

City Council Regular

Date: 06/12/2023
Title: Public Hearing and Resolution Creating SILMD 331
Presented by: Debi Meling
Department: Public Works
Presentation: Yes
Legal Review: Yes
Project Number: N/A

COUNCIL ACTION APP 11-0
RCS 23-11127
JUN 12 2023
JK
CITY CLEARED

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the resolution creating SILMD 331 if the valid protest does not exceed 50%.

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

Property owners along Montana Avenue desire to have the existing lights of SILMD 18 & 208 upgraded to more efficient LED lighting. The lighting improvements include the retrofitting of 10 cobra-head style streetlights and 13 decorative pedestrian-style streetlights within the project area. In order to install these improvements, it becomes necessary to create a Special Improvement Light Maintenance District (SILMD). The installation cost will be assessed to all properties with frontage along the streets to receive streetlights. The City will administer the SILMD by assessing the property owners for the costs of maintaining the district and paying Northwestern Energy for the electricity. Council approved a Resolution of Intent to Create SILMD 331 at the May 22, 2023, meeting and set a June 12, 2023, public hearing on the proposed district. Legal notice of the proposed district and public hearing was published and mailed to all property owners in the proposed district in accordance with State law. Of the 28 tax codes, 1 of those has a valid Waiver of Right to Protest an SID.

The new lighting will use the existing light poles with LED lamps and underground wiring and service meters will be installed at any current un-metered service within the existing Districts 18 & 208. Upon creation, SILMD 18 & 208 will be discontinued.

The deadline for written protests is Monday, June 12th, 2023, at 12:00 p.m. The number and percentage of valid written protests received will be reported to City Council at the June 12, 2023, Council meeting. As provided in State law, the City Council has the authority to create the district if the legal protest does not exceed 50%.

ALTERNATIVES

City Council may:

- Approve the Resolution creating SILMD 331 to provide a source of funding for the installation, operation, maintenance and replacement of the streetlights; or
- Not approve the Resolution creating the district. If the Council does not adopt the Resolution, the property owners cannot be assessed for the operation, maintenance and replacement of the streetlights and the new lighting will not be installed.

FISCAL EFFECTS

The initial cost to retrofit the existing lights will be paid for by assessments to property owners for 15 years. The ongoing operations and maintenance costs will be assessed as long as the district is in place.

All costs of providing energy and ongoing maintenance for the lighting are paid from assessments against the properties within the light district with one exception. The United States Federal Building at the Northwest corner of North 26th Street lies within the SILMD 331 Boundary. The estimated assessments for this property are \$382.14 for the maintenance and \$2,357.14 for the improvements. Based on MCA 7-12-4326, Treatment of Federal Lands Within Lighting District, assessments for federally owned properties are paid out of the City's General Fund.

Attachments

SILMD 331 Resolution to Create

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 23-11127, entitled: "RESOLUTION RELATING TO SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 331; 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 PROVIDING FOR THE ONGOING MAINTENANCE OF SUCH IMPROVEMENTS AND SUPPLYING ELECTRICAL CURRENT THEREFOR" (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 **June 12, 2023**, 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 Council members voted in favor thereof: Shaw, Gulick, Neese, Owen, Joy, Choriki, Tidswell, Purinton, Boyett, Rupsis and Mayor Cole; voted against the same: N/A; abstained from voting thereon: N/A; or were absent: N/A.

WITNESS my hand officially this 12th day of June, 2023.



Denise R. Bohlman, City Clerk



RESOLUTION 23-11127

RESOLUTION RELATING TO SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 331; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN STREET LIGHTING IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT LIGHTING DISTRICT BONDS SECURED BY THE CITY'S REVOLVING FUND; AND PROVIDING FOR THE ONGOING MAINTENANCE OF SUCH IMPROVEMENTS AND SUPPLYING ELECTRICAL CURRENT THEREFOR

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 **May 22, 2023**, adopted Resolution No. **23-11117** (the "Resolution of Intention"), pursuant to which this Council declared its intention to create a special improvement lighting district, designated as Special Improvement Lighting District No. **331** of the City, under Montana Code Annotated, Title 7, Chapter 12, Parts 41, 42 and 43, 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").

