

Agenda Items



City of Billings
Community Development Division - Memorandum

2825 3rd Avenue North, Billings, MT 59101 406.657.8281 Fax: 406.294.7595 www.ci.billings.mt.us/comdev

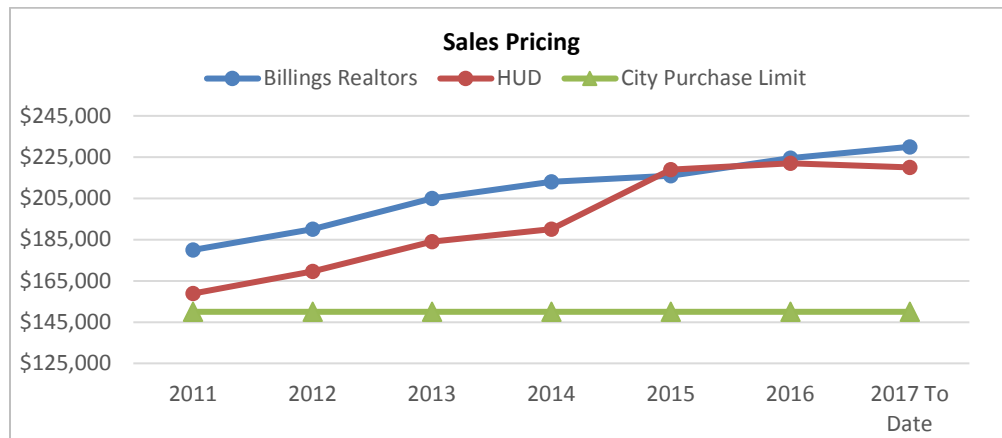
Date: August 23, 2017
 To: Billings City Council
 Tina Volek, City Administrator
 Wyeth Friday, Planning & Community Services Department Director
 From: Brenda Beckett, Community Development Manager
 Re: City Council Agenda Item - Contract Limits for Foreclosure Programs

Overview: Staff will be asking the City Council to approve a Resolution to utilize standardized data to establish the purchase, rehabilitation, and demolition contract limits for the Foreclosure Acquisition / Rehabilitation and Neighborhood Stabilization programs. The use of standardized limits is a more effective and efficient way to manage the City’s programs and reflects current and local housing conditions.

Staff is proposing to utilize a percentage of HUD’s current area median sales price to set the acquisition, rehabilitation, and demolition limits for the City’s Foreclosure programs. HUD’s limits are adjusted on an annual basis.

	2010 Limits	Industry % Increases	Current Pricing Estimates	Current Area Median Sales Price	\$220,000
Acquisition	\$150,000	38.49%	\$207,735	95% Acquisition Limit	\$209,000
Rehabilitation	\$80,000	15.7%	\$92,560	50% Rehabilitation Limit	\$110,000
Demolition	\$20,000	15.7%	\$23,140	15% Demolition Limit	\$33,000

Acquisition: The first limits for the City’s foreclosure programs were set in 2010. Data from the Billings Association of Realtors and the U.S. Department of Housing and Urban Development (HUD) illustrates significant increases in median sales pricing, while the City’s purchase price limits have remained static at \$150,000. Setting the acquisition limit at 95 percent would also match the regulatory purchase price limit for the City’s HOME First Time Home Buyer program.

