



# City Commission Agenda

for

## July 21, 2009

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*Please Note: The City Commission agenda format allows citizens to speak on each issue prior to Commission action. We encourage your participation. Please keep your remarks concise and to the topic under consideration.*

**CALL TO ORDER:** 7:00 P.M.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**PRESENTATIONS**

National Weather Service -- Storm Ready Award

**NEIGHBORHOOD COUNCILS**

1. Miscellaneous reports and announcements.

**PUBLIC HEARINGS**

2. Res. 9838, Intent to Increase Property Tax. Action: Conduct public hearing and adopt or deny Res. 9838. (*Presented by: Melissa Kinzler*)
3. Res. 9839, Annual Budget Resolution. Action: Conduct public hearing and adopt or deny Res. 9839. (*Presented by: Melissa Kinzler*)

**OLD BUSINESS**

**NEW BUSINESS**

**ORDINANCES/RESOLUTIONS**

4. Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and Vacated Rights-of-Way. (*Presented by: Bill Walters*)
  - A. Res. 9841, Intent to Vacate Rights-of-Way. Action: Adopt or deny Res. 9841.
  - B. Ord. 3040, Assign City Zoning and Grant a Conditional Use Permit. Action: Accept Ord. 3040 on first reading and set public hearing for August 18, 2009.
5. Ord. 3034, Add provisions for Wind-powered Electricity Systems to the Land Development Code. Action: Adopt or deny Ord. 3034. (*Presented by: Bill Walters*)
6. Ord. 3042, Amending OCCGF Title 10, Chapter 30 pertaining to One-Way Streets and Alleys. Action: Accept Ord. 3042 on first reading and set final reading for August 4, 2009. (*Presented by: Jim Rearden*)
7. Res. 9815, Ratifying the sale and prescribing the form, terms and the security of the \$2,000,000 Tax Increment Urban Renewal Revenue Bonds, Series 2009 (Federal Courthouse/4<sup>th</sup> Avenue NW Project). Action: Adopt or deny Res. 9815. (*Presented by: Coleen Balzarini*)

8. Res. 9844, Minor modifications to Special Improvement Lighting District 1295 – Commercial Lighting District (SLD-C) and Special Improvement Lighting District 1269. Action: Adopt or deny Res. 9844. (***Presented by: Coleen Balzarini***)

**CONSENT AGENDA** *The Consent Agenda is made up of routine day-to-day items that require Commission action. Items may be pulled from the Consent Agenda for separate discussion/vote by any Commissioner.*

9. Minutes, July 7, 2009, Commission meeting.
10. Total Expenditures of \$2,510,617 for the period of June 24 through July 15, 2009, to include claims over \$5000, in the amount of \$2,284,852.
11. Contracts list.
12. Set public hearing for August 4, 2009, on the 2009/2010 Tourism Business Improvement District Budget and Work Plan.
13. Set public hearing for August 4, 2009, on Res. 9848 to Levy and Assess Special Improvement Portage Meadows Maintenance District No. 1195.
14. Set public hearing for August 4, 2009, on Res. 9847 to Levy and Assess Special Improvement General Boulevard Maintenance District No. 3570.
15. Set public hearing for August 4, 2009, on Res. 9846 to Levy and Assess Street Maintenance District.
16. Set public hearing for August 4, 2009, on 2009 Justice Assistance Grant.
17. Set public hearing for August 4, 2009, on the sale of City property described as Parcel A, NE1/4, Sec. 14, T20N, R3E, PMM.
18. Approve the cancellation of City of Great Falls checks that remain outstanding and unpaid for a period of one year or longer.
19. Approve contract with the Great Falls Housing Authority for Community Based Policing.
20. Approve Interlocal Cooperation Agreement with the City of Billings.
21. Award contract to Innoprise Software, Inc. for maintenance and support of the City's Business and Financial software.
22. Approve FY 2010 Traffic Signal Maintenance Agreement with the Montana Department of Transportation.
23. Approve FY 2010 Traffic Sign Maintenance Agreement with the Montana Department of Transportation.
24. Award construction contract to Ed Boland Construction, Inc. for the Compost Facility Water Main Extension in the amount of \$199,680.
25. Award construction contract to Kuglin Construction in the amount of \$73,711 for the 22<sup>nd</sup> Street South Storm Drain Extension.
26. Award construction contract to Phillips Construction, LLC, in the amount of \$878,767 for the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Avenues North Water Main Replacement.
27. Approve Final Payment for the 10<sup>th</sup> Street Bridge Northside Abutment Railings Grant to Dick Anderson Construction, Inc. and the State Miscellaneous Tax Fund in the amount of \$3,235.
28. Postpone award of construction contract for the Coating Improvement at GFWWTP and Lift Station #15 until August 4, 2009.
29. Postpone award of construction contract for the 2009 CDBG Sidewalk Replacement until August 4, 2009.
30. Postpone award of construction contract for the 2009 CDBG Handicap Ramps until August 4, 2009.

31. Approve Addendum to Revised Memorandum of Understanding between the Great Falls Development Authority and the City of Great Falls regarding the use of Ag-Tech Industrial Tax Increment District funds for the purpose of paying for Engineering Services for Phase 2 – Industrial Park Access Road Study and Design.
32. Approve Labor Agreement with the International Brotherhood of Electrical Workers, Local Union #233.

Action: Approve Consent Agenda or remove items for further discussion and approve remaining items.

#### **BOARDS & COMMISSIONS**

33. Appointments, Advisory Commission on International Relationships. Appoint two members for three-year terms through March 31, 2012.
34. Appointments, Electric City Power Board of Directors. Appoint one member to fill the remainder of a term through December 31, 2011.
35. Miscellaneous reports and announcements.

#### **CITY MANAGER**

36. Miscellaneous reports and announcements.

**PETITIONS AND COMMUNICATIONS** *(Public comment on any matter that is not on the agenda of the meeting and that is within the jurisdiction of the City Commission. Please keep your remarks to a maximum of 5 minutes)*

37. Miscellaneous reports and announcements.

#### **CITY COMMISSION**

38. Miscellaneous reports and announcements.

#### **MOTION TO ADJOURN**



**Item:** Resolution 9838 – Intent to Increase Property Tax  
**From:** Gregory T. Doyon, City Manager  
**Initiated By:** Statutory Budget Requirements  
**Presented By:** Melissa Kinzler, Budget Officer  
**Action Requested:** Conduct the Public Hearing and Adopt the Tax Increase Resolution

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**Public Hearing:**

1. Mayor conducts public hearing, calling three times each for opponents and proponents.
2. Mayor closes public hearing and asks the will of the Commission.

**Suggested Motion:**

1. Commissioner moves:

“I move the City Commission adopt (deny) Resolution 9838 – Intent to Increase Property Tax.”

2. Mayor calls for a second, discussion, and calls for the vote.
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**Staff Recommendation:** Staff recommends the City Commission conduct the public budget hearing on the Intent to Increase Property Tax Revenue, and adopt Resolution 9838.

**Background:** Prior to the adoption of the City’s annual budget the City is required to hold public hearings on 1) the intent to budget an increase in revenue from property taxation, and 2) the proposed annual budget.

Section 15-10-203, MCA, requires the City to hold a public hearing before passing a resolution stating its intent to increase property tax revenues. Section 15-10-420, MCA, authorizes a property tax increase of “one-half of the average rate of inflation for the prior 3 years.” The Consumer Price Index showed a 2.2245% average increase as provided by the Montana Department of Revenue. Therefore the City is allowed and is proposing a 1.112% property tax increase.

The total proposed allowable property tax levy increase is 1.112%.

The setting of the tax levies is scheduled for August 18, 2009 or when the Montana Department of Revenue has certified taxable values for the City of Great Falls.

**Concurrences:** The proposed Fiscal Year 2010 budget was presented by the City Manager on June 16, 2009 at the City Commission Work Session.

**Fiscal Impact:** The fiscal impact of the proposed increases for inflation and the permissive mill levy for a residential home with a taxable market value of \$100,000 would be approximately \$4.72 a year. The fiscal impact of not authorizing the increase for inflation to the General Fund would result in a revenue shortfall of \$112,728 for the proposed budget.

**Alternatives:** If the hearing on Intent to Increase Property Taxes is not held, the General Fund would need to determine alternative revenues of \$112,728 from non-property tax sources. Other options include reducing proposed expenditures by \$112,728 or use General Fund fund balance of \$112,728. These options are not recommended by staff. The General Fund fund balance is projected to be \$3.1 million (12% of expenditures) at the end of Fiscal Year 2010 without any additional use of General Fund fund balance. This is below the recommended policy of 17%.

**Attachments/Exhibits:** Notice – Intent to Increase Property Taxes  
Resolution 9838 – Intent to Increase Property Taxes

**NOTICE OF BUDGET INCREASE FROM PROPERTY TAXES**

The City of Great Falls intends to budget an increase in revenue from property taxation by approximately 1.112%, as allowed by Section 15-10-420, MCA.

All concerned persons are invited and encouraged to attend a public hearing on budgeting the increased property tax revenue and on the budget as a whole to be held on July 21, 2009, at 7:00 p.m., City Commission Chambers, Civic Center Building.

A decision on budgeting the increased property tax revenue will be made after considering comments made at this hearing.

For further information, please contact: City Clerk's Office, Room 202, Civic Center, 455-8451.

