleen Drive to be constructed. The Planning Board found that a full second access is not necessary at this time, provided that the emergency access road is completed.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the 2005 Transportation Plan Update, and Heritage Trail Plan are discussed within the Findings of Fact.

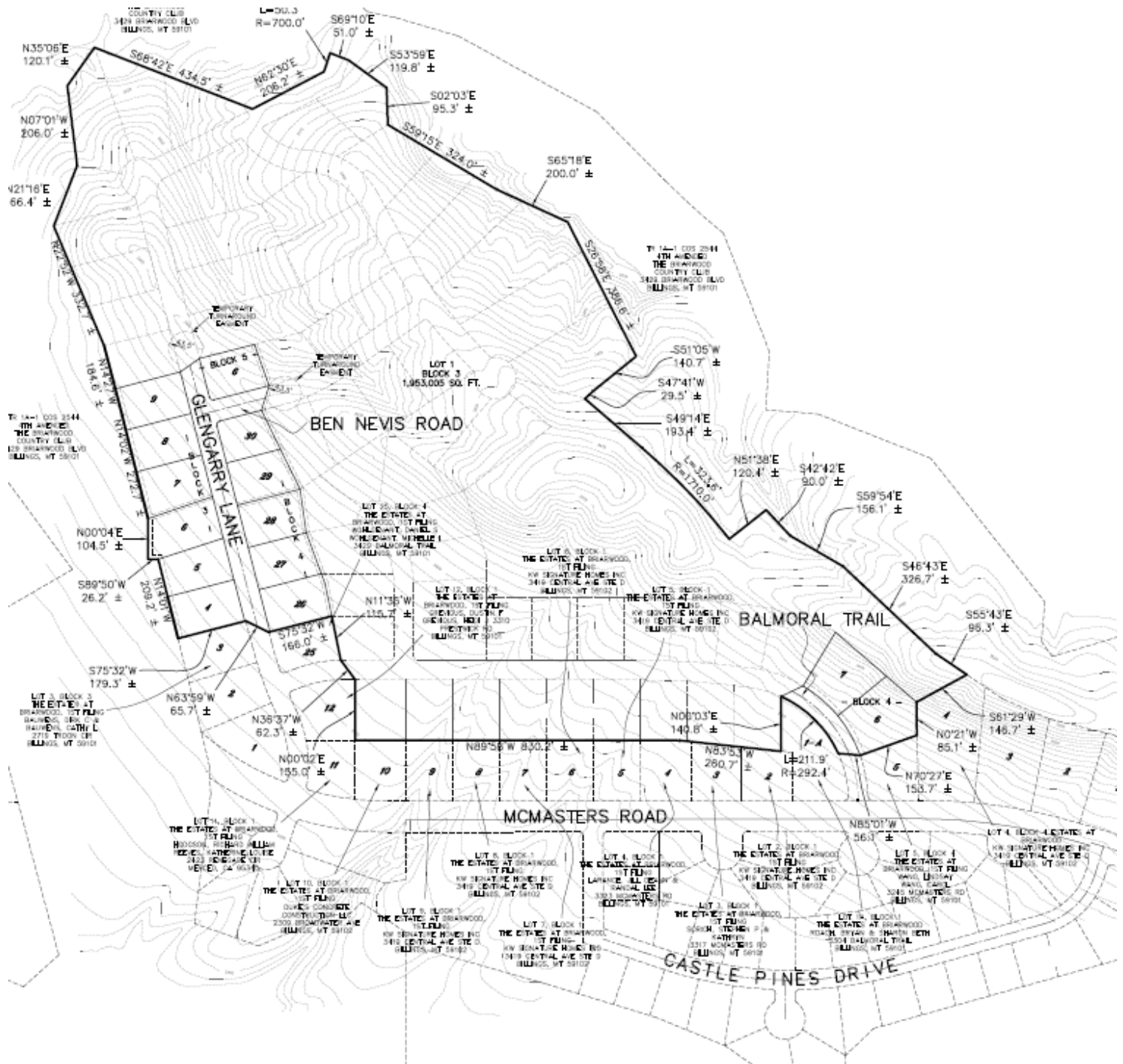
RECOMMENDATION

The Planning Board recommends conditional approval of the preliminary major plat of The Estates at Briarwood Subdivision, 2nd Filing and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

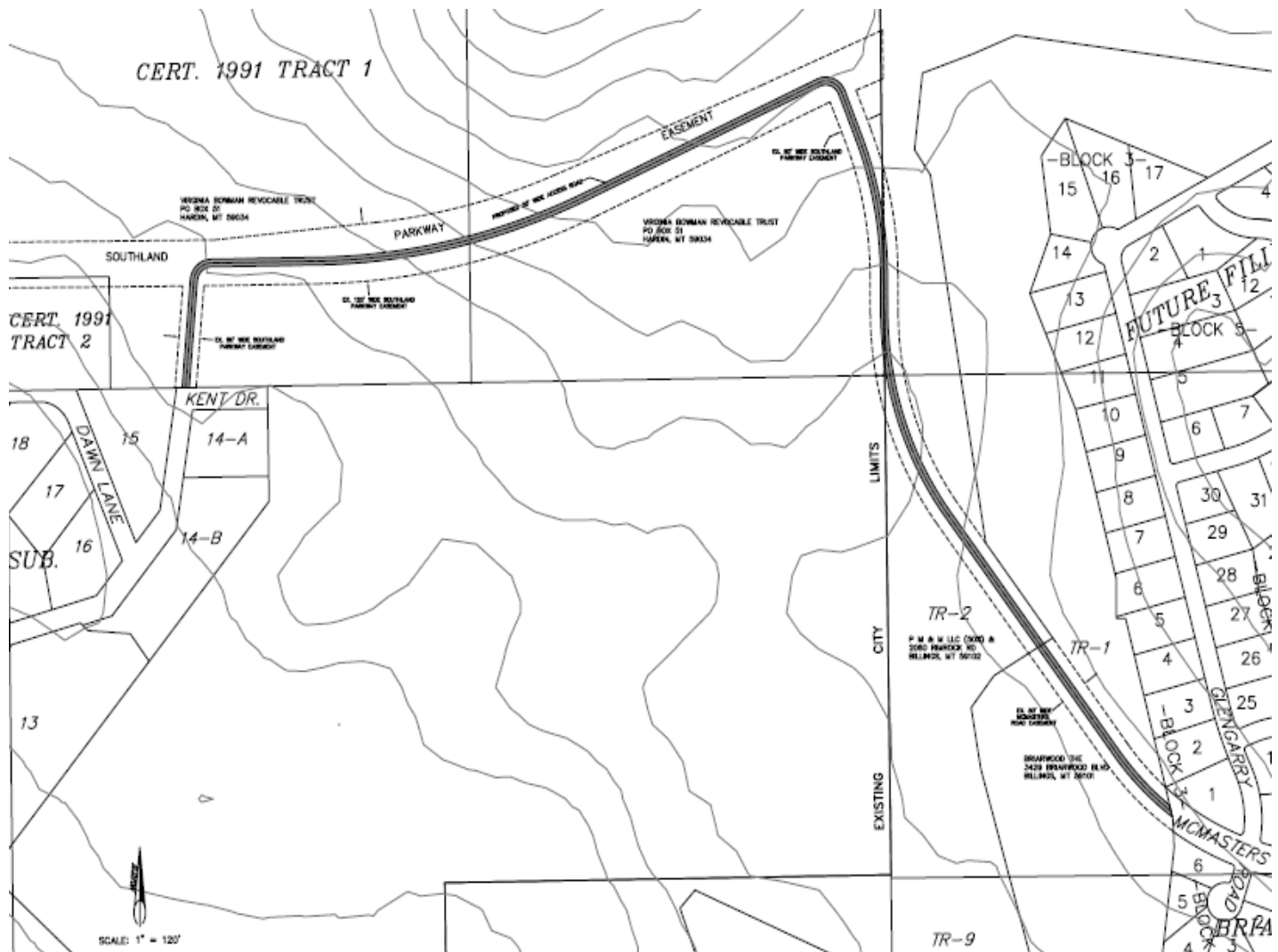
- A. Preliminary Plat
- B. Proposed Emergency Access Route
- C. Findings of Fact
- D. Mayor's Approval Letter

Preliminary Plat of The Estates at Briarwood Subdivision, 2nd Filing



ATTACHMENT B

Proposed Emergency Access Route



ATTACHMENT C

Findings of Fact

The Planning Board is forwarding the recommended Findings of Fact for the preliminary subsequent minor plat of The Estates at Briarwood Subdivision, 2nd Filing for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (23-303(H)(2), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? (76-3-608 (3)(a), MCA) (23-302(H)(2), BMCC)

1. Effect on agriculture and agricultural water user facilities

The subject property is currently vacant land within the Briarwood Planned Development. There are no agricultural water facilities located on or within the immediate vicinity of the subject property.