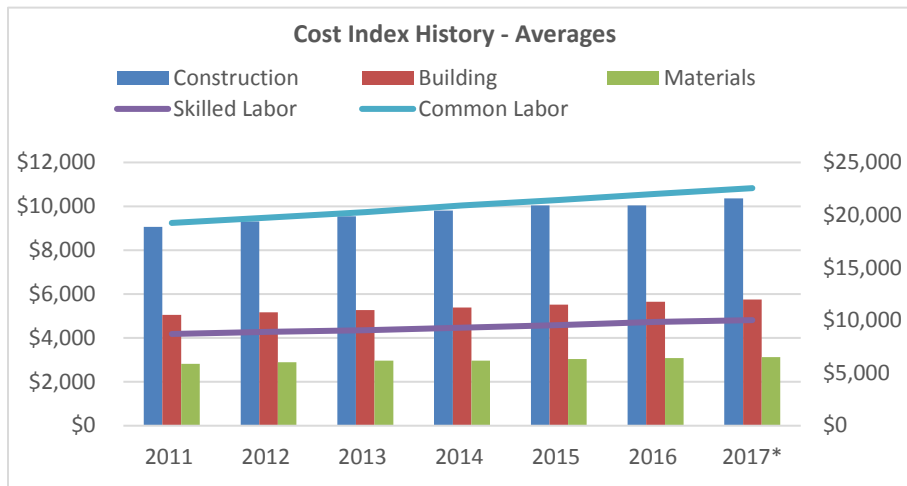


	Billings Realtors	HUD	City Purchase Limit
2011	\$180,000	\$158,860	\$150,000
2012	\$190,058	\$169,601	
2013	\$205,000	\$183,950	
2014	\$213,000	\$190,000	
2015	\$216,000	\$219,000	
2016	\$224,500	\$222,000	
2017 To Date	\$230,000	\$220,000	
% Increase	28%	38.49%	0%

Rehabilitation and Demolition: Construction, building, materials and labor costs have also increased from approximately 11 to 17 percent over the same time period. The 2010 limits for rehabilitation have remained at \$80,000 from 2010 to the present.

Cost History Index Annual Averagesⁱ					
<i>Engineering News-Record www.enr.com</i>					
<i>Year</i>	<i>Construction</i>	<i>Building</i>	<i>Materials</i>	<i>Skilled Labor</i>	<i>Common Labor</i>
2011	\$9,070	\$5,058	\$2,826	\$8,712	\$19,257
2012	\$9,308	\$5,174	\$2,896	\$8,901	\$19,770
2013	\$9,547	\$5,278	\$2,961	\$9,068	\$20,291
2014	\$9,806	\$5,387	\$2,966	\$9,302	\$20,918
2015	\$10,035	\$5,518	\$3,046	\$9,565	\$21,440
2016	\$10,038	\$5,645	\$3,078	\$9,854	\$22,017
2017*	\$10,362	\$5,751	\$3,134	\$10,027	\$22,559
% Increase	14.24%	13.70%	10.89%	15.09%	17.15%

**2017 Estimates*

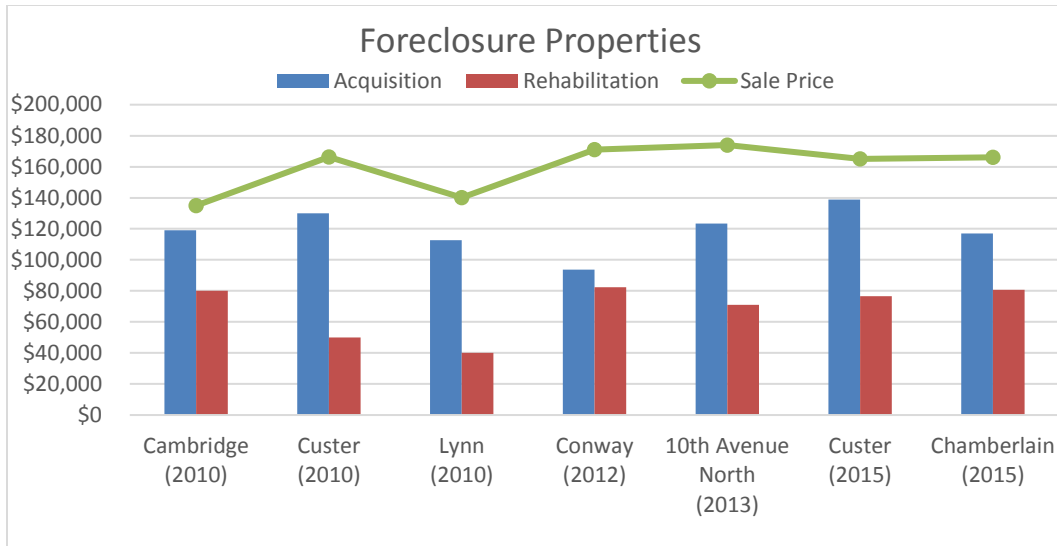


*Left Axis relates to Construction, Building, and Materials costs in bar chart format.
Right Axis relates to Skilled and Common Labor costs in line trend format.*

Staff notes the *Construction* and *Common Labor* costs are most relevant to housing rehabilitation estimates, as there is a current labor shortage impacting the City’s home repair programs and contractor availability. Averaging the Construction and Common Labor increases totals 15.7 percent.