Lisa Kunz  
City Clerk

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**FOR OFFICE USE ONLY**

Publication Dates: July 12, 2009  
July 19, 2009

**DISPLAY AD**

THIS ADVERTISEMENT MAY NOT BE PLACED IN THAT PORTION OF THE NEWSPAPER WHERE LEGAL NOTICES AND CLASSIFIED ADVERTISEMENTS APPEAR. (15-10-203, MCA)

**RESOLUTION NO. 9838**  
**RESOLUTION OF INTENT TO INCREASE PROPERTY TAX**  
**FOR THE FISCAL YEAR BEGINNING JULY 1, 2009 AND ENDING JUNE 30, 2010**

**WHEREAS,** Section 15-10-203(1), MCA, requires the City to hold a public hearing and subsequently adopt a resolution of its intent to increase property tax revenue, prior to budgeting for any increase in property tax revenue from existing property, and

**WHEREAS,** Section 15-10-420(1)(a), MCA, allows the City to increase its annual property tax levy by "one-half the rate of inflation for the prior 3 years" , and

**WHEREAS,** Section 15-10-420(1)(c), MCA, provides for the average rate of inflation to be calculated "using the consumer price index, U.S. City average, all urban consumers, using the 1982-1984 base of 100, as published by the Bureau of Labor Statistics of the United States Department of Labor", and

**WHEREAS,** the applicable consumer price indexes had a three year average of 2.2245% and an allowed tax levy increase of **1.112%**,and

**WHEREAS,** the notice of hearing on the City's intent to budget an increase in revenue from property taxation **by 1.112%**, was published in accordance with Section 7-1-4127, MCA, as required by Section 15-10-203, MCA, and Section 2-9-212, MCA, and

**WHEREAS,** the hearing on the City's intent to budget an increase in revenue from property taxation was held in accordance with Section 7-1-4131, MCA, and Section 15-10-203 MCA,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:**

Section 1. - Intent to budget additional property tax revenue

The City Commission intends to budget the **1.112 percent** increase in property tax revenue allowed by Section 15-10-420, MCA.

PASSED by the Commission of the City of Great Falls, Montana, on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Dona Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

Approved as to form: City Attorney

State of Montana                    )  
County of Cascade                : ss  
City of Great Falls                )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution No. 9838 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the \_\_\_ day of \_\_\_, 2009, and approved by the Mayor of said City on the\_\_ day of \_\_\_\_\_, 2009.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this\_\_\_ day of\_\_\_\_\_, 2009.

Lisa Kunz, City Clerk

(SEAL OF CITY)





**Item:** Resolution 9839 – Annual Budget Resolution  
**From:** Gregory T. Doyon, City Manager  
**Initiated By:** Statutory Budget Requirements  
**Presented By:** Melissa Kinzler, Budget Officer  
**Action Requested:** Conduct Public Hearing and Adopt Resolution

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**Public Hearing:**

1. Mayor conducts public hearing, calling three times each for opponents and proponents.
2. Mayor closes public hearing and asks the will of the Commission.

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission adopt (deny) Resolution 9839.”

2. Mayor calls for a second, discussion, and calls for the vote.

3. Commissioner moves:

“I move the City Commission schedule action on Resolution 9839 for August 4, 2009.”

4. Mayor calls for a second, discussion, and calls for the vote.
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**Staff Recommendation:** Staff recommends the City Commission conduct the budget hearing, consider any budget changes which may be recommended during the budget hearing; and adopt Resolution 9839 or postpone action on Resolution 9839 until August 4, 2009.

**Background:** Prior to the adoption of the City’s annual budget the City is required to hold public hearings on 1) the intent to budget an increase in revenue from property taxation, and 2) the proposed annual budget.

The City started the Fiscal Year 2010 budget process with Initial Commission Budget Work Sessions on March 24 and March 25, 2009. These sessions allowed each department to present to

the City Commission the top goals and challenges of each department. They also allowed the City Commission to set informal priorities for the Fiscal Year 2010 Budget. These sessions were open to the public.

The next step in the budget process was for each City department to develop their Fiscal Year 2010 Budgets. The Departments requested budgets were presented to the City Manager on April 14, 15 and 17, 2009. After these meetings, there was a projected shortfall in the General Fund for the Fiscal Year 2010 Budget. The City Manager through a memorandum requested that all City Departments reduce requested operating costs by 2%. The Assistant City Manager met with all Departments about the requested reductions on May 6 and 8, 2009. From these meetings and through the City Managers direction, the Fiscal Year 2010 Budget was balanced.

The third step in the budget process, was to present the proposed Fiscal Year 2010 Budget to the City Commission at the June 16, 2009 City Commission Work Session. This session was opened to the public.

The annual public hearings on the budget are proposed for July 21, 2009. Section 15-10-203, MCA, requires the City to hold a public hearing before passing a resolution stating its intent to increase property tax revenues. Section 15-10-420, MCA, authorizes a property tax increase of "one-half of the average rate of inflation for the prior 3 years." The Consumer Price Index showed a 2.2245% average increase as provided by the Montana Department of Administration. Therefore the City is allowed and is proposing a 1.112% property tax increase.

The total proposed allowable property tax levy increase is 1.112%.

The setting of the tax levies is scheduled for August 18, 2009 or when the Montana Department of Revenue has certified taxable values for the City of Great Falls.

**Concurrences:** The proposed Fiscal Year 2010 budget was presented by the City Manager on June 16, 2009 at the City Commission Work Session.

**Fiscal Impact:** The fiscal impact of the proposed increases for inflation and the permissive mill levy for a residential home with a taxable market value of \$100,000 would be approximately \$4.72 a year. The fiscal impact of not authorizing the increase for inflation mills to the General Fund would result in a revenue shortfall of \$112,728 for the proposed budget.

**Alternatives:** If the Fiscal Year 2010 Budget Hearing is not held on July 21, 2009 it could be delayed until up to the September 15, 2009 City Commission Meeting. State law requires that the City adopt a Fiscal Year 2010 Budget on or before the 2<sup>nd</sup> Monday in August or 45 days after receiving taxable valuation from the Montana Department of Revenue.

If the hearing on Intent to Increase Property Taxes is not held, the General Fund would need to determine alternative revenues of \$112,728 from non-property tax sources. Other options include reducing proposed expenditures by \$112,728 or use General Fund fund balance of \$112,728. These options are not recommended by staff. The General Fund fund balance is projected to be \$3.1 million (12% of expenditures) at the end of Fiscal Year 2010 without any additional use of General Fund fund balance. This is below the recommended policy of 17%.

Attachments/Exhibits:

Legal Notice – Budget Hearing  
Resolution 9839 – Annual Budget Resolution

## NOTICE OF BUDGET HEARING

NOTICE is hereby given that the City Commission of the City of Great Falls has:

- completed its preliminary budget;
- placed the preliminary budget on file and open to public inspection at the City Clerk's Office, Room 202, Civic Center Building; and,
- set the public hearing on the City of Great Falls 2009 / 2010 Annual Operating Budget for 7 PM, Tuesday, July 21, 2009, at the City Commission Chambers, Civic Center Building.

All persons desiring to be heard are invited to appear and provide written or oral comments concerning the budget. For further information, please contact: City Clerk's Office, Room 202, Civic Center, 455-8451.

Lisa Kunz  
City Clerk

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### FOR OFFICE USE ONLY

Publication Dates: July 12, 2009  
July 19, 2009

**LEGAL AD**

**RESOLUTION NO. 9839**

**ANNUAL BUDGET RESOLUTION**

**A RESOLUTION RELATING TO FINAL BUDGETS AND ANNUAL  
APPROPRIATIONS FOR THE FISCAL YEAR  
BEGINNING JULY 1, 2009 AND ENDING JUNE 30, 2010**

**WHEREAS**, Montana Code Annotated (MCA), 7-6-4024, requires that the budget be approved and adopted by resolution by the later of the second Monday in August or within 45 calendar days of receiving certified taxable values from the Department of Revenue, and

**WHEREAS**, the notice of hearing on budget increase from property taxes was published in accordance with Section 15-10-203, MCA, and

**WHEREAS**, the notice of hearing on preliminary budget was published in accordance with Section 7-1-4127, MCA, as required by Section 7-6-4021, MCA, and

**WHEREAS**, the hearing on preliminary budget and budget increase from property taxes was held in accordance with Section 7-1-4131, MCA, and Section 7-6-4024 MCA, and,

**WHEREAS**, the Official City Code of the City of Great Falls, Title 2, Chapter 14, Sections 2.14.030 and 2.14.040 state the Municipal Court Judge and Municipal Court Clerk salaries shall be set by resolution, and,

**WHEREAS**, the Government Finance Officers Association recommends an unreserved fund balance in the General Fund of “no less than five to 15 percent of regular general fund operating revenues, or of no less than one to two months of regular general fund operation expenditures”,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:**

Section 1. - Legal Spending Limits

The legal spending limits of the City of Great Falls are established at the fund level. Appendix A establishes each fund’s level. (7-6-4030, MCA)

Section 2. - Implementation Authority

2.1 The City Manager is hereby delegated appropriation authority for the expenditure of funds from any or all of the following:

- a. debt service funds;
  - b. trust funds;
  - c. federal, state, local or private grants accepted and approved by the governing body;
  - d. special assessments;
  - e. proceeds from the sale of land;
  - f. any fund for gifts or donations; and,
  - g. money borrowed during the fiscal year. (7-6-4006, MCA)
- 2.2 The City Manager is hereby delegated authority to adjust appropriations funded by fees throughout the fiscal year in any or all of the following:
- a. proprietary funds (enterprise and internal service funds);
  - b. general fund for fee supported services;
  - c. information technology fund for fee supported mapping services;
  - d. natural resources fund for fee supported forestry services;
  - e. permits fund; and,
  - f. licenses fund. (7-6-4012, MCA)
- 2.3 The authority to make transfers of appropriations between funds is retained by the City Commission.
- 2.4 The City Manager is hereby delegated the authority to make transfers or revisions within appropriations of any fund.
- 2.5 The City Manager may delegate to his department directors the authority to make transfers or revisions within or among appropriations of specific operations within a fund, limited to the division level of accountability.
- 2.6 Joint operating agreements approved by the governing body; insurance recoveries or dividends; hazardous material recoveries and, refunds or reimbursements of expenditures shall automatically amend the annual appropriations or reduce recorded expenditures whichever is correct in accordance with Generally Accepted Accounting Principles (GAAP).