2. Effect on local services

- a. **Utilities** – Water and sewer to the subject property will be delivered through extended lines within the internal subdivision streets from main lines in Balmoral Trail and Glengarry Lane.
- b. **Stormwater** – Storm drainage for the proposed subdivision will be provided by a combination of surface drainage and curbs and gutters. The drainage system improvements will be in accordance with the recommendations of the stormwater analysis report submitted with the private contract plans. All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Division.
- c. **Solid waste** – The city will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** - Access to the proposed subdivision will be via a continuation of internal subdivision streets from McMasters Road within The Estates at Briarwood, 1st Filing to the south. Balmoral Trail is located on the east side of the subdivision and is located within a 50-foot right-of-way. This street was platted under the previous subdivision regulations and will maintain a 50-foot wide right-of-way with a road width of 37-feet back to back curb pavement. This street is partially constructed and a house exists on the west side of the street. Therefore, a variance is not required for this portion of right-of-way. Boulevard style walks will be installed on both sides of the street.

Glengarry Lane and Ben Nevis Road are located on the western portion of the subdivision. The portion of Glengarry Lane currently constructed is located within a 50-foot wide right-of-way and will be transitioned to a 56-foot right-of-way where the proposed subdivision begins at Lots 4 and 26 continuing north to a temporary gravel turnaround. The back to back of curb width for both streets will be 34-feet with boulevard sidewalks on each side of the street.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The Police Department did respond to the request for comments and specified that due to low staffing levels, the department is only able to provide service at current levels. The nearest fire station is located at 24th Street West just north of Rosebud Drive, which is approximately 6 miles from this property. (Station #5). The Fire Department finds the proposed layout with the emergency access will provide adequate emergency access.

There have been several discussions by Planning staff and the Fire Department regarding the allowance of this plat to move through the process based on the requirements for the original subdivision. According to the recorded Subdivision Improvements Agreement (SIA) for the first filing, the subdivision was required to construct an emergency access through the golf course within three years of final plat approval. The access was required to be constructed by May 15, 2007. This access has not been completed. The location of the emergency access road could not be secured by the subdivider until late 2007. A letter dated November 28, 2007, was submitted to the Planning Division specifying that the subdivider has permission to construct an emergency access road across the adjacent properties (please see Attachment B). The road would begin at the west terminus of McMasters Drive and connect northwest at Colleen Drive within Blue Creek Acreage Tracts Subdivision. Based on this permission and conditions placed on preliminary plat approval, it was determined by the Fire, Engineering, and Planning staff that the subdivider may move forward with the preliminary plat approval of the 2nd Filing. The Planning Board also concluded that the subdivision could move forward as long as the emergency access road was built. Condition #4 requires full construction of this emergency access road to an all weather standard. The road design and section plans, including any gates, shall be submitted to and approved by the Fire Department prior to construction. An easement document shall be provided for the access and no building permits shall be issued for the subject property until the road is constructed.

Pursuant to Section 23-406.A.5, BMCC, all major subdivisions shall provide a minimum of two access roads built to city standards. As proposed, the subdivision only contains one access from McMasters Road on the southeast. This section further states that if, in the judgment of the Planning Board, a second access cannot be provided for reasons of topography or other physical conditions, the subdivider shall provide an emergency access road. In this case, the connection of McMasters Road to the south would require building through developed and undeveloped properties owned by other parties, as specified in the letter submitted by the subdivider's representative. The subdivider is instead proposing the emergency access road from McMasters Road to Colleen Drive. The Fire Department has reviewed this request and finds that the provision of an emergency access road is acceptable. The Planning Board also finds that a second access is not necessary, provided that the emergency access road is completed.

- f. **Schools** – The proposed subdivision is in the Blue Creek Elementary School District and School District #2 for middle school and high school students. Elementary students will be assigned to Blue Creek Elementary School, Riverside Middle School and Billings Senior High School. This information is based on the current tax assessment records and is subject to

change. The school district may, and has regularly, reassigned students based on availability. No comments were received from School District #2 or Blue Creek Elementary.

- g. **Parks and Recreation** – As part of this major plat, the subdivider is required to provide 0.632 acres of dedicated parkland. This is based on 11% of 5.02 acres, as this is the land area being subdivided into lots of ½ acre or less and 7.5% of 1.09 acres, as this is the land area being subdivided into lots of ½ acre to 1 acre in size. The subdivider will be providing a cash-in-lieu contribution for the parkland dedication. Condition #5 requires that the parkland requirement be specified within Section VII of the SIA.
- h. **Mail Delivery** - The United States Postal Service is requesting that the applicant provide centralized delivery for the proposed subdivision. The mailboxes should have adequate room for a mail carrier to pull off for mail distribution and access, as required by Condition #2. This location shall be reviewed and approved by the post office.

3. Effect on the natural environment

A geotechnical report was submitted with this application. As specified by the Building Official's review of the submitted geotechnical report, a final design geotechnical investigation will be required when final building designs are available.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. As indicated within the General Conditions that Run with the Land section of the submitted SIA, future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open agricultural areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner.

5. Effect on the public health, safety and welfare

There are no known natural or manmade public safety hazards that would affect this subdivision.

B. Was an Environmental Assessment required? (76-3-210, MCA) (23-901, BMCC)

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy, the 2005 Transportation Plan Update, and the Heritage Trail Plan? (23-301, BMCC)

1. Yellowstone County-City of Billings 2008 Growth Policy

The proposed subdivision is consistent with the following goals of the Growth Policy:

- **Goal: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (p. 8).**

The subject property is annexed and is adjacent to properties within the city to the south and east.

- **Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 8).**

The subdivision is a continuation of the Briarwood Planned Development. The proposed single-family residences are compatible with the surrounding residential uses.

2. Urban Area 2005 Transportation Plan Update

The Functional Classification Map classifies the connection between McMasters Road and Colleen as a future collector street. The proposed emergency access will not meet the required street standard for a collector street and no additional right-of-way width or improvements are proposed for the connection. The Engineering Division has reviewed this application and finds the emergency access road to be acceptable. However, in the future this road will need to be constructed to a full collector street in accordance with the classification map.

3. Heritage Trail Plan

The Heritage Trail Plan does not specifically identify a trail within this subdivision. However, the proposed sidewalks will provide some connectivity. Since there is a school proposed on McMasters Road in the future, this subdivision and future filings should consider providing additional non-motorized connections. No additional trails have been proposed with this subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? (76-3-608 (3)(b), MCA) (23-301, BMCC)

The subdivision conforms to state and local subdivision regulations, with the exception of the title on the plat, which does not identify the legal description for the property. Condition #3 requires the legal description to be included on the plat.

E. Does the subdivision conform to sanitary requirements? (23-408, BMCC)

The subdivision will utilize city water, sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? (23-402, BMCC)

The subject property is zoned Planned Development with an underlying zoning of R-96 and shall comply with the standards set forth in Section 27-308, BMCC.

G. Does the proposed plat provide easements for the location and installation of any utilities? (76-3-608 (3)(c), MCA) (23-410(A)(1), BMCC)

The City Engineering Division will work with the utility companies to provide easements in acceptable locations on the plat. The City maintains that utility easements provided on front lot lines creates conflicts with sanitary water and sewer lines and have requested that they be located on the rear and sides of lots for public health and safety. Condition #1 requires the subdivider to work with the City Engineering Division and the private utility companies to provide acceptable utility easements on the plat.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608 (3)(d), MCA) (23-406, BMCC)

Legal and physical access to the proposed subdivision will be via private internal subdivision streets from McMasters Road.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of The Estates at Briarwood Subdivision, 2nd Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision, with the required conditions, complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, February 9, 2009

Ron Tussing, Mayor

ATTACHMENT D
Mayor's Approval Letter

February 10, 2009

KW Signature Homes, LLC
3419 Central Avenue
Billings, MT 59102

Dear Applicant:

On February 9, 2009, the Billings City Council conditionally approved the preliminary plat of The Estates at Briarwood Subdivision, 2nd Filing, subject to the following conditions of approval:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the final plat. *(Recommended by the Engineering Division)*
2. To minimize effects on local services, the applicant shall provide centralized delivery boxes with sufficient pullouts to accommodate mail carrier vehicles. The location of the boxes shall be reviewed and approved by the post office. *(Recommended by the United States Postal Service)*
3. To bring the subdivision into compliance with state and local laws, the Tract and Certificate of Survey number shall be included with the legal description on the plat. *(Recommended by City-County Planning)*
4. To minimize effects on public health and safety, the emergency access road from McMasters Road to Colleen Drive shall be fully constructed prior to final plat approval. The road design and section plans, including any gates, shall be submitted to and approved by the Fire Department prior to construction. An easement document shall be provided with the final plat and shall include an exhibit of the road. No building permits shall be issued for the subject property until the emergency access road is complete. *(Recommended by the City Fire Department and the City-County Planning Division)*
5. To clarify the SIA, Section VII of the Subdivision Improvements Agreement (SIA) shall be revised to specify that 0.632 acres of parkland is required for the subdivision. *(Recommended by City-County Planning)*
6. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Department to clarify the documents and bring them into the standard acceptable format.

7. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact Aura Lindstrand with the Planning Division at 247-8663 or by email at lindstranda@ci.billings.mt.us.

Sincerely,

Ron Tussing, Mayor

pc: Will Ralph, PE, Engineering, Inc.



AGENDA ITEM:

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Preliminary Plat of High Sierra Subdivision, 6th Filing and High Sierra 5th -12th Filing Master Plan review and adoption

DEPARTMENT: Planning and Community Services

PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: On November 3, 2008, the subdivider, High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 6th Filing, and review and approval of the overall High Sierra 5th-12th Filing Master Plan. The proposed 6th Filing creates 21 lots out of 7.18 acres, and is the second filing in the larger master planned area. It is located north of Annandale Road and east of Greenbriar Road and is zoned Residential-9600 (R-96) and Residential-7000-Restricted (R-70-R). The overall Master Plan area encompasses 400 acres and proposes approximately 1,375 single-family lots to be developed over a 12-15 year period. The Yellowstone County Board of Planning conducted a public hearing and reviewed the proposal on January 13, 2009. The City Council will review the preliminary plat, and approve, conditionally approve, or deny the proposed subdivision at this meeting.

ALTERNATIVES ANALYZED: State and City subdivision regulations require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated.

FINANCIAL IMPACT: Should the City Council approve the preliminary plat, the subject property may further develop, resulting in additional tax revenues for the City.

RECOMMENDATION

The Planning Board recommends the City Council approve the Master Plan for High Sierra Subdivision 5th -12th Filing, and conditionally approve the preliminary plat of High Sierra Subdivision, 6th Filing and adopt the Findings of Fact as presented in the staff report.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENTS

- A. Preliminary Plat
- B. High Sierra 5th -12th Filing Master Plan
- C. Findings of Fact
- D. Mayor's Approval Letter

INTRODUCTION

On November 3, 2008, the subdivider, High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 6th Filing, and review and approval of the overall High Sierra 5th-12th Filing Master Plan. The proposed 6th Filing creates 21 lots out of 7.18 acres, and is the second filing in the larger master planned area. It is located north of Annandale Road and east of Greenbriar Road and is zoned Residential-9600 (R-96) and Residential-7000-Restricted (R-70-R). The overall Master Plan area encompasses 400 acres and proposes approximately 1,375 single-family lots to be developed over a 12-15 year period.

PROCEDURAL HISTORY

- A pre-application meeting was held on June 19, 2008, to discuss the proposal.
- The Master Plan and preliminary plat proposal for these 21 lots was originally submitted to the Planning Division with the High Sierra 5th Filing preliminary plat on August 1, 2008.
- The overall Master Plan and preliminary plat for the subject lots were withdrawn from consideration prior to City Council review on October 22, 2008.
- A meeting with the applicant on November 3, 2008, reestablished the review period for this 6th filing and the Master Plan for the 5th-12th Filings of High Sierra Subdivision.
- The preliminary plat and Master Plan were resubmitted with revisions based on department reviews on November 17, 2008.
- The Planning Board reviewed the plat on December 9, 2008.
- The Planning Board conducted a public hearing on January 12, 2009, and forwarded a recommendation to the City Council.
- The City Council will consider the preliminary plat on February 9, 2009.

BACKGROUND

General location:	North of Annandale Road and east of Greenbriar Road in the Heights.
Legal Description:	Lot 1, Block 2 of Marisela Subdivision, located in the NW ¼, Section 9, T1N, R26E
Subdivider:	High Sierra II, Inc. (Gary Oakland, Pres.)
Owner:	Dover Ranch
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	R-96, R-70-R
Existing land use:	Pasture/range land
Proposed land use:	Single-family residential
Gross and Net area:	7.18 acres/ 5.47 acres

Proposed number of lots: 21

Lot size: Max: 17,944 square feet
Min.: 9,202 square feet

Parkland requirements: 0.601 acres of parkland dedication is required; cash in lieu is proposed for this filing.

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potentially negative effects of property subdivision. When negative effects are identified, it is the subdivider's responsibility to mitigate those effects. Various City departments reviewed this application and provided input on effects and mitigation. The Planning Division staff develops and recommends conditions of approval that are based on departmental comments. The Findings of Fact, which are presented as an attachment, discuss the potential negative impacts of the subdivision and the following conditions of approval are recommended as measures to further mitigate any impacts.

RECOMMENDED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact:

2. In order to mitigate impacts on local services, the following amendments shall be made to the Subdivision Improvements Agreement (SIA) prior to final plat approval:
 - E. Section III.D. shall be amended to include the dollar amount of the cash contribution for the proportionate share of the signal at the intersection of Wicks Lane and St. Andrews Drive.
 - F. Section V. shall indicate that the subdivision will be required to contribute to the development of the Lake Hills Storm Drain. The contribution amount will be based on the subdivision's overall storm runoff to the system.
 - G. An exhibit showing the approved High Sierra Subdivision 5th – 12th Filing Master Plan shall be attached to the final SIA. The approved Master Plan shall be amended to show Annandale Road as a gray-colored constructed road across its entire length. A note shall be added to the SIA indicating that future development of the Master Planned area shall be in general conformance with the Master Plan exhibit, unless an amendment is reviewed and approved by the governing body.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

None

STAKEHOLDERS

A public hearing was held by the County Planning Board on January 13, 2009. Aside from the developer, there was no one from the public who spoke in regard to the proposal.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the Transportation Plan and Heritage Trail Plan is discussed within the Findings of Fact.

RECOMMENDATION

The Planning Board recommends the City Council approve the Master Plan for High Sierra Subdivision 5th -12th Filing, and conditionally approve the preliminary plat of High Sierra Subdivision, 6th Filing and adopt the Findings of Fact as presented in the staff report.

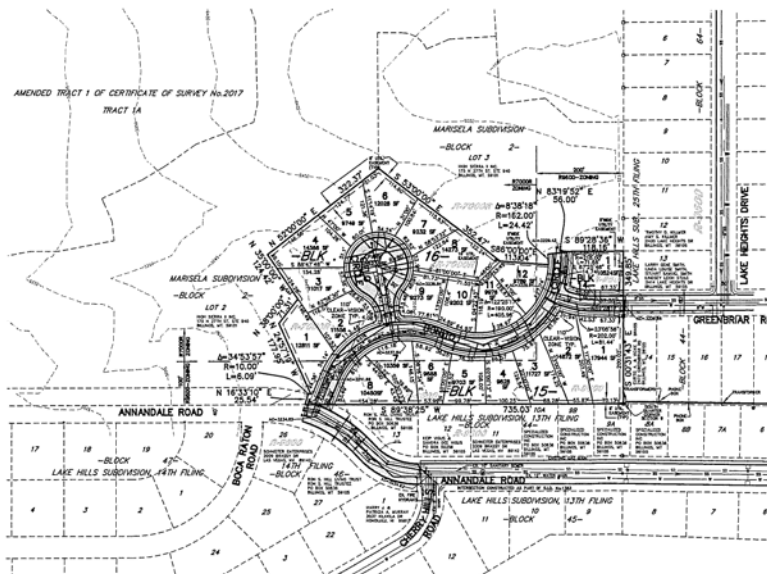
ATTACHMENTS

- A. Preliminary Plat
- B. High Sierra 5th -12th Filing Master Plan
- C. Findings of Fact
- D. Mayor's Approval Letter

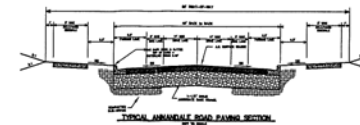
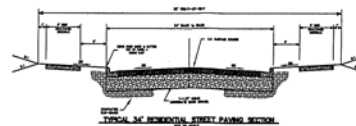
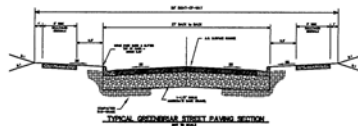
Preliminary Plat of High Sierra Subdivision, 6th Filing

PREPARED FOR: HIGH SIERRA II INC.
PREPARED BY : ENGINEERING, INC.
SCALE: 1"=100'

NOVEMBER, 2008
BILLINGS, MONTANA



GROSS AREA	=	7.18 ACRES
NET AREA	=	5.47 ACRES
NUMBER OF LOTS	=	21
MINIMUM LOT SIZE	=	2,922 S.F.
MAXIMUM LOT SIZE	=	17,944 S.F.
LINEAL FEET OF STREETS	=	1,518 LF.
PARKLAND REQUIREMENT	=	0.801 ACRES
PARKLAND DEDICATION	=	1.120 ACRES & CASH-IN-LIEU
EXISTING ZONING	=	R-700R & R-9600
PROPOSED ZONING:		
NORTH	=	R-7000R & R-9600
SOUTH	=	R-9600
EAST	=	R-9600
WEST	=	R-7000R & R-9600
EXISTING LAND USE	=	AGRICULTURAL
PROPOSED LAND USE	=	RESIDENTIAL



ATTACHMENT B High Sierra 5th – 12th Filing Master Plan



ATTACHMENT C
Findings of Fact

The Planning staff has prepared and the County Planning Board is forwarding the recommended Findings of Fact for High Sierra Subdivision, 6th Filing for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (23-303(H)(2), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-304 (c) (1)]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently used for dryland pasture by the Dover Ranch operation to the north. For the Master Planned area, 400 acres was annexed by the City and rezoned for single-family residential uses in 2007. It is adjacent to similar residential uses to the south and east and will provide housing in an area that is not particularly productive for agriculture. It should not have a negative effect on the agricultural industry.