By the Numbers:

- Acquisition has ranged from approximately \$94,000 to \$139,000 with an average purchase price of **\$120,000**.
- Rehabilitation and appliance costs have ranged from \$40,000 to \$83,000 and average just under **\$70,000**.
- The increase in appraised home value after rehabilitation ranges from 13 to 84 percent with an average of **33 percent**.
- Sales prices have ranged from \$135,000 to \$174,000 and average at approximately **\$160,000**.
- The City has been repaid **\$578,000** in proceeds from the sale of the properties and this funding was reinvested in the purchase of subsequent properties.
- The City maintains liens on assisted properties totaling **\$414,000** which will be returned to the City for reinvestment in the program when the properties are refinanced or sold.
- Staff has reviewed a total of 17 foreclosed properties since 2015; 11 of the properties were valued over \$150,000.



Dates refer to year of acquisition.

ⁱ The Engineering News-Record uses various formulas from 20 cities to track cost indexes using a labor hours plus the cost of steel, cement, and lumber. For more information, please refer to their website at http://www.enr.com/economics/historical_indices.



FROM THE DESK OF . . .

Tina Volek

City Administrator

PO Box 1178

Billings, MT 59103

(406) 657-8430 FAX (406) 657-8390

email: volekc@ci.billings.mt.us

MEMORANDUM

To: Mayor & City Council
Date: Thursday, September 07, 2017
Subject: Babcock Transfer Agreement -- Agenda Item 2

Attached for the Council's review is a revised version of the Transfer Agreement for the Babcock Theater from Babcock LLC to the City. This agreement includes the acquisition for \$127,977 of the green room, its personal property and the personal property for the theater, which were recommended for purchase by the Council's Ad-Hoc Committee on the Future Uses and Management of the Babcock Theater.

If the City Council approves the agreement, staff will proceed with the issuance of the request for proposals for the Babcock's management while under City ownership, as well as an alternate request for offers to purchase the theater from the City.

September 6, 2017

TRANSFER AGREEMENT

This Transfer Agreement (“Agreement”) is entered into as of September __, 2017, by and between City of Billings, a municipality of the State of Montana (“City”), the Downtown Billings Partnership, Inc., an I.R.C. §501(c)(4) Montana non-profit corporation (“DBP”), and The Babcock, LLC, a Montana limited liability company, with its principal place of business at 115 North Broadway, #515, Billings, Montana (“Developer”).

WHEREAS, City, DBP, and Developer entered into a Development Agreement dated September 22, 2008 (“Development Agreement”) to set forth the terms and conditions for an urban renewal project whereby City and DBP would grant tax increment financing funds to Developer for the purchase and rehabilitation of the Babcock Building in downtown Billings.

WHEREAS, pursuant to the terms of the Development Agreement, City would receive title to the portion of the Babcock Building constituting the Babcock Theater following certain stabilization, restoration, and improvements to the Theater.

WHEREAS, Developer’s performance of the Development Agreement and transfer of the Theater was secured by a Deed of Trust in favor of City dated October 2, 2008 and recorded in the records of Yellowstone County, Montana on October 3, 2008 as Instrument No. 3482269 (“City Deed of Trust”).

WHEREAS, Developer’s performance of the Development Agreement was also guaranteed by Developer’s individual limited liability company members, namely Donald Olsen, Kimberly A. Olsen, Katherine G. Foster, and Michael S. Mathew by execution of a member guarantee (“Member Guarantee”).

WHEREAS, effective January 25, 2010, City, DBP and Developer entered into a First Amendment to the Development Agreement to extend the time and construction schedule for Developer to complete the improvements required under Phase 1 of the Development Agreement, including completion of unit ownership documents for the Babcock Building.

WHEREAS, the Historic Babcock Building Non-Profit Owners Association was formed as a Montana unincorporated association on or about May 26, 2010.” Bylaws of The Historic Babcock Building Non-Profit Owners Association dated May 26, 2010 were executed by officers of the Owners Association, upon approval by City and DBP.

WHEREAS, a Declaration of Unit Ownership for Historic Babcock Building dated May 26, 2010 was executed by Developer and recorded on June 25, 2010 under Document No. 3553865 in the records of Yellowstone County, Montana (“Declaration of Unit Ownership”), upon approval of City and DBP. Pursuant to the Declaration of Unit Ownership, Unit 1A of the Historic Babcock Building is the Theater Unit, Unit 1B is retail space and apartments, and Unit 1C is the Montague’s Jewelry retail space unit.