### Section 3. - Appropriation Carryovers

Generally accepted accounting principles (GAAP) require expenditures to be recognized in the fiscal year in which the goods or services are received.

- 3.1 Previous fiscal year appropriations for incomplete improvements in progress of construction, or segments thereof, are hereby declared authorized appropriations in addition to the appropriations set out in Appendix A., provided they meet the following criteria:
- a. related financing was provided in the prior fiscal year;
  - b. the appropriations were not obligated by year end;
  - c. the purpose was not included, or rejected, in current budget financing or

- d. appropriations; and,  
the City Manager determines the appropriation is still needed.
- 3.2 Outstanding purchase orders and other obligations, representing a City obligation to pay the claim after receipt of the goods or services, are recognized as "claims incurred". They are hereby declared authorized "carryover" appropriations in addition to the appropriations set out in Appendix A., provided they meet the following criteria:
- a. related financing was provided in the prior fiscal year;
  - b. the appropriations were not otherwise obligated by year end;
  - c. the purpose was not included, or rejected, in current budget financing or appropriations; and,
  - d. the City Manager determines the appropriation is still needed.

#### Section 4. - Appropriated Reserves

Reserves which have been established for specific purposes, such as Equipment Revolving Scheduled (ERS) reserves, are hereby declared to be appropriations available for expenditure according to the reserve purpose. They shall be acknowledged as current appropriations upon the determination by the City Manager that they are currently needed to serve their intended purpose. Unexpended reserves shall be carried forward to meet future needs in accordance with their purpose.

#### Section 5. Contingency Account

- 5.1 Contingency account appropriations are provided by the City Commission as flexible appropriations. They are intended to provide the City Manager with an effective management tool for adjusting to changing circumstances throughout the budgetary year.
- 5.2 The City Manager is delegated the authority to transfer part or all of any contingency appropriation and related financing. Use of contingency appropriations is restricted to transfers of that appropriation authority to specific operating budgets. Proper classification of expenditures to specific operations is required. Accordingly, charging of expenditures directly to Contingency accounts is prohibited.
- 5.3 The Contingency appropriation is a two part authorization, determined on whether cash funding has been allocated in the General Fund during budget development:
- a. General Fund financed; and,
  - b. Unfunded - a specific fund cash balance, additional revenue, or other funding source must be identified before the "unfunded" contingency appropriation may be used.

#### Section 6. - Classification and Pay Plan

- 6.1 The objective of the City's Classification and Pay Plan is to enable the City to retain, and when necessary, recruit competent employees. Therefore, the Plan must be a dynamic tool which is continuously updated.

6.2 The City Manager is authorized to administratively change the Classification and Pay Plan. Annual pay surveys, continual or periodic review of positions with changed duties or responsibilities, and additions to the classification plan of changed and new classes of work will assure that the Classification and Pay Plan remains current and equitably meets the needs of the City and its employees.

Section 7. - Budgetary Authority

References to statutes, or to consistency with statutory authority, are for information purposes only. Nothing in this resolution shall be considered to mitigate or compromise the City's self-governing authority.

Section 8. - Accounting Structure

Staff is hereby directed to establish and maintain City accounting structure in accordance with Generally Accepted Accounting Principles (GAAP). Statutes, ordinances, resolutions or other authoritative sources shall be implemented according to their intent and GAAP. Staff shall provide for conformance with the Commission's limits for financing and appropriation under authorized budgets whenever making proper modifications to accounting structure.

Section 9. – Municipal Court Judge and Municipal Court Clerk Salaries

The City Manager is authorized to administratively set the salaries of the Municipal Court Judge and Municipal Court Clerk using the following salary range:

Municipal Court Judge	\$54,777 to \$84,630
Municipal Court Clerk	\$32,773 to \$49,159

Section 10. – Designated for Cash Flow

As permitted by Section 7-6-4034, MCA, a balance Designated for Cash Flow shall be considered adequate in tax levy supported funds (General, Library, and Planning) at 17% of annual appropriations. A balance Designated for Cash Flow for other operating funds of the City shall be considered adequate at 17% (2mo./12mo.) of annual appropriations for seasonal operations; and, 17% (2mo./12mo.) of annual appropriations for all other operating funds.

Such balances designated for cash flow shall be used to meet extended revenue cycles, meet short term economic difficulties, respond to unique opportunities, provide for one-time expenditures, and respond to emergency and disaster situations. The balances shall not be available to meet recurring operating expenses.



PASSED by the Commission of the City of Great Falls, Montana, on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Dona Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

Approved as to form: City Attorney

State of Montana )  
County of Cascade : ss  
City of Great Falls )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution No. 9839 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the \_\_\_ day of \_\_\_, 2009, and approved by the Mayor of said City on the \_\_ day of \_\_\_\_\_, 2009.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this \_\_\_ day of \_\_\_\_\_, 2009.

Lisa Kunz, City Clerk

(SEAL OF CITY)

**Appendix A. Balances & Changes by Fund for Year Ending June 30, 2010** City of Great Falls, Montana

	Estimated Beginning Balance	(+ Working Capital Sources			(-) Working Capital Uses			Estimated Ending Balance	Reserved Balance	Available Balance
		Revenue	Transfers In	Total Sources	Appropri.	Transfers Out	Total Uses			
<b>General Fund</b>	3,126,788	25,736,821	0	25,736,821	23,272,979	2,463,842	25,736,821	3,126,788	0	3,126,788
<b>Special Revenue Funds</b>										
Planning Fund	10,116	576,534	192,140	768,674	768,045	0	768,045	10,745	0	10,745
CTEP Projects Fund	15,915	1,000	0	1,000	4,324	0	4,324	12,591	12,591	0
Lighting Districts Fund	678,328	1,410,268	0	1,410,268	1,441,620	0	1,441,620	646,976	0	646,976
Historic Bridge Fund	0	0	0	0	0	0	0	0	0	0
Support & Innovation Fund	45,748	163,060	0	163,060	163,206	0	163,206	45,602	45,602	0
911 Special Revenue Fund	468,939	605,200	0	605,200	60,634	328,107	388,741	685,398	685,398	0
Police Special Revenue Fund	194,412	20,100	0	20,100	80,718	0	80,718	133,794	133,794	0
Fire Special Revenue Fund	2,197	5,700	0	5,700	433	0	433	7,464	7,464	0
Public Works Special Revenue Fund	49,803	1,500	0	1,500	49	0	49	51,254	51,254	0
Street District Fund	1,308,617	4,754,008	0	4,754,008	5,553,966	0	5,553,966	508,659	0	508,659
Library Fund	345,083	413,090	787,800	1,200,890	1,194,918	0	1,194,918	351,055	115,580	235,475
Library Foundation Fund	65,552	110,100	0	110,100	121,110	0	121,110	54,542	54,542	0
Park & Recreation Special Revenue Fund	389,970	71,500	0	71,500	111,767	0	111,767	349,703	294,058	55,645
River's Edge Trail Special Revenue Fund	75	0	0	0	75	0	75	0	0	0
Natural Resources Fund	104,472	333,925	264,918	598,843	599,549	0	599,549	103,766	6,692	97,074
Portage Meadows Fund	6,229	24,180	0	24,180	30,409	0	30,409	0	0	0
Housing Authority Fund	0	1,146,359	0	1,146,359	1,146,359	0	1,146,359	0	0	0
Federal Block Grants Fund	784,931	1,477,624	0	1,477,624	1,514,351	0	1,514,351	748,204	0	748,204
Federal Home Grant Fund	10,702	439,426	0	439,426	394,867	0	394,867	55,261	0	55,261
Community Development Fund	41,539	250,341	0	250,341	290,735	0	290,735	1,145	0	1,145
Economic Revolving Fund	154,482	3,050	0	3,050	60,875	0	60,875	96,657	92,746	3,911
Permits Fund	703,777	800,779	0	800,779	924,148	0	924,148	580,408	0	580,408
Licenses Fund	22	224,585	0	224,585	224,225	0	224,225	382	0	382
Ag Tech Park Fund	251,008	147,000	0	147,000	398,008	0	398,008	0	0	0
West Bank Urban Renewal	1,195,443	20,000	0	20,000	20,455	0	20,455	1,194,988	1,194,988	0
<b>Total Special Revenue Funds</b>	<b>6,827,360</b>	<b>12,999,329</b>	<b>1,244,858</b>	<b>14,244,187</b>	<b>15,104,846</b>	<b>328,107</b>	<b>15,432,953</b>	<b>5,638,594</b>	<b>2,694,709</b>	<b>2,943,885</b>
<b>Debt Service Funds</b>										
Master Debt SILD	9,559	56,198	0	56,198	13,027	0	13,027	52,730	52,730	0
Improvement Districts Revolving Fund	233,158	152,246	0	152,246	61,784	0	61,784	323,620	323,620	0
Soccer Park Bonds	117,945	166,800	0	166,800	189,506	0	189,506	95,239	95,239	0
Swim Pool Rehab GO Bond	(6,471)	296,600	0	296,600	284,624	0	284,624	5,505	5,505	0
Tax Increment Bond Fund	1,766,172	0	0	0	1,178,956	167,000	1,345,956	420,216	420,216	0
<b>Total Debt Service Funds</b>	<b>2,120,363</b>	<b>671,844</b>	<b>0</b>	<b>671,844</b>	<b>1,727,897</b>	<b>167,000</b>	<b>1,894,897</b>	<b>897,310</b>	<b>897,310</b>	<b>0</b>
<b>Capital Project Funds</b>										
General Capital Fund	37,186	2,500	0	2,500	9,612	0	9,612	30,074	30,074	0
Improvement District Projects Fund	3,584	0	0	0	0	0	0	3,584	3,584	0
Hazard Removal Fund	99,259	50,000	0	50,000	52,099	0	52,099	97,160	97,160	0
<b>Total Capital Project Funds</b>	<b>140,029</b>	<b>52,500</b>	<b>0</b>	<b>52,500</b>	<b>61,711</b>	<b>0</b>	<b>61,711</b>	<b>130,818</b>	<b>130,818</b>	<b>0</b>