The BBWA irrigation ditch is located approximately ½ mile northeast of the property. This subdivision does not contain any ditches or water shares, and therefore will not have an effect on agricultural water user facilities.

2. Effect on local services

- a. Utilities** –Water services for this filing of the subdivision are provided by the County Water District of Billings Heights. The subdivider will extend a 12-inch water main from the exiting main line within Annandale Road and an 8-inch water main from the existing main line in Greenbriar Road. The improvements are subject to the review and approval of the applicable water provider during the time of construction. As proposed, the Heights Water District finds that the proposed water main extensions are acceptable.

Sanitary sewer service will be provided by connecting to a 10-inch sewer main in Annandale Rd., and an 8-inch sewer main in Greenbriar Rd. As proposed, the City of Billings Public Works--Distribution and Collection Division finds the proposed sewer main extensions to be acceptable.

MDU will provide gas services, and both Northwestern Energy and Yellowstone Valley Electric Cooperative will provide electric services to the subdivision. Easements have been shown on the face of the plat that are acceptable to these utility providers.

- b. Storm water** – The City commissioned a storm water management feasibility study approximately four years ago in order to decipher how to best manage the storm water in the greater Lake Hills area. The resultant plan that was adopted by City Council establishes a series of detention ponds on the golf course connected by channels which are eventually pumped down to a main pond at the southeastern area of the golf course.

This main pond is then used for irrigation of the golf course. The proposed lots in the 6th Filing of the High Sierra Subdivision will make use of this master plan by carrying storm water east down Annandale to an existing retention pond. City Engineering has indicated that the subdivider will be responsible for contributing a proportionate share to the development of the Lake Hills Storm Drain system. This is recommended as a condition of approval (**Condition #1**). For the other lots in future filings, storm drains will be installed to carry water to the north to detention ponds located north of the overall master planned area (area covering High Sierra Subdivision 5th-12th filings). This and all other drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Division.

- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – The preliminary plat for the 6th Filing shows both Annandale Rd. and Greenbriar Rd. being extended to provide two points of access to the proposed lots. Annandale Rd. is designated as a Minor Arterial street on the Area Transportation Classification map, and as such will be required to be constructed to a width of 49 feet. Greenbriar Road is a local residential street that is currently built to a width of 37 feet. The short extension of it will be built to the same standard. Bonito and Cielo Circle are considered local residential streets and will be constructed to the current standard for local streets of 34 feet in width. Typical street sections for these streets are found on the face of the preliminary plat.

A Traffic Accessibility Study (TAS) was completed with the Master Plan of the entire subdivision and based on its findings, it was determined that the installation of a signal at the intersection of Wicks Lane and St. Andrews should be considered in the next two years. Based on the proportionate share calculations, High Sierra Subdivision, 5th and 6th Filings should contribute up to 2% of the construction costs. City Engineering has requested that a dollar amount for this contribution be added to the final SIA document (**Condition #1**).

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1601 St. Andrews Drive (Station #6). The subdivision is located within the ambulance service area of American Medical Response (AMR).
- f. **Schools** – School District #2 provides educational services to elementary through high school students in this area. Sandstone Elementary School, Castle Rock Middle School, and Skyview High School will serve the children in this subdivision. Responses from these schools were not received at the time this report was written.
- g. **Parks and Recreation** – The parkland dedication requirement for the 6th Filing of this subdivision amounts to 0.601 acres (11% of the net area of 5.47 acres). The subdivider proposes to provide the cash equivalent for the required acreage in this Filing. However,

the subdivider is also requesting approval of the overall Master Plan, which includes a Park Master Plan element, for the 5th – 12th Filings, at this time. Since the time that the 5th Filing was in preliminary plat review, the subdivider has had several meetings with the City Parks Department staff to discuss the proposed park master plan. The proposed Master Plan dated November 13, 2008 according to Planning staff's files is the most current Master Plan, and the one acceptable to all parties. In general, the Master Plan shows four neighborhood parks ranging from 0.64 acres to 5.4 acres in size to serve the community. Additionally, there are nine other smaller gathering places and green spaces proposed. The parks department is agreeable to accepting them as public park and including them into a Parks Maintenance District if the subdivider develops them with grass and irrigation.

- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has requested centralized delivery facilities or individual mail boxes if there is room to have delivery trucks out of traffic. These details will need to be addressed prior to mail delivery to the subdivision.

3. Effect on the natural environment

The subject property is relatively level prairie land adjacent to the city limits on its south and east sides. A geotechnical evaluation was done for the subject area in June of 2008, to investigate soil, rock, and groundwater conditions and provide recommendations to support design and construction of foundation and drainage elements. The major finding that study indicated was that the area is characterized by moderate to highly expansive claystone bedrock. Construction on this type bedrock can result in foundation damage if not properly engineered. Therefore, close attention to the recommendations provided in the report is critical. The City Building Official has reviewed this geotechnical report, and made notes on its recommendations that will be enforced at the time of building permit issuance and subsequent inspections.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. There is a note in the SIA that warns future lot owners of the presence of deer and antelope in the area, which may cause damage to their landscaping. This subdivision should have a minimal effect on wildlife and wildlife habitat, as it is in an area that is rapidly urbanizing.

5. Effect on the public health, safety and welfare

The subdivision is located in an area with no known natural hazards.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-304 (c) (1)]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy, the Urban Area 200 Transportation Plan Update and the Heritage Trail Plan? [BMCC 23-304 (c) (3)]

1. Yellowstone County-City of Billings 2008 Growth Policy Update

The proposed subdivision is consistent with the following goals of the Growth Policy:

- a. **Goal: More housing and business choices within each neighborhood (p. 9).**
The proposed subdivision would provide for more housing choices within this portion of the city.
- b. **Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 8).**
The subject property is adjacent to similar sized residential lots.
- c. **Goal: Contiguous development focused in and around existing population centers separated by open space (p. 8).**
The subject property is adjacent to exiting similar development within the City and its development will help to complete road and utility loops, and create a neighborhood.
- d. **Goal: Safe and efficient transportation system characterized by convenient connections and steady traffic flow (p. 16).**
The proposed subdivision will provide public streets improved to city standards that connect with existing streets, thus creating more efficient transportation connections and ease of traffic flow.

2. Urban Area 2005 Transportation Plan Update

The proposed subdivision adheres to the goals and objectives of the 2005 Transportation Plan Update and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

The proposed subdivision lies within the jurisdiction of the Heritage Trail Plan. No trail corridors are identified on the plan within this subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-304 (c) (4)]

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? [BMCC 23-304 (c) (5)]

The subdivision will utilize both the Heights Water District water system and the City's water system. It will also make use of the City's sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-304 (c) (6)]

The subject property is located within the R-96 and R-70-R zoning district and shall comply with the standards set forth in Section 27-308, BMCC.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-304 9 (c) (7)]

The subdivider has provided utility easements as requested by MDU, NWE, and YVEC on the face of the plat.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-304 9 (c) (8)]

Legal and physical access is provided to all of the proposed lots.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of High Sierra Subdivision, 6th Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy Update and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, February 9, 2009.

Ron Tussing, Mayor

ATTACHMENT D
Mayor's Approval Letter

February 10, 2009

Dover Ranch
633 Sindelar Road
Billings, MT 59105

High Sierra II, Inc.
174 N. 27th St., Suite 900
Billings, MT 59101

Dear Applicant:

On February 9, 2009, the Billings City Council approved the Master Plan for High Sierra Subdivision, 5th – 12th Filings, and conditionally approved the preliminary plat of High Sierra Subdivision, 6th Filing. The conditions of approval are as follows:

1. In order to mitigate impacts on local services, the following amendments shall be made to the Subdivision Improvements Agreement (SIA) prior to final plat approval:
 - a. Section III.D. shall be amended to include the dollar amount of the cash contribution for the proportionate share of the signal at the intersection of Wicks Lane and St. Andrews Drive.
 - b. Section V. shall indicate that the subdivision will be required to contribute to the development of the Lake Hills Storm Drain. The contribution amount will be based on the subdivision's overall storm runoff to the system.
 - c. An exhibit showing the approved High Sierra Subdivision 5th – 12th Filing Master Plan shall be attached to the final SIA. The approved Master Plan shall be amended to show Annandale Road as a gray-colored constructed road across its entire length. A note shall be added to the SIA indicating that future development of the Master Planned area shall be in general conformance with the Master Plan exhibit, unless an amendment is reviewed and approved by the governing body.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact Juliet Spalding with the Planning Department at 247-8684 or by email at spaldingj@ci.billings.mt.us.