WHEREAS, by letter dated May 25, 2012 DBP provided Developer with a Certificate

of Completion of work and improvements set forth in Phases 1, 2 and 3 of the Development Agreement.

WHEREAS, pursuant to the Second Amendment to Development Agreement effective May 13, 2013, City approved an extension of time for Developer to convey the Theater Unit to City until March 15, 2017.

WHEREAS, City, DBP and Developer have engaged in negotiations since early 2017 to resolve issues related to the transfer of the Theater Unit to City, including conveyance of additional space in the Babcock Building consisting of a green room constructed in the basement of Unit 1B, sale of items of personal property purchased by Developer for the theater and the green room, identification of certain utility improvements, amendment of the Declaration of Unit Ownership, additional work and improvements provided by Developer not anticipated in the Development Agreement, and related matters.

WHEREAS, City, DBP and Developer have reached an agreement, subject to approval of the City Council for resolution of the remaining issues regarding transfer of the proposed and enlarged Unit 1A to the City.

WHEREAS, DBP, City, and Developer wish to enter into this Agreement to set forth the terms and conditions of Developer's transfer of Unit 1A to City.

NOW, THEREFORE, City, DBP, and Developer agree as follows:

1. The Declaration of Unit Ownership shall be amended by a First Amendment to Declaration of Unit Ownership in the approximate form attached hereto as Exhibit A, to include the green room space as part of Unit 1A, amend the percentages of square foot ownership and responsibility for general common expenses accordingly, and to amend the floor plan exhibits to reflect the current utility and HVAC locations, responsibilities and access provisions ("First Amendment to Declaration of Unit Ownership"). Developer shall prepare and provide City with the First Amendment to Declaration of Unit Ownership and any other documents necessary to approve and record the First Amendment to Declaration of Unit Ownership. The final form of the First Amendment to Declaration of Unit Ownership shall be subject to City's approval and City's consent prior to execution and recording. The parties shall cooperate to file the final approved First Amendment to Declaration of Unit Ownership prior to or contemporaneously with Closing and the transfer of Unit 1A to City.

2. At Closing, Developer shall transfer and convey Unit 1A as described in the First Amendment to Declaration of Unit Ownership to City by Warranty Deed in the form attached hereto as Exhibit B, free and clear of all liens and encumbrances, subject only to title exceptions acceptable to City, in its sole discretion.

3. Developer shall sell and City shall purchase from Developer the personal property associated with Unit 1A (consisting of the original Theater Unit and the green room) as set forth in the exhibit(s) to the Bill of Sale ("Personal Property"). At Closing, Developer

shall deliver to City a Bill of Sale in substantially the same form attached hereto as Exhibit C to transfer ownership of the Personal Property to City, free and clear of all liens and encumbrances.

4. At Closing, City shall pay to Developer the sum of One Hundred Twenty Seven Thousand Nine Hundred Seventy Seven Dollars (\$127,977.00) as consideration for the purchase of the green room space and the Personal Property.

5. At Closing, City shall deliver for recording an executed Deed of Reconveyance of the City Deed of Trust in the form attached hereto as Exhibit D (“City Deed of Reconveyance”). At Closing, City shall provide Developer with a release of the member guarantees; and, the parties will execute a mutual release of obligations under the Development Agreement in the form attached hereto as Exhibit E (“Release of Development Agreement and Member Guarantees”). At Closing and upon such transfer in accordance with this Agreement the parties shall execute and deliver the Release of Development Agreement and Member Guarantees.

6. Closing of the transactions provided for in this Agreement and the Development Agreement shall take place at American Title and Escrow in Billings, Montana (“Closing Agent”) on or before October __, 2017 (“Closing”). Developer and City shall share the closing costs equally. City shall be responsible for the cost of an owner’s policy of title insurance for Unit 1A. Property taxes or government fees assessed against Unit 1A for the period from March 15, 2017 to Closing shall be the responsibility of City when due. All property taxes or government fees assessed against Unit 1A for any period prior to March 15, 2017 shall be the responsibility of Developer when due. City shall take possession of Unit 1A effective upon Closing.

7. At Closing, Developer shall deliver the following:

- a. Executed Warranty Deed
- b. Executed Bill of Sale
- c. Executed Release of Development Agreement and Member Guarantees
- d. Executed Articles of Dissolution for The Babcock Theatre, a Montana non-profit corporation
- c. Any other executed documents required by Closing Agent.