**Appendix A. Balances & Changes by Fund for Year Ending June 30, 2010** City of Great Falls, Montana

	Estimated Beginning Balance	(+ Working Capital Sources			(-) Working Capital Uses			Estimated Ending Balance	Reserved Balance	Available Balance
		Revenue	Transfers In	Total Sources	Appropri.	Transfers Out	Total Uses			
<b>Enterprise Funds</b>										
Water Fund	4,470,657	11,000,160	0	11,000,160	11,597,274	0	11,597,274	3,873,543	3,521,374	352,169
Sewer Fund	6,588,191	7,871,712	0	7,871,712	8,800,715	0	8,800,715	5,659,188	4,567,252	1,091,936
Storm Drain Fund	2,603,627	1,832,400	0	1,832,400	2,887,706	0	2,887,706	1,548,321	915,972	632,349
Sanitation Fund	265,106	3,062,335	0	3,062,335	3,076,761	0	3,076,761	250,680	92,533	158,147
Electric Utility Fund	(1,455,575)	9,901,024	0	9,901,024	9,758,047	0	9,758,047	(1,312,598)	100,000	(1,412,598)
Safety Services Fund	173,070	1,151,793	316,335	1,468,128	1,435,904	0	1,435,904	205,294	0	205,294
Parking Fund	65,192	696,650	0	696,650	682,719	0	682,719	79,123	72,951	6,172
Golf Courses Fund	(1,178,609)	1,294,900	244,600	1,539,500	1,495,446	0	1,495,446	(1,134,555)	237,717	(1,372,272)
Swim Pools Fund	184,013	412,215	581,389	993,604	999,929	0	999,929	177,688	0	177,688
Recreation Fund	170,013	268,425	153,729	422,154	417,123	4,600	421,723	170,444	23,912	146,532
Multi-Sports Fund	22,566	130,802	21,669	152,471	157,507	0	157,507	17,530	0	17,530
Civic Center Events Fund	141,563	413,432	214,727	628,159	636,296	0	636,296	133,426	43,406	90,020
<b>Total Enterprise Funds</b>	<b>12,223,079</b>	<b>38,035,848</b>	<b>1,532,449</b>	<b>39,568,297</b>	<b>41,945,427</b>	<b>4,600</b>	<b>41,950,027</b>	<b>9,841,349</b>	<b>9,575,117</b>	<b>266,232</b>
<b>Internal Service Funds</b>										
Human Resource Fund	(14,271)	321,751	0	321,751	321,335	0	321,335	(13,855)	0	(13,855)
Central Communications Fund	37,616	83,510	0	83,510	82,325	0	82,325	38,801	0	38,801
Health and Benefits Fund	1,344,087	5,928,037	0	5,928,037	5,928,037	0	5,928,037	1,344,087	0	1,344,087
Insurance & Safety Fund	75,363	1,268,548	0	1,268,548	1,268,987	0	1,268,987	74,924	0	74,924
Fiscal Services Fund	147,945	1,694,707	0	1,694,707	1,689,695	0	1,689,695	152,957	0	152,957
Information Tech Fund	273,269	1,233,922	23,544	1,257,466	1,155,390	0	1,155,390	375,345	370,839	4,506
Central Garage Fund	3,363,854	1,818,090	0	1,818,090	1,990,277	0	1,990,277	3,191,667	2,783,462	408,205
Engineering Fund	231,919	1,043,311	162,698	1,206,009	1,213,990	0	1,213,990	223,938	138,172	85,766
Public Works Administration Fund	169,267	412,432	0	412,432	401,718	0	401,718	179,981	2,846	177,135
Civic Center Facility Services Fund	93,209	575,928	0	575,928	575,188	0	575,188	93,949	82,053	11,896
<b>Total Internal Service Funds</b>	<b>5,722,258</b>	<b>14,380,236</b>	<b>186,242</b>	<b>14,566,478</b>	<b>14,626,942</b>	<b>0</b>	<b>14,626,942</b>	<b>5,661,794</b>	<b>3,377,372</b>	<b>2,284,422</b>
<b>Trust &amp; Agency Funds</b>										
Trust & Agency Funds Trust & Agency Fund transactions are made in accordance with specific trust or agency agreements, covenants or other regulations. Accordingly, annual budgets are not prepared.	0		0	0		0	0	0	0	0
<b>Total Trust &amp; Agency Funds</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total All Budgeted Funds</b>	<b>30,159,877</b>	<b>91,876,578</b>	<b>2,963,549</b>	<b>94,840,127</b>	<b>96,739,802</b>	<b>2,963,549</b>	<b>99,703,351</b>	<b>25,296,653</b>	<b>16,675,326</b>	<b>8,621,327</b>



**Item:** Resolution 9841, Intention to Vacate Rights-of-Way, Ordinance 3040 to Assign City Zoning and Grant a Conditional Use Permit, all related to the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and Vacated Rights-of-Way

**From:** Charles Sheets, Planner I

**Initiated By:** Dale and Tracy Yurek, Owners

**Presented By:** Bill Walters, Interim Planning Director

**Action Requested:** City Commission adopt Resolution 9841 and accept Ordinance 3040 on first reading and set a public hearing for August 18, 2009.

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**Suggested Motion:** (Each motion to be separately considered)

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 9841.”

and,

“I move that the City Commission (accept/deny) Ordinance 3040 on first reading and set a public hearing for August 18, 2009.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

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**Planning Board and Zoning Commission Recommendations:** At the conclusion of a combined public hearing held June 9, 2009, the Planning Board passed a motion recommending the City Commission approve: 1) the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and Vacated Rights-of-Way; 2) the vacation of the southerly 20 feet of 19<sup>th</sup> Avenue South, all of 20<sup>th</sup> & 21<sup>st</sup> Alleys South and 20<sup>th</sup> Avenue South within the Amended Plat; 3) the annexation of the area within the Amended Plat together with the remaining portion of abutting 19<sup>th</sup> Avenue South; and, 4) the accompanying Findings of Fact, subject to the applicant fulfilling stipulated conditions and the Zoning Commission passed a motion recommending the City Commission assign a City zoning classification of M-1 Mixed use district and grant a conditional use permit for a contractor yard, type II upon said Amended Plat, upon annexation to the City, subject to the applicants agreeing that any development of the subject property shall be substantially in accordance with the attached site plan.

**Background:** The Planning Office is in receipt of applications from Dale and Tracy Yurek, regarding the following:

- 1) Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and vacated rights-of-way, all in Section 13, Township 20 North, Range 3 East, Cascade County, Montana.
- 2) Vacation of the southerly 20 feet of 19<sup>th</sup> Avenue South, all of 20<sup>th</sup> Alley South, 21<sup>st</sup> Alley South and 20<sup>th</sup> Avenue South, between the west right-of-way of 8<sup>th</sup> Street South and the west boundary of Highland Park Addition.
- 3) Annexation of the area contained in said Amended Plat and abutting portion of 19<sup>th</sup> Avenue South.
- 4) Establish City zoning classification of M-1 Mixed use district and grant a conditional use permit to allow a contractor yard, type II upon the property requested to be annexed.

Said Amended Plat combines platted lots and rights-of-way requested to be vacated into one parcel located along the west side of 8<sup>th</sup> Street South between 19<sup>th</sup> Avenue South and 21<sup>st</sup> Alley South.

The applicants intend to develop the property for their business, Williamson Fencing & Sprinklers. The business operation has been located at 1325 Central Avenue West. The applicants intend to move to this new location and expand the business. The subject property was purchased from the City Park & Recreation Department and the applicants desire to have City water and sewer services.

For additional information, please refer to the attached Vicinity/Zoning Map, preliminary amended plat and site plan.

The Highland Park Addition was platted in the late 1800's with typical lots being 3,125 square feet (25' feet by 125' feet) and 80 foot wide rights-of-way. The City Land Development Code now requires lots to be a minimum of 50 feet in width and 7,500 square feet in area. Upon the request of the applicant, the City Public Works & City Planning Departments have reviewed the vicinity and agreed that the southerly 20 feet of 19<sup>th</sup> Avenue South, all of 20<sup>th</sup> & 21<sup>st</sup> Alley South and 20<sup>th</sup> Avenue South, between the west right-of-way of 8<sup>th</sup> Street South and the west subdivision boundary of Highland Park Addition are not needed for the development of the area and could be vacated and combined with Block 21 and Lots 1-10, Block 22, Highland Park Addition to make a single parcel.