Sincerely,

Ron Tussing, Mayor

Pc: Gary Owen, Engineering, Inc.
Mac Fogelsong, Engineering, Inc.

T

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Final Plat of Amended Lot 1, Block 1, Burlington Northern Subdivision, 17th Filing.

DEPARTMENT: Planning and Community Services

PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: The final plat of Amended Lot 1, Block 1, Burlington Northern Subdivision, 17th Filing, is being presented to the City Council for approval. The subject property is zoned Controlled Industrial (CI) and is located on the southeast corner of the intersection of Daniels Street and Industrial Avenue, addressed as 227 Daniels Street. On September 22, 2008, the City Council conditionally approved the 2-lot subsequent minor plat on approximately 3.83 acres of land. The property is currently used as a parking area for semi trailers with shop and warehouse buildings on the southern end. The property owners are Monad Daniels, LLC, Dennis Witmore and Roland Grunstead, and the representing agent is Engineering Inc.

The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

FINANCIAL IMPACT: Should the City Council approve the final plat, there is not expected to be any financial impacts as the subject property is currently developed.

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Amended Lot 1, Block 1, Burlington Northern Subdivision, 17th Filing.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A: Final Plat

ATTACHMENT A
Final Plat

**AMENDED PLAT OF LOT 1, BLOCK 1,
BURLINGTON NORTHERN SUBDIVISION, 17th FILING**

SITUATED IN THE NW1/4 OF SECTION 8, T. 1 S., R. 26 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : DENNIS WHITMORE
PREPARED BY : ENGINEERING, INC.
SCALE : 1"=100'

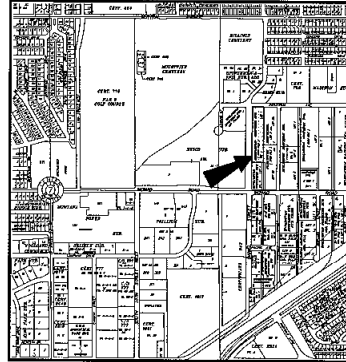
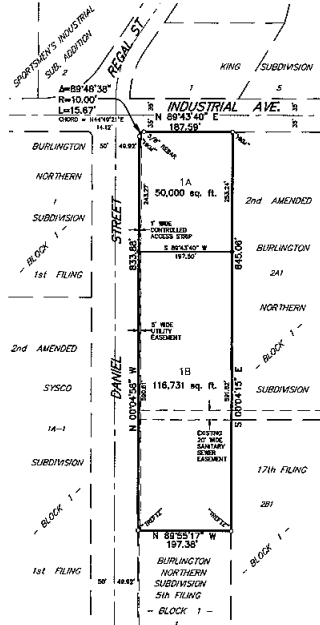
OCTOBER 2008
BILLINGS, MONTANA

150 0 150 200

BASIS OF BEARING: PLAT OF BURLINGTON NORTHERN SUB. 17TH FILING.

o = FOUND SURVEY MONUMENT, AS NOTED.

• = SET 5/8" X 18" REBAR AND CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT".



VICINITY MAP
NOT TO SCALE

NOTICE OF APPROVAL

STATE OF MONTANA)
County of Yellowstone) ss

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

Date _____ President _____

Executive Secretary _____

CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that amended and foregoing plat conforms with Section 78-4-122(2)(d), M.C.A. for the removal of sanitary restrictions since the plat is made a master planning area and said lots will be provided with municipal facilities for the conveyance of water and the disposal of sewage and solid waste.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL this ____ day of _____, 20__.

City Engineer's Office _____

ERRORS AND OMISSIONS REVIEW

I hereby certify that I have examined the amended and foregoing plat for errors and omissions in computations and drafting and find that said plat conforms with the requirements of the laws of the State of Montana, and that said plat conforms to the adjoining plat and plat of the City of Billings already plotted as nearly as circumstances will permit.

Examining Land Surveyor _____ Date _____

CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and bonded assessments have been paid for 78-3-81(1)(b) / 78-3-207(3), M.C.A.

Date _____

Yellowstone County Treasurer _____

BY: _____ Deputy _____

CERTIFICATE OF CITY ATTORNEY

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

DATED: _____

Reviewed by: _____

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA)
County of Yellowstone) ss

We hereby certify that we have examined the amended and foregoing AMENDED PLAT OF LOT 1, BLOCK 1, BURLINGTON NORTHERN SUBDIVISION 17TH FILING, and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of the Yellowstone County Board of Planning. It is therefore approved and the dedication to public use of any and all lands shown on this plat as being dedicated to such use are accepted.

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

CITY OF BILLINGS, MONTANA

By: _____ Mayor _____

Attest: _____ City Clerk _____

SUBDIVISION IMPROVEMENT AGREEMENT

Document No. _____

CERTIFICATE OF DEDICATION

STATE OF MONTANA)
County of Yellowstone) ss

KNOW ALL MEN BY THESE PRESENTS, That MICHAEL DANIELS, LLC, the owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and plotted into lots, blocks and streets as shown on the amended plat, said tract being situated in the NW1/4 of Section 8, T. 1 S., R. 26 E., P.M.M., Billings, Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Lot 1 in Block 1 of Burlington Northern Subdivision, 17th Filing, according to the official plat thereof on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 159004, containing an area of 116,731 square feet.

There is no park requirement for this non-residential subdivision pursuant to Section 78-3-62(3)(b), M.C.A.

The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and cable television companies, on easement for the location, maintenance, repair and removal of their lines over, under and across the areas designated on the plat as "UTILITY EASEMENT" to have and hold forever. Said lots to be known and designated as AMENDED PLAT OF LOT 1, BLOCK 1, BURLINGTON NORTHERN SUBDIVISION 17TH FILING, this plat contains no public land dedication.

MICHAEL DANIELS, LLC

By: _____ Title _____

STATE OF MONTANA)
County of Yellowstone) ss

On this ____ day of _____, 20__, before me, the undersigned Notary Public for the State of Montana, personally appeared _____, known to me to be the person who signed the foregoing instrument as _____ of MICHAEL DANIELS, LLC, and acknowledged to me that said entity executed the same. Witness my hand and seal the day and year herein above written.

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

CERTIFICATE OF SURVEYOR

STATE OF MONTANA)
County of Yellowstone) ss

The undersigned, a Montana Registered Land Surveyor being duly sworn, deposes and says that during the month of October 2008, a survey was performed under his supervision of a tract of land to be known as AMENDED PLAT OF LOT 1, BLOCK 1, BURLINGTON NORTHERN SUBDIVISION 17TH FILING, in accordance with the request of the owner thereof and in accordance with the Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the amended plat; that the monuments found and set are of the character and occupy the positions shown herein and that the gross area is 116,731 square feet and the net area is 116,731 square feet.

ENGINEERING, INC.

By: _____ Montana Registration No. _____

Subscribed and sworn to before me, a Notary Public in and for the State of Montana, this ____ day of _____, 20__.

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

U1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Payment of Claims
DEPARTMENT: Administration – Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$913,105.58 audited and are presented for your approval for payment. A complete listing of the claims dated January 9, 2009 in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator ____ City Attorney ____

U2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, February 9, 2009

TITLE: Payment of Claims
DEPARTMENT: Administration – Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$902,416.08 audited and are presented for your approval for payment. A complete listing of the claims dated January 16, 2009 in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator ____ City Attorney ____

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

SUBJECT: Resolution to Adopt Briarwood Park Master Plan
DEPARTMENT: Department of Parks, Recreation & Public Lands
PRESENTED BY: Mike Whitaker, Director

PROBLEM/ISSUE STATEMENT: The Property of Briarwood Park was acquired through annexation of the Briarwood Subdivision into the City of Billings in February of 2002. The need for a park master plan was determined due to the lack of park facilities in and around the Briarwood Subdivision. The nearest subdivision park with playground facilities is at Ponderosa Park 4.75 miles away. Since a Master Plan for Briarwood Park has not been developed and a Master Plan is necessary to control and guide development of the 7.95 acre park, a Master Plan was undertaken. The Master Plan was developed to be an integral part of the subdivision. The park is bordered on the north by Briarwood Boulevard. Cardiff Street bisects the park into 2 sections with the eastern portion being 1.94 acres and the western portion being 6.01 acres. The plan was prepared by Peaks to Plains Design, a Landscape Architectural consulting firm, under the direction of PRPL staff. The plan was presented to the Billings Park, Recreation, and Cemetery Board, at the May 14, 2008 meeting, and the Board voted to recommend adoption of the Briarwood Park Master Plan to the City Council. See Attachment A – Briarwood Park Master Plan resolution.

FINANCIAL IMPACT: Development of the park will likely be financed by the formation of an SID. A Park Maintenance District to provide funds for ongoing park maintenance will also be formed in conjunction with the SID. The park development will be cost neutral to the City and the General Fund.

RECOMMENDATION

Staff and the Parks Recreation and Cemetery Board recommend that City Council approve and adopt the Briarwood Park Master Plan as the governing plan for the development of the park.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENTS

A – Briarwood Park Master Plan Resolution.