In addition, it is the intention of this Council to provide for the ongoing maintenance for the Improvements and supplying electrical current therefor (the "Maintenance"), and to assess the costs and expenses thereof against the lots and parcels of land within the District, in accordance with the Act and the Resolution of Intention.

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 **June 12, 2023**, this Council conducted a public hearing on the creation of the District and the making of the Improvements and providing ongoing Maintenance. 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, 1 protests were filed with the City Clerk and not withdrawn by the owners of property in the District subject to assessment for 3.6 % of the total costs of the Improvements. **The protest represents 3.6 % of the costs of the Improvements to be assessed.**

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 of the District, the making of the Improvements and the ongoing maintenance thereof 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. Maintenance.

5.01 The City of Billings intends to establish the contract rate for supplying electrical energy in accordance with the rate schedule approved by the Montana Public Service Commission. NorthWestern Energy Company shall provide energy to the lighting fixtures. The City of Billings shall provide normal maintenance and replacement as needed to lighting fixtures, poles, cables and other incidental equipment, and shall at all times own said lighting fixtures, poles, cables and other incidental equipment.

5.02 The estimate of the cost of operating and maintaining the Improvements in the District per year, including City administrative costs, is \$10,700; the entire cost of said operation and maintenance shall be paid by the owners of the property depicted in Exhibit "A" and the estimated individual property assessments for the first year following creation of the District are depicted in Exhibit "B", with each lot, parcel or piece of land within the District to be assessed equally, exclusive of streets, avenues, alleys and public places.

5.03 The entire cost of the District shall be paid by an annual assessment against the property in the District. All monies derived from the collection of such assessments shall be paid into a fund to be known as the "Special Improvement Lighting Maintenance District No. 331 Maintenance Fund", and warrants shall be drawn on said fund for the payment of such cost of maintaining or replacement as needed said lights, wiring, fixtures and poles and supplying electrical current therefore.

Section 6. Further Details. That reference is hereby made to Resolution 23-11117, the maps, specifications, boundaries, and perimeter pertaining to the District, on file in the offices of the City Clerk and City Engineer, for further particulars, all of which are made a part hereof.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana,
this 12th day of June, 2023.



CITY OF BILLINGS:

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

ATTEST:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk

EXHIBIT A

SILMD 331 - MONTANA AVENUE STREET LIGHT IMPROVEMENTS

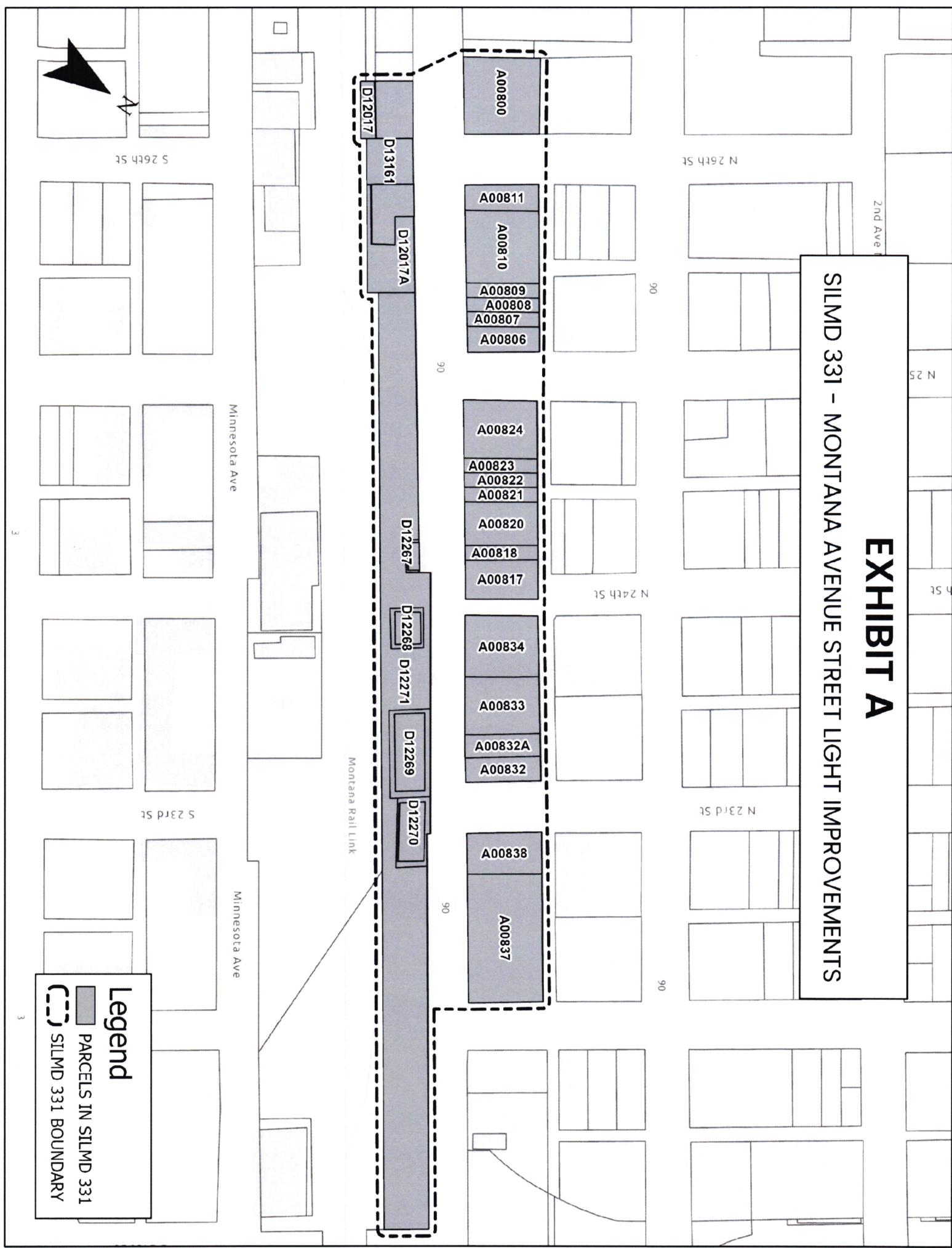


EXHIBIT B

Tax ID	Owner Name	Short Legal Description	Yearly Equal Assessment Estimate for Maintenance	Equal Assessment Estimate for Improvements
A00800	UNITED STATES FEDERAL BUILDING	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 110, Lot 1 - 6, E15.21' LT 6 ALL LTS 19-24 & VAC ADJ ALLEY (FED BLDG)	\$ 382.14	\$ 2,357.14
A00806	COMPUTERS UNLIMITED	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 111, Lot 1 - 2	\$ 382.14	\$ 2,357.14
A00807	RPS, LLC	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 111, Lot 3	\$ 382.14	\$ 2,357.14
A00808	ANDESITE-SUMMIT LLC	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 111, Lot 4	\$ 382.14	\$ 2,357.14
A00809	KOYAMA, HARRY & SHERI	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 111, Lot 5	\$ 382.14	\$ 2,357.14
A00810	COMPUTERS UNLIMITED	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 111, Lot 6 - 10	\$ 382.14	\$ 2,357.14
A00811	MERYCO PARTNERSHIP, LLP	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 111, Lot 11 - 12	\$ 382.14	\$ 2,357.14
A00817	LARSON FAMILY PROPERTIES LLC	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 112, Lot 1, & 40'X 130' (W2 N24TH ST) ADJ VAC STREET (98)	\$ 382.14	\$ 2,357.14
A00818	PRISM PROPERTY LLC	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 112, Lot 2	\$ 382.14	\$ 2,357.14
A00820	COMPUTERS PARTNERSHIP	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 112, Lot 3 - 5, (09)	\$ 382.14	\$ 2,357.14
A00821	GREGORY, MICHAEL T & ALEXANDRA L	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 112, Lot 6	\$ 382.14	\$ 2,357.14
A00822	NELSON, ANDY & BERT	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 112, Lot 7	\$ 382.14	\$ 2,357.14
A00823	COMPUTERS UNLIMITED	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 112, Lot 8	\$ 382.14	\$ 2,357.14
A00824	COMPUTERS UNLIMITED	BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 112, Lot 9 - 12, (17)	\$ 382.14	\$ 2,357.14