The abutting portion of 8<sup>th</sup> Street South is paved to rural standards and the abutting portion of 19<sup>th</sup> Avenue South is undeveloped. As a condition of annexation and provision of services, the applicants will agree to pay their proportionate share of the costs to improve the abutting segments of 8<sup>th</sup> Street South and 19<sup>th</sup> Avenue South to urban standards when deemed necessary by the City. As the area develops, the funds will be combined with the abutting owners' proportionate share of the cost to complete the improvements to City Standards.

A water main exists in the abutting portion of 8<sup>th</sup> Street South. The applicant will grant an easement to the City for the existing 30” water main that crosses the property in the vicinity of the proposed vacated 20<sup>th</sup> Avenue South. The nearest sanitary sewer main is available approximately 300 feet north of 17<sup>th</sup> Avenue North. The applicants intend to install a lift station and pump the effluent north to the existing sanitary sewer system. A portion of the property within the Amended Plat is a historic surface storm water drainage corridor that serves a large area including a portion of the Multi-sports Complex and the Fire Training Center.

It is proposed that the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and vacated rights-of-way, be zoned M-1 mixed use district and be granted a conditional use permit to allow a contractor yard, type II, upon annexation to the City. Subject property is located on the fringe of the City that is a mixture of public training center, semi-public social organization, single-family residence and tracts of undeveloped land.

Section 76-2-304 Montana Code Annotated lists criteria and guidelines which must be considered in conjunction with establishing municipal zoning on land:

- a) is designed in accordance with the growth policy (comprehensive plan);
- b) is designed to lessen congestion in the streets;
- c) will secure safety from fire, panic or other dangers;
- d) will promote health and the general welfare;
- e) will provide adequate light and air;
- f) will prevent overcrowding of land;
- g) will avoid undue concentration of population;
- h) will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- i) gives reasonable consideration to the character of the district;
- j) gives reasonable consideration to the peculiar suitability of the property for particular uses;
- k) will conserve the value of buildings; and
- l) will encourage the most appropriate use of land throughout the municipality.

Goals of the land use element of the Great Falls Growth Policy include:

- To support and encourage efficient, sustainable development and redevelopment throughout the community.
- To support and encourage a compatible mix of land uses in redeveloping areas.

Applicable policy statements include “Annexations should be logical and efficient extensions of the City’s boundaries and service areas” and “...infill development and redevelopment offer the community the highest degrees of efficiency and sustainability.”

Annexation of subject property will enhance health, safety and welfare through application of City Codes and provision of municipal services. Therefore, staff concludes the above-cited criteria are substantially met.

Section 17.16.36.040 of the Land Development Code states that the Zoning Commission’s recommendation and the City Commission’s decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public hearing, Zoning Commission

recommendation, or additional information demonstrates that each of the following criteria have been satisfied:

1. The conditional use is consistent with the City's growth policy and applicable neighborhood plans, if any.
2. The establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort or general welfare.
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
4. The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
5. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
6. Adequate measures have been or will be taken to provide ingress and egress so as to minimize traffic congestion in the public streets.
7. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Commission.

Based on the information provided by the applicant and the characteristics of the redeveloping vicinity, the contractor yard, type II will not be intrusive to the neighborhood. The proposed development of the property is consistent with the growth policies of the City and would not impede the neighborhood. Staff concludes the above-cited criteria are substantially met.

Prior to the public hearing the Planning Office received written opposition to the proposed actions from Karen Kay Kinkaid Husted, abutting property owner to the north. Ms. Husted lives out of town and was unable to review the mailed notice until Monday, June 8. In accordance with State statute, staff had prepared and published the notice of public hearing on May 24, 2009, and per City policy mailed the notice to surrounding property owners on May 22, 2009. Ms. Husted's letter was provided to the members of the Zoning Commission during the public hearing.

At the conclusion of a public hearing held June 9, 2009, the Planning Board passed a motion recommending the City Commission approve the vacation of the southerly 20 feet of 19<sup>th</sup> Avenue South, all of 20<sup>th</sup> & 21<sup>st</sup> Alleys South and 20<sup>th</sup> Avenue South within the Amended Plat and the Zoning Commission passed a motion recommending the City Commission approve establishing a City zoning classification of M-1 Mixed use district and granting a conditional use permit for a contractor yard, type II on the Amended Plat upon annexation to the City, subject to the applicants agreeing that any development of the subject property shall be substantially in accordance with the attached site plan. No citizens spoke as proponents or opponents during the hearing.

It is anticipated the City Commission, following the public hearing on August 4, 2009, will consider a final resolution to vacate the involved rights-of-way, the annexation resolution, an annexation agreement and Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and vacated rights-of-way, all in Section 13, Township 20 North, Range 3 East, Cascade County, Montana, simultaneously with Ordinance 3040.

**Concurrences:** Representatives from the City's Public Works, Community Development, and Fire Departments have been involved throughout the review and approval process for this project.

**Fiscal Impact:** Providing services is expected to be a negligible cost to the City. Any increased costs likely will be covered by increased tax revenues from improved properties.

**Alternatives:** The City Commission could deny Resolution 9841 and deny acceptance of Ordinance 3040 on first reading and not set the public hearing. However, such action would deny the applicant due process and consideration of a public hearing, as provided for in City Code and State Statute.

**Attachments/Exhibits:**

1. Vicinity/Zoning Map
2. Resolution 9841
2. Ordinance 3040
3. Preliminary Amended Plat
4. Site Plan
5. Letter from Karen Kay Kinkaid Husted

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Dale and Tracy Yurek, 1325 Central Ave W, Great Falls MT 59404  
Woith Engineering, 1725 41<sup>st</sup> St S, Great Falls, MT 59405



RESOLUTION 9841

A RESOLUTION OF INTENTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO VACATE THE SOUTH 20 FEET OF 19<sup>TH</sup> AVENUE SOUTH, ALL OF 20<sup>TH</sup> & 21<sup>ST</sup> ALLEYS SOUTH AND 20<sup>TH</sup> AVENUE SOUTH, BETWEEN THE WEST RIGHT-OF-WAY OF 8<sup>TH</sup> STREET SOUTH AND THE WEST BOUNDARY OF HIGHLAND PARK ADDITION, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-14-4114, MONTANA CODE ANNOTATED AND DIRECTING NOTICE TO BE GIVEN AS PROVIDED BY LAW

\* \* \* \* \*

WHEREAS, the subdivision plat of Highland Park Addition, dedicated eighty (80) foot width rights-of-way for 19<sup>th</sup> and 20<sup>th</sup> Avenues South and dedicated twenty (20) foot width rights-of-way for 20<sup>th</sup> and 21<sup>st</sup> Alleys South between the west right-of-way of 8<sup>th</sup> Street South and the west boundary of Highland Park Addition; and,

WHEREAS, said rights-of-way presently contain no roadway improvements; and,

WHEREAS, it is determined reduction of 19<sup>th</sup> Avenue South to the City standard sixty (60) foot right-of-way width would provide adequate public access to adjoining parcels; and,

WHEREAS, it is determined retention and eventual improvement of 20<sup>th</sup> Avenue South, 20<sup>th</sup> Alley South and 21<sup>st</sup> Alley South between the west right-of-way of 8<sup>th</sup> Street South and the west boundary of Highland Park Addition serves no practical or functional purpose; and,

WHEREAS, Dale and Tracy Yurek, own the property adjoining said rights-of-way; and,

WHEREAS, an Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition & Vacated Rights-of-Way, has been prepared which reflects the aggregation of said lots, blocks and requested vacated rights-of-way into a single parcel; and,

WHEREAS, Dale and Tracy Yurek, have petitioned the City of Great Falls to annex the area contained within the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition & Vacated Rights-of-Way and the abutting portion of 19<sup>th</sup> Avenue South, all in Section 13, Township 20 North, Range 3 East, Cascade County, Montana; and,

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA.

That Tuesday, the 18<sup>th</sup> day of August, 2009, at 7:00 P.M. in the Commission Chambers of the Civic Center, Great Falls, Montana, be and the same is hereby set as the time and place at which the City Commission shall hear all persons relative to the proposed vacation of the southerly 20 feet of 19<sup>th</sup> Avenue South, all of 20<sup>th</sup> & 21<sup>st</sup> Alleys South and 20<sup>th</sup> Avenue South,

between the west right-of-way of 8<sup>th</sup> Street South and the west boundary of Highland Park Addition; and,

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that the City Clerk of the City shall forthwith cause notice of this Resolution to be: (1) published twice in the Great Falls Tribune, the newspaper published nearest such land; and (2) posted in three public places.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 21<sup>st</sup> day July, 2009.