INTRODUCTION

The Property of Briarwood Park was acquired through annexation of the Briarwood Subdivision into the City of Billings in February of 2002. Since a Master Plan for Briarwood Park has not been developed and a Master Plan is necessary to control and guide development of the 7.95 acre park, a Master Plan was undertaken. The Master Plan was developed to be an integral part of the subdivision. The park is bordered on the north by Briarwood Boulevard. Cardiff Street bisects the park into 2 sections with eastern portion being 1.94 acres and the western portion being 6.01 acres. The plan was prepared by Peaks to Plains Design, a Landscape Architectural consulting firm, under the direction of PRPL staff. The plan was presented to the Billings Park, Recreation, and Cemetery Board, at the May 14, 2008 meeting, and the Board voted to recommend adoption of the Briarwood Park Master Plan to the City Council. See Attachment A – Briarwood Park Master Plan resolution.

PROCEDURAL HISTORY

The need for a park master plan was determined due to the lack of park facilities in and around the Briarwood Subdivision. Because no master plan was on record, PRPL secured the services of Peaks to Plains Design to develop a park master plan. Peaks to Plains Design worked closely with PRPL Staff to analyze the park site, its constraints and opportunities, and city requirements for park development. After public review and comment in 2 public meetings, a draft master plan was developed in May of 2008. The final plan was reviewed and the Parks, Recreation and Cemetery Board voted to recommend approval and adoption of the master plan to City Council at their May 14, 2008 meeting. The final step is presentation to the City Council for consideration and adoption.

BACKGROUND

According to the City of Billings Park Master Plan Policy, a park may not be developed until a park Master Plan has been prepared and adopted by the Billings City Council. All proposed development of parks or facilities within parks must be consistent with an approved Master Plan. It is prepared by a qualified park planning consultant, and considers surrounding zoning and land uses and local and general park and recreation needs as well as specific requests from interested users. This is to assure the highest quality and most beneficial development of parks and recreation facilities, and to assure adequate public input into the development, sale, or use, of Billings' parklands. A proposed modification to a park that is a significant departure from the approved Master Plan requires a revision of the Master Plan following the above process, to determine if the proposed change is acceptable and appropriate for that park. The Briarwood Park Master Plan as presented has been reviewed and recommended to the City Council for approval and adoption by PRPL Staff and Billings Park, Recreation, and Cemetery Board.

The master plan:

- Sets forth the guidelines for development of Briarwood Park.
- Provides an appropriate neighborhood playground.
- While providing for traditional park amenities for residents, it is also sensitive to the natural flora and fauna of the area preserving the natural environment by developing only 6 percent of the 7.95 acre park.

- Allows for the current function of the existing stormwater detention facilities.

ALTERNATIVE ANALYSIS

The staff considered the following:

- Do nothing.
- Develop a park master plan to provide guidelines for the future development of Briarwood Park.

CONSISTENT WITH ADOPTED POLICIES AND PLANS

The Briarwood Park Master Plan follows recommendations contained in the Parks 20/20 Plan adopted in 1997.

RECOMMENDATION

Staff and the Parks, Recreation and Cemetery Board recommend that City Council approve and adopt the Briarwood Park Master Plan as the governing plan for the development of the park.

ATTACHMENTS

A – Briarwood Park Master Plan Resolution.

RESOLUTION NUMBER 08-_____

**A RESOLUTION ADOPTING A MASTER PLAN FOR THE
DEVELOPMENT OF BRIARWOOD PARK IN THE BRIARWOOD SUBDIVISION**

WHEREAS, the public interest requires the creation and adoption of a Master Plan for Briarwood Park in the Briarwood Subdivision, 2nd Filing to control and limit development in accordance with the needs of the subdivision and the community, the limitations and constraints of the park site, and with improvements suited to and appropriate for the surrounding land uses; and

WHEREAS, it is in the public interest and necessary that the current and future development of the park shall conform to the adopted master plan; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF

BILLINGS:

1. *Master Plan.* The master plan for Briarwood Park presented for adoption and attached as *Exhibit "A"* is the official Master Plan for the park.
2. *General Character of Improvements Provided for by the Plan.* The general character of the improvements are intended to balance scenic natural land with minimal developed improvements and facilities to be located on the Public Parkland (known as Briarwood Park) at the southwest corner of Briarwood Boulevard and Cardiff (see Exhibit B). The purpose of the plan is to guide development of the park and a park maintenance district (PMD) to provide perpetual maintenance of the subject park facilities.
3. *Changes.* Proposed improvements not part of the adopted plan shall not be installed unless a new master plan is adopted through the normal park planning process that finds that the proposed improvement is appropriate as described above and can be incorporated as part of an "amended" park master plan to be presented for adoption at that time.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, this 9th day of February, 2009.

CITY OF BILLINGS

By: _____
Ron Tussing Mayor

ATTEST:

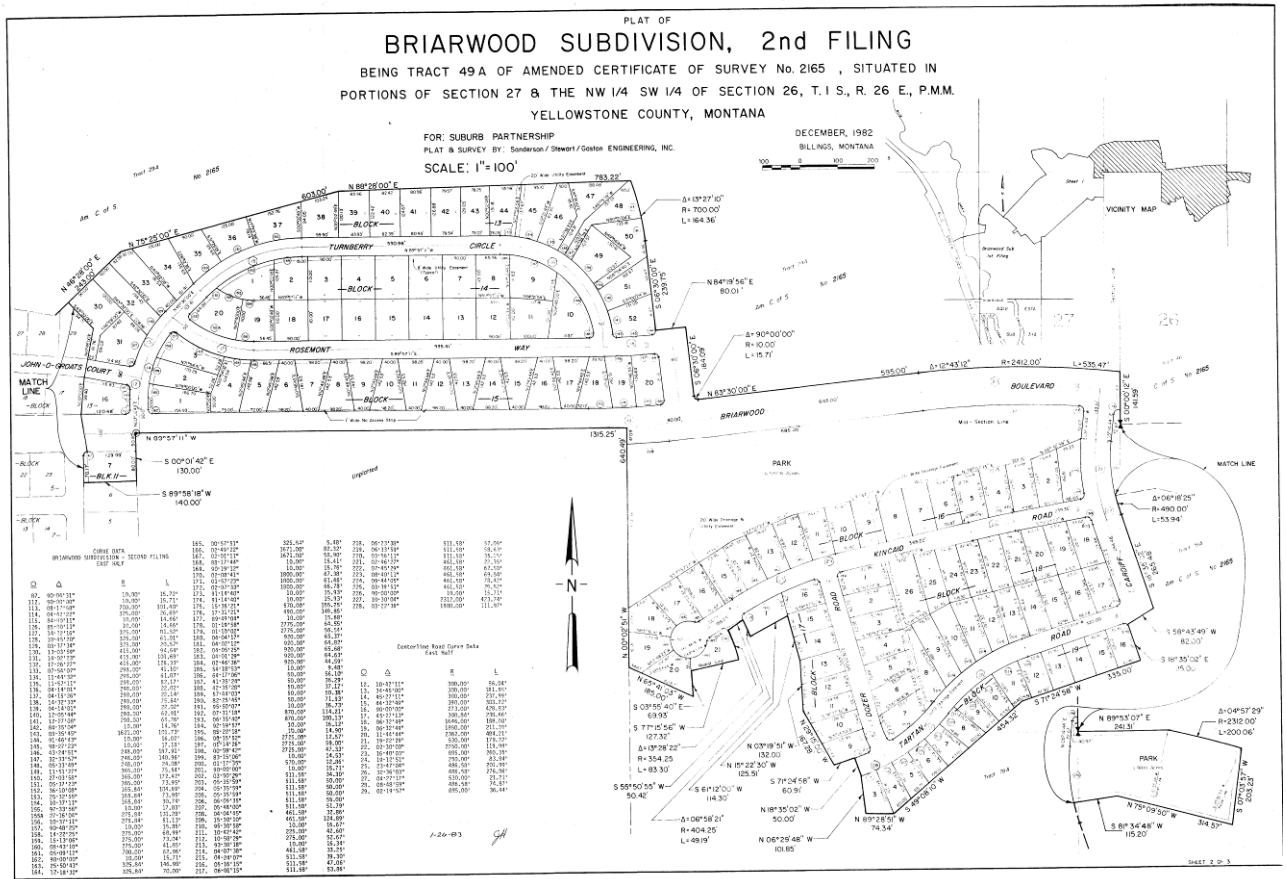
By: _____
Cari Martin City Clerk

Exhibit A

Briarwood Park Master Plan
(to be attached to the final draft.)

Exhibit B

Briarwood Subdivision 2nd Filing



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 9, 2009

TITLE: Public Hearing & Approval -- FY 2009 Federal Funding Projects Requests
DEPARTMENT: City Administrator's Office
PRESENTED BY: Tina Volek, City Administrator

PROBLEM/ISSUE STATEMENT: At its January 20, 2009, work session, the City Council reviewed City departments' recommendations for the 2009 Federal Funding Project Requests. The meeting ending with a dozen projects outlined on the attached list being selected by the Council for the City's annual submittal to the U.S. Congress. A ranking of those projects is being made on the basis of scoring being undertaken by individual Council members; the results of the rankings will be presented before the public hearing.