At Closing, City shall deliver the following:

- a. Executed City Deed of Reconveyance
- b. Executed Release of Development Agreement and Member Guarantees
- c. Funds for purchase price for green room and Personal Property.
- d. Any other executed documents required by Closing Agent.

8. At or prior to Closing, City shall reimburse Developer for the amounts of utilities, insurance, association assessments, maintenance costs, and other expenses for which

City agrees to be obligated arising after March 15, 2017, as more fully set forth in Exhibit F or any similar written invoice or itemization hereafter delivered to City by Developer in accordance with this section.

9. Within ten (10) business days after Closing, Developer shall cause the Historic Babcock Non-Profit Owners Association to convene a meeting of the members of the Association to elect or appoint Directors, conduct all necessary business, and continue operation pursuant to the terms of the Bylaws and First Amendment to Declaration of Unit Ownership.

10. Promptly following Closing, Developer shall design and provide a proposal for construction of a door adjacent to the entrance to the green room to limit access to the basement hallway connecting Unit 1A and Unit 1B. The final plan and budget for the door shall be subject to City's approval. The cost of construction of the new door shall be paid equally by City and Developer.

11. City, DBP and Developer shall execute and deliver any additional documents necessary to carry into effect the Development Agreement, this Agreement and the Closing.

12. All notices or other communications required or permitted hereunder must be in writing, and must be personally delivered (including by a professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below. All notices sent by mail will be deemed received 2 (two) days after the date of mailing and all notices sent by other means permitted herein shall be deemed received on the date delivered. Notices will be sent as follows to:

City: City of Billings
Attn: Brent Brooks City Attorney
210 North 27th Street
Billings, MT 59101
Telephone: (406) 657-8202
Facsimile: (406) 657-3067

DBP: Downtown Billings Partnership, Inc.
Attn: Executive Director
2815 2nd Ave. N.
PO Box 2117
Billings, MT 59103
Telephone: (406) 294-5060
Facsimile: (406) 294-5061

Developer: The Babcock, LLC
Attn: Michael S. Mathew
115 North Broadway, #515
Billings, MT 59101

Telephone: (406) 860-5313
Facsimile: (406) 256-5874

City of Billings ("City")

By: _____
Thomas W. Hanel, Mayor

STATE OF MONTANA)
 :SS
County of _____)

This instrument was acknowledged before me on _____ by
Thomas W. Hanel as Mayor of the City of Billings, Montana.

Printed Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My Commission expires: _____

Downtown Billings Partnership ("DBP")

By: _____
Its: President

STATE OF MONTANA)
 :SS
County of _____)

This instrument was acknowledged before me on _____ by
_____ as President of Downtown Billings Partnership, Inc.

(SEAL)

Printed Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My Commission expires: _____

The Babcock, LLC (“Developer”)

By: _____
Its: Authorized Member/Manager

STATE OF MONTANA)
 :SS
County of _____)

This instrument was acknowledged before me on _____ by
_____ as authorized member/manager of The Babcock, LLC.

(SEAL)

Printed Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My Commission expires: _____

Exhibits*

- Exhibit A** **First Amendment to Declaration of Unit Ownership**
- Exhibit B** **Form of Warranty Deed for Unit 1A**
- Exhibit C** **Bill of Sale for Personal Property**
- Exhibit D** **Deed of Reconveyance**
- Exhibit E** **Release of Development Agreement and Member Guarantees**
- Exhibit F** **Reimbursements to Developer**

***Exhibits still are being finalized**

Other Items



City of Billings

210 North 27th Street
Billings, MT 59101
Office (406) 657-8433

7/3/2017

Billings City Council
PO Box 1178
Billings, MT 59101

RE: Terry Smith, PE, PTOE

The citizen members of the City of Billings Traffic Control Board respectfully request that the Billings City Council publically acknowledge the many decades of service contributed to the City of Billings by the recently retired City Traffic Engineer, Terry Smith, as well as acknowledge Mr. Smith's role in helping to shape the Billings community through engineering, traffic control, traffic management, and safety.

Sincerely,

Todd Cormier, PE, PTOE
President

Eugene Wade
Vice-President

Jerry Dunning
Board Member

Pierre Jomini
Board Member

Ron Alles
Board Member