---

Dona R. Stebbins, Mayor

ATTEST:

---

Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

---

David V. Gliko, City Attorney

State of Montana    )  
County of Cascade  : ss  
City of Great Falls )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Resolution 9841 in three conspicuous places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;  
On the Bulletin Board, first floor, Cascade County Court House;  
On the Bulletin Board, Great Falls Public Library

---

Lisa Kunz, City Clerk

(CITY SEAL)

ORDINANCE 3040

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF M-1 MIXED USE DISTRICT TO THE AMENDED PLAT OF BLOCK 21 & LOTS 1-10, BLOCK 22, HIGHLAND PARK ADDITION AND VACATED RIGHTS-OF-WAY AND GRANTING A CONDITIONAL USE PERMIT TO ALLOW A CONTRACTOR YARD, TYPE II, UPON SUBJECT PROPERTY, ALL IN SECTION 13, TOWNSHIP 20 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA

\* \* \* \* \*

WHEREAS, Dale and Tracy Yurek, have petitioned the City of Great Falls to annex the area contained within the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition & vacated rights-of-way, all in Section 13, Township 20 North, Range 3 East, Cascade County, Montana; and,

WHEREAS, Dale and Tracy Yurek, have petitioned that the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition & vacated rights-of-way, be assigned a zoning classification of M-1 Mixed use district and granted a conditional use permit to allow a contractor yard, type II, upon annexation to the City; and,

WHEREAS, notice of assigning said zoning classification and granting a conditional use permit to Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition & vacated rights-of-way, was published in the Great Falls Tribune advising that a public hearing on this zoning designation and conditional use permit would be held on the 18<sup>th</sup> day of August, 2009, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and decided that the said zoning designation be made and said conditional use permit be granted,

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. It is determined that the herein requested zoning designation will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of the Unified Land Development Code of the City of Great Falls.

Section 2. It is determined that the herein requested conditional use permit will meet the criteria and guidelines cited in Section 17.16.36.040 of the Unified Land Development Code of the City of Great Falls.

Section 3. That the zoning classification of Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition & Vacated Rights-of-Way, be designated as M-1 Mixed use district and a conditional use permit be granted to allow a contractor yard, type II upon the property requested to be annexed, subject to the conditions approved by the City Commission and by this reference made a part hereof.

Section 4. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission or upon filing in the office of the Cascade County Clerk and Recorder the resolution annexing Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition & vacated rights-of-way, into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

ACCEPTED by the City Commission on first reading July 21, 2009.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading September 1, 2009.

\_\_\_\_\_  
Dona R. Stebbins, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
Acting City Attorney

State of Montana )  
County of Cascade : ss  
City of Great Falls )

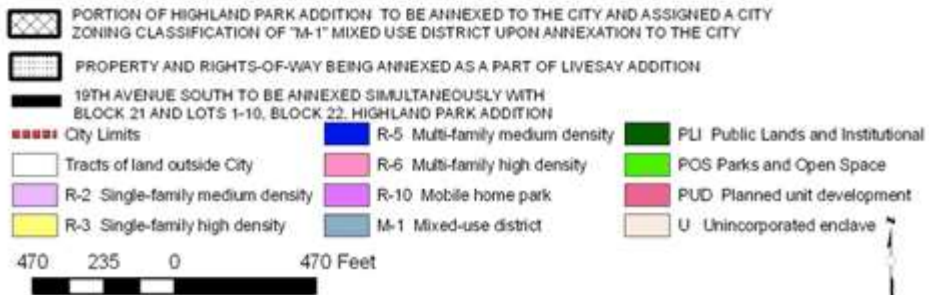
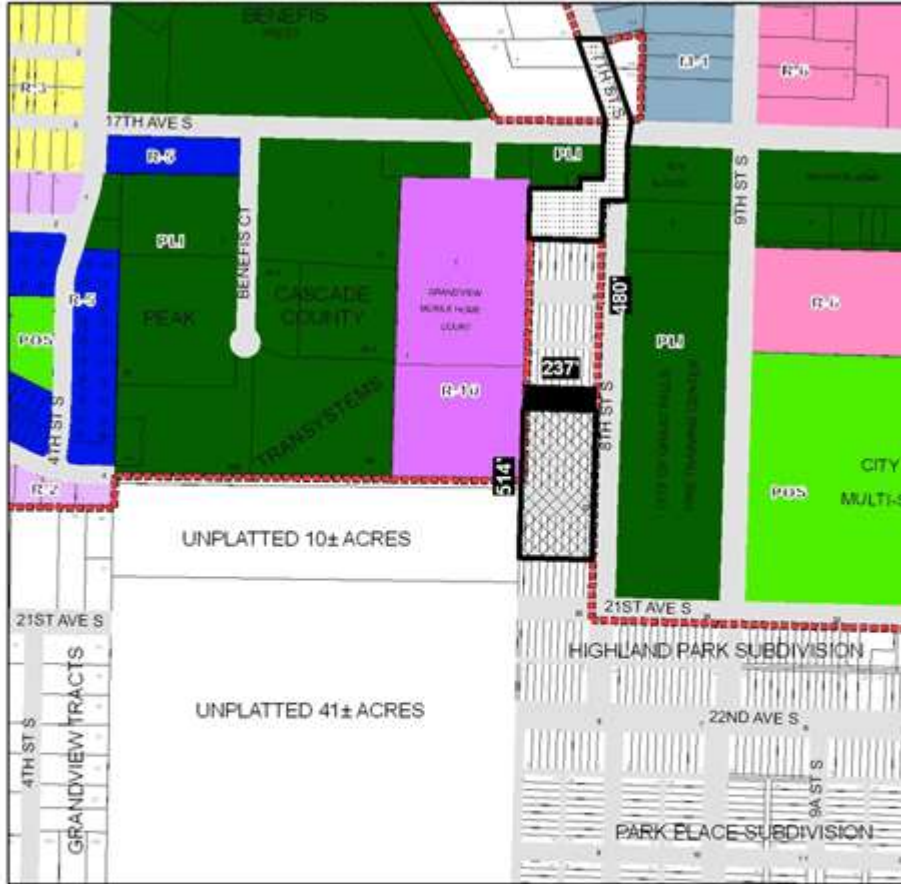
I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3040 in three conspicuous places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;  
On the Bulletin Board, first floor, Cascade County Court House;  
On the Bulletin Board, Great Falls Public Library

\_\_\_\_\_  
Lisa Kunz, City Clerk

(CITY SEAL)

# VICINITY/ZONING MAP





AMENDED PLAT OF  
**BLOCK 21 AND BLOCK 22 OF  
 THE REVISED PLAT OF HIGHLAND PARK  
 WITH FIRST ADDITION THERE TO**  
 A SUBDIVISION LOCATED IN THE SE1/4, SECTION 13, T20N, R3E, P.M.M.,  
 CASCADE COUNTY, MONTANA, INCORPORATING THEREIN THE VACATED  
 PORTIONS OF 19TH AND 20TH AVENUE SOUTH AND THE ALLEYS OF  
 BLOCK 21 AND BLOCK 22

FOUND IRON PIN  
 1/4 SECTION 13  
 SW 1/4  
 SW 1/4  
 SW 1/4  
 SW 1/4

P.O.B.  
 NW 1/4  
 SW 1/4  
 SW 1/4  
 SW 1/4

SECTION 13, T20N, R3E  
 SW 1/4

ARMSTRONG  
 &  
 ENGLAND

EXCLUSIVE EASEMENT TO  
 THE CITY OF GREAT FALLS

VOLK

CITY  
 OF  
 GREAT FALLS  
 FIRE  
 TRAINING  
 CENTER

8TH STREET S.

HUSTED

19TH AVE. S.

58437.22' E = 237.81

VACATED RIGHT OF WAY

OLD LOT LINES

BLOCK 21

VACATED ALLEY

20TH AVE. S.

BLOCK 21

LOT 1A

2.811 ACRES

20TH AVE. S.

VACATED ALLEY

OLD LOT LINES

BLOCK 22

VACATED ALLEY

21ST AVE. S.

58651.41' W = 237.57

VACATED ALLEY

OLD LOT LINES

BLOCK 22

VACATED ALLEY

21ST AVE. S.

VACATED ALLEY

OLD LOT LINES

BLOCK 22

VACATED ALLEY

21ST AVE. S.

VACATED ALLEY

OLD LOT LINES

BLOCK 22

VACATED ALLEY

21ST AVE. S.

VACATED ALLEY

OLD LOT LINES

BLOCK 22

VACATED ALLEY

21ST AVE. S.

VACATED ALLEY

OLD LOT LINES

BLOCK 22

VACATED ALLEY

21ST AVE. S.

VACATED ALLEY

OLD LOT LINES

BLOCK 22

VACATED ALLEY

21ST AVE. S.

VACATED ALLEY

OLD LOT LINES

BLOCK 22

VACATED ALLEY

21ST AVE. S.

VACATED ALLEY

OLD LOT LINES

BLOCK 22

VACATED ALLEY

21ST AVE. S.

SET SOUTH QUARTER CORNER  
 SECTION 13, T20N, R3E  
 ON 1/4 SEC 1/4

SECTION 13, T20N, R3E  
 SW 1/4

SW 1/4

**LEGEND**

- CURRENT ADDITION BOUNDARY
- - - EASEMENT LINE
- - - ABANDONED LINES
- - - CENTERLINE
- - - EXISTING PROPERTY LINE
- - - SECTION LINE
- P.O.B. POINT OF BEGINNING
- T.P.O.B. TRUE POINT OF BEGINNING
- SET IRON PIN AND CAP
- FOUND MONUMENT
- HM SET QUARTER CORNER

BASS OF BEARING IS TRUE NORTH  
 BASED ON GEODETIC ANGLES FROM  
 SURVEY GRADE G.P.S. SYSTEM



**CERTIFICATE OF SURVEY**

We, the undersigned property owners, do hereby certify that we have caused to be surveyed and platted into lots, blocks, streets and avenues as shown by the attached amended plat, the tract of land to be known as the **AMENDED PLAT OF BLOCK 21 AND BLOCK 22 OF THE REVISED PLAT OF HIGHLAND PARK WITH FIRST ADDITION THERE TO**, a subdivision located in the SE1/4, Section 13, T20N, R3E, P.M.M., Cascade County, Montana, more fully described as follows:

Beginning at the iron pin marking the corner of Section 13, T20N, R3E, P.M.M., Cascade County, Montana; thence S87°10'41"W, 245.35 feet along the mid-section line of said Section 13 to **TRUE POINT OF BEGINNING**; thence S71°22'2" E, 237.91 feet; thence S87°13'08"W, 244.64 feet along the westerly right of way line of 8th Street South; thence N87°31'41"W, 137.37 feet; thence N87°10'41"W, 245.62 feet along the mid-section line of said Section 13 to the **TRUE POINT OF BEGINNING**; containing 2.811 acres.