ALTERNATIVES ANALYZED:

- Hold the public hearing and approve the project list;
- Hold the public hearing and amend the project list;
- Hold the public hearing and take no action.

FINANCIAL IMPACT: The proposed project list would result in requests for \$24-31 million worth of projects. While not all projects will be funded, the Federal delegation has assisted the City in previous years in finding assistance for capital projects that the City otherwise would not be able to fund.

RECOMMENDATION

Hold the public hearing and approve the 2009 Federal Funding Projects Requests.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT

A. 2009 Federal Funding Projects Requests

2009

CITY OF BILLINGS, MONTANA



2009

FEDERAL FUNDING PROJECTS REQUESTS			
PROJECT TITLE	SCOPE	REQUEST ESTIMATE	PROJECT PROPOSED BY
Naval Reserve Center Environmental Remediation and Demolition	These City owned facilities, originally built and occupied by the Department of the Navy, have significant environmental problems. Funding is being sought to deal with these issues.	\$500,000	Finance and Administrative Services
Water Treatment Plant Backup Power	This will provide for a series of 4-5 large portable generators to provide emergency power to critical water facilities and place Billings in compliance with Federally mandated water system vulnerability standards.	\$1,200,000	Public Works Department
Digital Video Cameras	This project will complete the purchase of digital in-car video equipment in 70 patrol cars. This will be a significant improvement over inadequate VHS equipment presently used. It will assist the Department in prosecuting crimes and will enhance officer safety and increase officer accountability.	\$215,000 is needed to complete this project, partially funded last year.	Police Department
Regional Park Land Acquisition	To alleviate the issue of overcrowding in our community/regional parks, we propose the acquisition of a large contiguous tract of land between 80 and 100 acres to develop into a truly regional multi-use park. A tract of land this size would allow the development of large programmable open spaces and organized sports fields to help reduce the current over crowding we are experiencing in our large parks and provide the necessary amenities to meet the demands of our increases in population.	\$900,000	Parks Department
Replacement Paratransit Vans	The replacement of four aging vans that will meet the requirements for replacement by the time they are purchased. There is an ever increasing demand for transportation in the elderly and disabled community.	\$279,000	Aviation and Transit Department

DRAFT #4 - 01/21/09



CITY OF BILLINGS, MONTANA



FEDERAL FUNDING PROJECTS REQUESTS			
PROJECT TITLE	SCOPE	REQUEST ESTIMATE	PROJECT PROPOSED BY
MET Bus Replacements	The replacement of two 1998 buses soon eligible for retirement. They will soon have 250,000 miles and require much repair.	\$798,000	Aviation and Transit Department
CCTV for MET Buses	This project will allow the MET to continue the installation of closed circuit surveillance cameras on the remainder of its fleet. It will also address Homeland Security regulations.	\$153,500	Aviation and Transit Department
Bus Wash Renovations	The current facility was constructed in 1983 and is obsolete and in need of replacement. A renovated facility would provide a more environmentally friendly water recovery system and more efficient cleaning.	\$315,000	Aviation and Transit Department
Storm Water Improvements East End Industrial Area	The current storm water collection systems serve 2,812 acres of heavily developed urban area. The current storm drain system is significantly undersized for the urban runoff area and needs to be expanded to eliminate current flooding problems.	\$6,400,000	Public Works
Potable Water Treatment Facility Disinfection Upgrade	Primary disinfection of potable water occurs with chlorine. Liquid chlorine is a very effective disinfectant, but it is an extremely hazardous material. Our aging facilities (built in the 1950's), pending drinking water regulatory changes, and potential safety issues/concerns since September 11, 2001, necessitate us planning for alternatives to disinfect our drinking water. We must meet new codes soon!	\$6,500,000	Public Works
Fire Department Emergency Services Training Facility	This is intended to be a regional training facility, which would include our City Fire, Police, Aviation and Transit, and other Departments. Components could include a central training/classroom building, fire tower, other building mock-ups, driving track, confined space facilities, trench rescue functions, HazMat facilities, running fuel fire and propane systems, vehicle extrications, aircraft mock-up training, and multiple police functions. These and others, as not yet identified, are potentials. Functions could be added incrementally over multiple years as additional funding becomes available.	\$7,000,000 – \$14,000,000 Depending on what is included and when	Fire Department

DRAFT #4 – 01/21/09



CITY OF BILLINGS, MONTANA



FEDERAL FUNDING PROJECTS REQUESTS			
PROJECT TITLE	SCOPE	REQUEST ESTIMATE	PROJECT PROPOSED BY
Business Consortium Project	The Mayor's Committee on Homelessness proposes to facilitate the purchase and/or renovation of a building located in downtown Billings with the intent to provide housing in the upper levels for homeless individuals/families, and a storefront business on the lower level. Provisions can be made to accommodate service providers in the building, including healthcare, childcare, and occupational training. Locating all services to meet the needs of the homeless in a single site is a national best practice called "One Stop." The Business Consortium Project would be the first of its kind in Montana, and can be used as a model for implementation in other communities.	\$500,000	Planning Department

PLUS ANY ADDITIONAL CITY COUNCIL INITIATIVES

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA

 Monday, February 9, 2009

TITLE: Public Hearing and Resolution to Create SID 1384 Yellowstone Club Estates, superseding Resolution No. 08-18699
DEPARTMENT: Public Works/Engineering
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: Yellowstone Club Estates was served by a privately owned and maintained sanitary sewer system and treatment plant. W.O. 07-19, Yellowstone Country Club Sanitary Sewer Extension extended the existing City sewer main in Rimrock Road to a point in Yellowstone Country Club where it intercepted the private system just prior to entering the treatment plant. This connected all users of the private system to the City's main sanitary sewer system, and the treatment plant will subsequently be removed.

As when any property connects to the City's sewer system, there are sewer construction and sewer system development fees associated with the connection. At the April 14, 2008, City Council Meeting, Council approved Resolution No. 08-18699, declaring it to be the City's intent to create SID 1384. Changes have been made to SID 1384, and some property owners have paid their sewer construction and sewer system development fees in cash.

ALTERNATIVES ANALYZED:

1. After holding a public hearing, approve Resolution Creating SID 1384; or
2. After holding a public hearing do not approve the Resolution Creating SID 1384.

FINANCIAL IMPACT: The total costs of the Improvements, including such incidental costs, to be financed by the Bonds and included in SID 1384, are \$495,000.00.

RECOMMENDATION

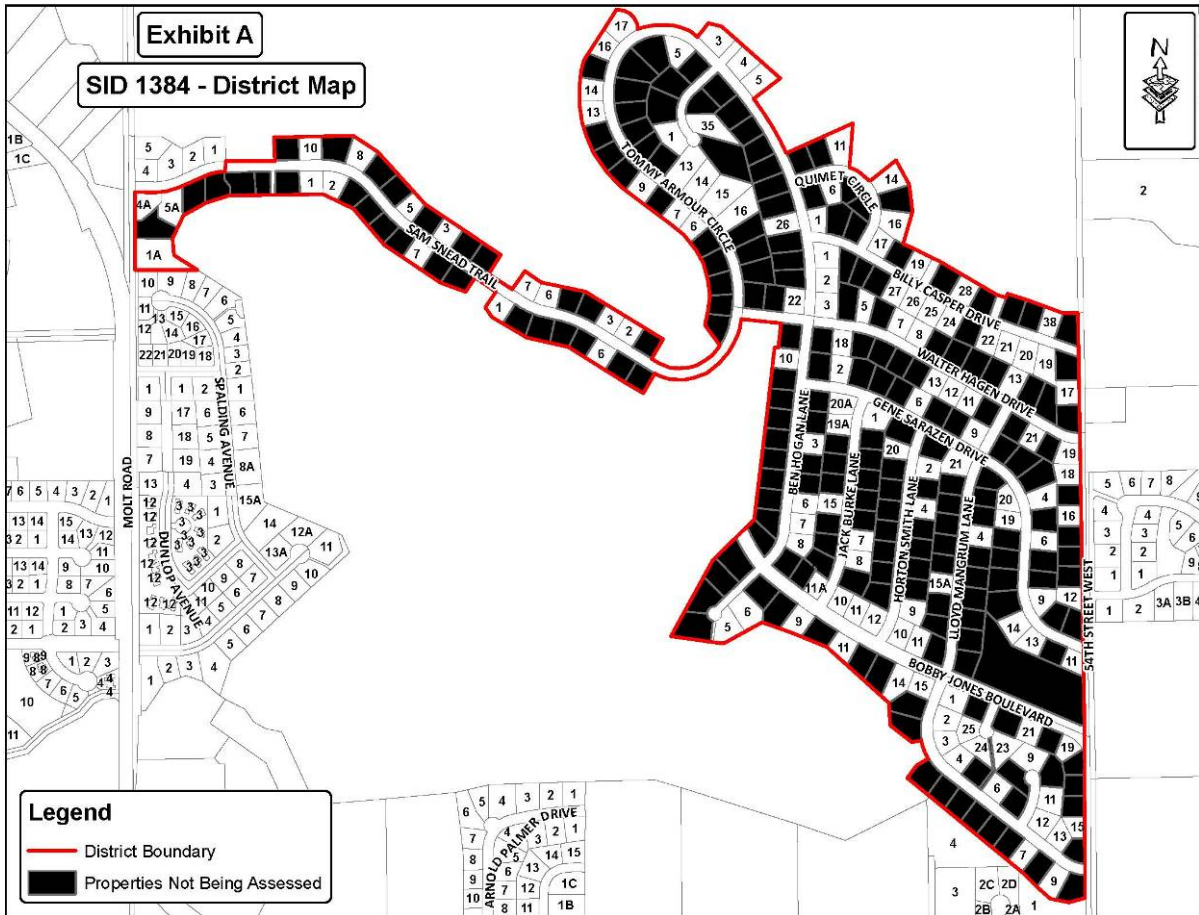
Staff recommends that Council approve the Resolution Creating SID 1384.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Boundary Map of Proposed Special Improvement District 1384