A00832	D B SQUARED LLC	BILLINGS ORIGINAL TOWNSITE, S33, T01 N, R26 E, BLOCK 113, Lot 1 - 2	\$ 382.14	\$ 2,357.14
A00832A	RUGER PROPERTIES LLC	BILLINGS ORIGINAL TOWNSITE, S33, T01 N, R26 E, BLOCK 113, Lot 3 - 4A, AMD (08)	\$ 382.14	\$ 2,357.14
A00833	COMPUTERS UNLIMITED	BILLINGS ORIGINAL TOWNSITE, S33, T01 N, R26 E, BLOCK 113, Lot 5A, & 6-7, 8A AMD (08)	\$ 382.14	\$ 2,357.14
A00834	PLAZA HOTEL PARTNERSHIP	BILLINGS ORIGINAL TOWNSITE, S33, T01 N, R26 E, BLOCK 113, Lot 9A - 12, (08)	\$ 382.14	\$ 2,357.14
A00837	BAR MW PROPERTIES LLC	BILLINGS ORIGINAL TOWNSITE, S33, T01 N, R26 E, BLOCK 114, Lot 1 - 9	\$ 382.14	\$ 2,357.14
A00838	2223 MONTANA LLC	BILLINGS ORIGINAL TOWNSITE, S33, T01 N, R26 E, BLOCK 114, Lot 10 - 12	\$ 382.14	\$ 2,357.14
D12017	MONTANA RAIL LINK	E97 S03, T01 S, R26 E, MRL LEASE #501,105 9000 SQFT AT 2608-2606 MONTANA AVE WAREHOUSE & PLATFORM (IMPS @ I-251) (13)	\$ 382.14	\$ 2,357.14
D12017A	MONTANA RAIL LINK	E97 S03, T01 S, R26 E, MRL LEASE #501059 OFFICE & DRY STORAGE WAREHOUSE @ 2526 MT AVE (IMPS AT I251A) (13)	\$ 382.14	\$ 2,357.14
D12267	BURLINGTON NORTHERN	E97 S03, T01 S, R26 E, MRL PARTIAL LEASE #500,500 1740 SQ.FT FOR LAND UNDER RY POST OFFICE BLDG (IMPS AT I-261) (96)	\$ 382.14	\$ 2,357.14
D12268	MONTANA RAIL LINK	E97 S03, T01 S, R26 E, MRL PARTIAL LEASE #500,500 2480 SQ.FT FOR LAND UNDER LUNCH ROOM BLDG (IMPS AT I-622) (96)	\$ 382.14	\$ 2,357.14
D12269	MONTANA RAIL LINK	E97 S03, T01 S, R26 E, MRL PARTIAL LEASE #500,500, 121,285, 10,740 SQ.FT FOR LAND UNDER PASSENGER STATION DEPOT (LAND AT I006230)	\$ 382.14	\$ 2,357.14
D12270	MONTANA RAIL LINK	E97 S03, T01 S, R26 E, MRL PARTIAL LEASE #500,500 FOR 121,285 TOTAL, 4,800 SQ.FT LAND UNDER RY SERVICE BLDG (IMPS AT I006240)	\$ 382.14	\$ 2,357.14
D12271	MONTANA RAIL LINK	E97 S03, T01 S, R26 E, MRL LEASE #500,500 121,285 SQ.FT LESS 19,760 SQ.FT UNDER 4 IMPS FINAL SQ.FT 101,525 SQ.FT (96)	\$ 382.14	\$ 2,357.14
D13161	MONTANA RAIL LINK	E97 S03, T01 S, R26 E, MRL LEASE #501,624 6,560 SQFT (13)	\$ 382.14	\$ 2,357.14
			\$ 10,700.00	\$ 66,000.00