The above described tract of land is to be known and designated as the **AMENDED PLAT OF BLOCK 21 AND BLOCK 22 OF THE REVISED PLAT OF HIGHLAND PARK WITH FIRST ADDITION THERE TO**, Cascade County, Montana.

SALE YERKS TRACY YERKS

STATE OF MONTANA )  
 County of Cascade )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2009, before me, a Notary Public, in and for the State of Montana, personally appeared SALE YERKS and TRACY YERKS, known to me to be the persons that executed the foregoing Certificate of Survey and they acknowledged to me that they executed the same.

NOTARY PUBLIC, State of Montana  
 Notary of Great Falls, Montana  
 My Commission Expires \_\_\_\_\_

Private Notary Public Here  
**CERTIFICATE OF SUBSCRIBER**

I, DALE E. SCHAEFFER, Professional Engineer and Land Surveyor, Montana Reg. No. 12885, do hereby certify that in April, 2009 I supervised the survey of the tract of land shown on the attached **AMENDED PLAT OF BLOCK 21 AND BLOCK 22 OF THE REVISED PLAT OF HIGHLAND PARK WITH FIRST ADDITION THERE TO**, Cascade County, Montana, as described in the Certificate of Dedication, and that the survey was made in accordance with the provisions of Title 76, Chapter 3, Part 4, MCA.

DALE E. SCHAEFFER, P.E./L.S.  
 Montana Reg. No. 12885



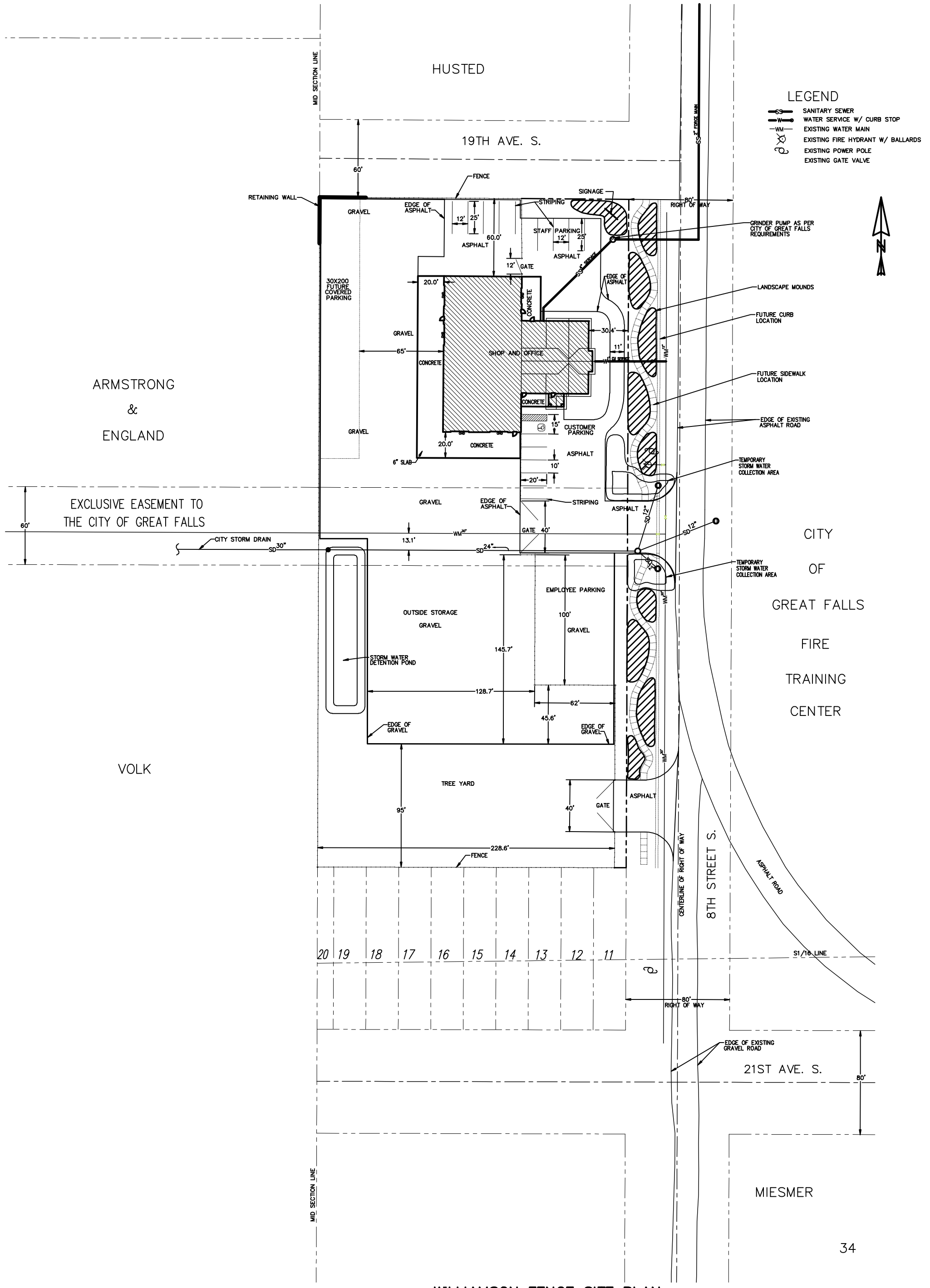
**CERTIFICATE OF COUNTY TREASURER**

I, JESS ANDERSON, County Treasurer of Cascade County, Montana, do hereby certify that I have examined the records covering the area included in the accompanying **AMENDED PLAT OF BLOCK 21 AND BLOCK 22 OF THE REVISED PLAT OF HIGHLAND PARK WITH FIRST ADDITION THERE TO**, Cascade County, Montana, and find that the taxes on the same have been paid for the last five years. Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

JESS ANDERSON, Cascade County Treasurer

**WORTH ENGINEERING, INC.**  
 ENGINEERS & SURVEYORS  
 715 1ST AVE. S.W. GREAT FALLS, MONTANA 59405

DATE	08/20
SCALE	AS SHOWN
PROJECT	AMENDED PLAT
DATE	08/20
BY	JMS



**LEGEND**

- SS— SANITARY SEWER
- WS— WATER SERVICE W/ CURB STOP
- WM— EXISTING WATER MAIN
- FH— EXISTING FIRE HYDRANT W/ BALLARDS
- EP— EXISTING POWER POLE
- GV— EXISTING GATE VALVE



**WILLIAMSON FENCE SITE PLAN**

# Karen Kay Kinkaid Husted

*Educational Consultant*

P. O. Box 3535 Douglas, AZ 85608  
Phone/FAX 520 - 558-2546  
Cell Phone 520 - 400 - 1474  
[karenkhusted@gmail.com](mailto:karenkhusted@gmail.com)

June 8, 2009

City of Great Falls Planning Department  
Attn: Charles Sheets  
P O Box 5021  
Great Falls, Montana 59403-5021

Dear Mr. Sheets,

This is to inform you that I am in opposition to the applications from Dale and Tracy Yurek regarding amended Plt Blocks 21 & 22, Highland Park.

Due to the fact that I was not given prior notification of this change, I do not believe I have had time to evaluate all aspects of it and the impact that it may have to my property.

I will attempt to have a representative at the meeting on June 9, 2009. However due to late notification regarding this issue, it may not be possible.

Sincerely,

  
Karen Kay Kinkaid Husted



**FINDINGS OF FACT  
FOR AMENDED PLAT OF BLOCK 21 & LOTS 1-10,  
BLOCK 22, HIGHLAND PARK ADDITION  
AND VACATED RIGHTS-OF-WAY,  
ALL IN SECTION 13, T20N, R3E, CASCADE COUNTY, MONTANA  
(PREPARED IN RESPONSE TO 76-3-608(3)MCA)**

I. PRIMARY REVIEW CRITERIA

**Effect on Agricultural**

The subdivision site is bordered on two sides by urban development and has not been used for agricultural purposes for many years. The subdivision will not interfere with any irrigation system or present any interference with agricultural operations.

**Effect on Local Services**

The subdivision will connect to City water and sewer systems. The subdivider will pay the cost of extending the sanitary sewer system. The City should not experience any appreciable increase in maintenance and operating costs. The business locating within the subdivision will pay regular water and sewer charges. The subdivision will receive law enforcement and fire protection service from the City of Great Falls. The nearest fire station is 1.5 miles from the subdivision site. Providing these services to the light industrial uses that are planned within the subdivision is expected to be a negligible cost to the City. Increased tax revenues from improved properties will likely cover any increase in costs associated with providing City services.