B. New Resolution to Create SID 1384



CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 09-_____, entitled: "RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. **1384**; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE" **and Repealing and Superseding Resolution No. 08-18699** (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on **February 9, 2009**, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Councilmembers voted in favor thereof: _____

_____; voted against the same: _____

_____; abstained from voting thereon: _____

_____; or were absent: _____

_____.

WITNESS my hand officially this _____ day of _____.

Cari Martin

CITY CLERK

RESOLUTION NO. 09-_____

RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. **1384**; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE, **AND REPEALING AND SUPERSEDING RESOLUTION NO. 08-18699.**

BE IT RESOLVED by the City Council of the City of Billings (the "City"), Montana, as follows:

Section 1. Recitals; Repeal of Resolution No. 08-18699. On April 14, 2008, the City Council of the City of Billings approved Resolution No. 08-18699, creating Special Improvement District No. 1384. Changes have occurred within the District that make it necessary and desirable to repeal Resolution No. 08-18699, and to proceed anew with the creation of Special Improvement District No. 1384.

Section 2. Passage of Resolution of Intention. This Council, on **January 12, 2009**, adopted Resolution No. **09-18783** (the "Resolution of Intention"), pursuant to which this Council declared its intention to create a special improvement district, designated as Special Improvement District No. **1384** of the City, under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of special improvement district bonds drawn on the District (the "Bonds"), the creating and administration of the District, the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with the law, and on **February 9, 2009**, this Council conducted a public hearing on the creation or extension of the District and the making of the Improvements. The meeting of this Council at which this resolution was adopted is the first regular meeting of the Council following the expiration of the period ended 15 days after the first date of publication of the notice of passage of the Resolution of Intention (the "Protest Period").

Section 3. Protests. Within the Protest Period, _____ protest was filed with the City Clerk and not withdrawn by the owners of property in the District subject to assessment for 100% of the total costs of the Improvements or representing 100% of the area of the District to be assessed for the cost of the Improvements. **The protest represents _____% of the assessed cost.**

Section 4. Creation of the District; Insufficiency of Protests. The District is hereby created on the terms and conditions set forth in, and otherwise in accordance with, the Resolution of Intention. The protests against the creation or extension of the District or the making of the Improvements filed during the Protest Period, if any, are hereby found to be insufficient. The

findings and determinations made in the Resolution of Intention are hereby ratified and confirmed.

Section 5. Reimbursement Expenditures.

5.01. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

5.02. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2 (j) (2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2 (f) (2) of the Regulations, or (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2 (f) (1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

5.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs for the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of **\$495,000** after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2 (d) (3) of the Regulations.

5.04. Budgetary Matters. As of the date hereof, there are not City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

5.05. Reimbursement Allocations. The City's financial officer shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 9th day of February 2009.

THE CITY OF BILLINGS:

BY _____
Ron Tussing MAYOR

ATTEST:

BY Cari Martin CITY CLERK

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA

 Monday, February 9, 2009

TITLE: W.O. 08-02, 2008 Miscellaneous/Developer Related Project – Public Hearing and Resolution Ordering Improvements

DEPARTMENT: Public Works - Engineering

PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: On January 12, 2009, Council passed a Resolution of Intent for this project and established a Public Hearing date of February 09, 2009. After conducting the Public Hearing, in order to proceed with construction of the project, Council must pass a resolution ordering construction of the improvements.

FINANCIAL IMPACT: The proposed project is funded through multiple sources, including direct property assessments for a total project cost of \$601,000, as follows:

Estimated Assessed Costs	\$326,000
Storm Drain Funds	\$52,500
Gas Tax Funds	\$217,500
Public Works Belknap Funds	\$5,000

Funding for the proposed project has already been authorized in the Capital Improvement Plan and is identified in the Fiscal Year 2009 budget.

RECOMMENDATION

Staff recommends that Council pass a resolution ordering construction of the improvements identified in Work Order 08-02, 2008 Miscellaneous/Developer Related Project.

Approved By: **City Administrator** ____ **City Attorney** ____

ATTACHMENT

A. Resolution Ordering Improvements

INTRODUCTION

The proposed project represents curb, gutter, and sidewalk improvements at various locations in the city. This is a continuation of a long-standing annual program to deal with these various improvements.

PROCEDURAL HISTORY

- Projects requested by property owners – 2007 and 2008
- Field inventory completed and estimated project cost calculated – Fall 2008
- Resolution of Intent – January 12, 2009
- Notify affected property owners of proposed project – January 22, 2009
- Public Hearing and Resolution Ordering Improvements – February 09, 2009
- Construction – Summer/Fall 2009

BACKGROUND

The proposed project represents two categories of properties. The first category is unfulfilled building permit obligations. The City of Billings Site Development and/or Subdivision Ordinances require the installation of public improvements in conjunction with the issuance of building permits. A small number of these properties either did not complete the requirements of the right-of-way permits or have requested that the improvements be completed under the City's project. Per Council policy, the uncompleted right-of-way permits are included in the next annual Developer Related Program. The costs of completing these improvements are assessed to the property owner.

The second category represents continuation of the annual improvements project for dealing with tripping hazards, drainage problems, property owner requests, citizen complaints, and other miscellaneous concrete work brought to the attention of the City Engineer's Office. This program proposes a continuation of the Council policy of allocating Gas Tax Funds for reconstruction of side street frontages on corner lots and to cover the cost of curb and gutter repair.

The proposed project also uses additional funding allocations to cover costs not normally assessed to property owners. A Storm Drain Fund allocation is used for repairing defective valley gutters, improperly graded curb and gutter, and substandard storm drain inlets; and a Public Works/Belknap Repair Fund allocation allows for minor adjustments of water lines.

RECOMMENDATION

Staff recommends that Council pass a resolution ordering construction of the improvements identified in Work Order 08-02, 2008 Miscellaneous/Developer Related Project.

ATTACHMENT

- A. Resolution Ordering Improvements

RESOLUTION NO. 08 - _____

A RESOLUTION RELATING TO W.O. 08-02, MISCELLANEOUS /DEVELOPER-RELATED IMPROVEMENTS; ORDERING THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.

BE IT RESOLVED by the City Council of the City of Billings (the "City"), Montana, as follows:

Section 1. Passage of Resolution of Intention. This Council, on January 12, 2009, adopted Resolution No. 09-18782 (the "Resolution of Intention"), pursuant to which this Council declared its intention to order in certain sidewalks, curb, gutter and street improvements, designated as W.O. 08-02 (the "Project") of the City, under Montana Code Annotated, Title 7, Chapter 14, Part 41, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of sidewalk, curb and sidewalk, curb and gutter improvement bonds drawn on the Project (the "Bonds"), the creation and administration of the Project, and the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with law, and on February 9, 2009, this Council conducted a public hearing on the ordering in of the Project and the making of the Improvements.

Section 3. Order. It is hereby ordered that the following improvements shall be constructed, reconstructed, repaired, or replaced:

See Exhibit "A" attached hereto.

Section 4. Affected Properties. All properties which will be required to pay any portion of the costs of the improvements identified herein are identified in Exhibit "B" attached hereto.

Section 5. Reimbursement Expenditures.

5.01. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

5.02. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provisions contained in Section 1.150-2(j) (2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

5.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$326,000 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

5.04. Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the city’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

5.05. Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be

evidenced by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

Section 6. Property Owner Option to Construct Improvements. Notice of passage of this Resolution shall be mailed to all affected property owners and said owners shall have thirty (30) days from the date of said Notice in which to install the ordered improvements at their cost and expense. In the event the owners do not take said action within the said thirty (30) day period, the City will install the improvements and will assess the costs thereof, all costs of administration and engineering and all bond issuance costs against the real property.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 9th day of February 2009.

THE CITY OF BILLINGS:

BY _____
Ron Tussing MAYOR

ATTEST:

BY _____
CITY CLERK