**Effect on the Natural Environment**

The subdivision is not expected to adversely affect soils or the water quality or quantity of surface or ground waters. Surface runoff will be detained on site and any excess storm water will be discharged to follow the historic drainage path and percolate into the soil. The owners agree to waive their right to protest any area wide plan to install storm drainage facilities to the area.

**Effect on Wildlife and Wildlife Habitat**

The subdivision is in close proximity to urban development. The subdivision is not in an area of significant wildlife habitat and will not result in closure of public access to hunting or fishing areas, nor to public lands.

**Effect on Public Health and Safety**

Based on available information, the subdivision is not subject to abnormal potential natural hazards such as flooding, wildfire, snow or rockslides, nor potential man-made hazards such as high voltage power lines, high- pressure gas lines, high traffic volumes, or mining activity.

II. REQUIREMENTS OF MONTANA SUBDIVISION AND PLATTING ACT, UNIFORM STANDARDS FOR MONUMENTATION, AND LOCAL SUBDIVISION REGULATIONS

The subdivision meets the requirements of the Montana Subdivision and Platting Act and the surveying requirements specified in the Uniform Standards for Monumentation, 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 subdivision regulations.

III. EASEMENT FOR UTILITIES Within the subdivision, the subdivider will provide the necessary utility easements as apart of the subdivision plat. The subdivider grants those duly licensed persons providing or offering to provide telephone, electric power, natural gas, cable television, water and sewer service, or other similar service, the right to the joint use of the utility easements shown on said plat for the construction, maintenance, repair, or removal of their lines and other facilities upon advance notice to the affected landowners and consistent with requirements as may be imposed by the City of Great Falls now or in the future.

IV. LEGAL AND PHYSICAL ACCESS

Legal and physical access to the subdivision is provided by 8<sup>th</sup> Street South, dedicated right-of-way maintained by the City of Great Falls.

**ANNEXATION AGREEMENT  
FOR AMENDED PLAT OF BLOCK 21 & LOTS 1-10,  
BLOCK 22, HIGHLAND PARK ADDITION  
AND VACATED RIGHTS-OF-WAY,  
ALL IN SECTION 13, TOWNSHIP 20 NORTH,  
RANGE 3 EAST, CASCADE COUNTY, MONTANA**

1. PREFACE

The following is a binding Agreement dated this 13 day of Aug, 2009, between DALE & TRACY YUREK AND DAVID & ROCHELLE WILLIAMSON, hereinafter referred to as "Owners," and the CITY OF GREAT FALLS, MONTANA, a municipal corporation of the State of Montana, hereinafter referred to as "City," regarding the requirements for the approval of the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and vacated rights-of-way, all in Section 13, Township 20 North, Range 3 East, Cascade County, Montana, and annexation to the corporate limits of the City of the amended plat, hereinafter referred to as "Subdivision."

2. SUPPORTING DOCUMENTS

- A. Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and vacated rights-of-way, all in Section 13, Township 20 North, Range 3 East, Cascade County, Montana, prepared by Woith Engineering, and filed of record in the Clerk and Recorder's Office of Cascade County, Montana.
- B. Final engineering drawings and specifications prepared by Woith Engineering, consisting of documents for extension of City's sanitary sewer system to serve Subdivision. Said drawings and specifications are on file in the City Engineer's office.
- C. Site plan attached hereto as Exhibit "A" illustrating building locations, setbacks, maximum building height and lot coverage.

3. AMENDMENTS

Minor changes to engineering documents and such revisions to the engineering drawings as are deemed appropriate and necessary by City's Engineer and City's Public Works Department and which do not materially affect the hereinabove mentioned Subdivision, can be made as follows:

- A. The proposed revision will be submitted to City’s Public Works Department for review and, if approved, the City Engineer or Public Works Director will sign and adequately annotate the change.
- B. The annotated revision becomes a part of this Agreement upon City’s Public Works Department approval.
- C. Changes during construction shall be made by change order approved by City’s Public Works Department.
- D. “As Built” reproducible drawings shall be supplied to City’s Engineer upon completion of the construction.
- E. All amendments to this Agreement, except as allowable above in this section, shall be in writing and approved by City and Owners.

4. FEES AND CHARGES

A. Prior to annexation of Subdivision, Owners shall, in addition to the \$700.00 Zoning/Conditional Use Permit Fee, \$600.00 Amended Plat Fee, \$200.00 Right-of-way Vacation Fee and \$100.00 Annexation Application Fee, which have been paid, pay the following required fees as provided by City policy, ordinances and resolutions:

a) Agreement Fee	\$ 200.00
b) Annexation Resolution Fee	100.00
c) Storm Sewer Fee (\$250/acre x 2.811 acre)	702.75
d) Recording Fees for annexation documents (\$11 per page x 10 pages)	110.00
Total fees made payable to City of Great Falls	\$ 1,112.75

- B. Owners or their successors or assigns shall reimburse City for its expenses incurred in testing and acceptance of public utilities to serve Subdivision at the rates charged by City for said work at the time performed.
- C. Water tapping, water connection, sewer service tapping, and sewer connection fees will be assessed at the time of installation.
- D. The absence of any fee from this agreement lawfully charged by the City in connection with construction activity associated with Subdivision shall not constitute a waiver by the City.
- E. Owner agrees to complete within two (2) years of the date of this Agreement, the installation of the sanitary sewer to serve Subdivision, according to plans referenced in Paragraph 2.B. above and filed in the City Engineer’s office and in accordance with standards of City.

5. FUTURE OBLIGATION FOR IMPROVING 8<sup>TH</sup> ST. S. AND 19<sup>TH</sup> AVE. S.

Owners hereby agree to waive right to protest and agree to pay for proportionate share of the costs to improve the abutting portions of 8<sup>th</sup> Street South and 19<sup>th</sup> Avenue South to City standards based upon subdivision’s frontage on said right-of-way, when deemed necessary by City. In addition, Owner further agrees to pay for 50% of the costs of an 8 inch water main in that portion of 19<sup>th</sup> Avenue South abutting Subdivision, if deemed necessary by the City.

6. SIDEWALKS

Owners hereby agree to install City sidewalk in the portions of 8<sup>th</sup> Street South and 19<sup>th</sup> Avenue South abutting Subdivision at such time said roadways are improved to City standards.

7. SOIL AND/OR GROUNDWATER CONDITIONS

Owners hereby agree to indemnify and hold the City, its employees, agents and assigns harmless for and against all damages, claims, attorney fees, judgments, demands and/or liabilities that may, arise from, be attributable to or be sustained as a result of adverse soil and/or groundwater conditions associated with Subdivision.

8. FUTURE STORM DRAINAGE FACILITIES

Owners hereby agree to waive their right to protest any future area wide special improvement district for storm drainage facilities and further agree to pay for proportionate share of any future storm drainage improvements which service Subdivision that may be installed with or without an area wide special improvement district. The term “area wide” as used herein, means any area larger than that covered by Subdivision which is a contributor to the drainage sub-basin of which Subdivision is a part.

9. FUTURE SANITARY SEWER FACILITIES

Owners hereby agree to waive their right to protest any future area wide special improvement district for sanitary sewer facilities and further agree to pay for proportionate share of any future sanitary sewer improvements which service Subdivision that may be installed with or without an area wide special improvement district. The term “area wide” as used herein, means any area larger than that covered by Subdivision which is served by a gravity sanitary sewer system.

10. PUBLIC ROADWAY LIGHTING

Owners hereby agree to waive their right to protest any future special lighting district for public roadway lighting facilities that service Subdivision, and further agree to pay for proportionate share of the costs associated with roadway lighting which service Subdivision that may be installed with or without a special lighting district.

11. WAIVER OF PROTEST OF ANNEXATION

Owners hereby waive any and all statutory procedure notice on right of protest to annexation of Subdivision, as provided for by State law.

12. WARRANTY, OWNERSHIP AND INSPECTION OF UTILITY IMPROVEMENTS

- A. After the sanitary sewer described in Paragraph 2.B. hereof has been installed and accepted by City, the same shall be in all respects treated, owned and maintained as though the same had been constructed and installed by City. Said sanitary sewer shall be guaranteed against defective work and materials for a period of two (2) years from date of acceptance of the completed improvements by City.
- B. Installation of the sanitary sewer described in Paragraph 2.B. hereof, shall be subject to City’s infrastructure inspection policy in place at the time of installation.

13. ANNEXATION PREREQUISITES

Subdivision is contiguous to City; is not included within the boundary of any other incorporated municipality; and, is not a part of any fire district existing or organized under any of the provisions of Chapter 33, Title 7, of the Montana Code Annotated. Subdivision, upon annexation to City, will be provided fire protection services by City comparable to that provided incorporated properties.

14. MAINTENANCE DISTRICTS

Owners waive their right to protest the lawful creation by City of maintenance districts for any proper purpose including, but not limited to, fire hydrant and street maintenance and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to Subdivision.

15. CITY ACCEPTANCE AND APPROVAL

In consideration of the foregoing, City hereby accepts and approves;

- A. the vacation of the southerly 20 feet of 19<sup>th</sup> Avenue South, and all of 20<sup>th</sup> Alley South, 21<sup>st</sup> Alley South and 20<sup>th</sup> Avenue South within the Subdivision;
- B. the amended plat of Subdivision;
- C. annexation of the Subdivision into the corporate limits of City;
- D. assigning a zoning classification of M-1 Mixed use district to the Subdivision, upon annexation to the City; and
- E. granting a conditional use permit to allow a contractor yard, type II within Subdivision.

16. DESIGN REVIEW BOARD

Owner hereby agrees to submit and obtain Design Review Board approval of the site plan and structures proposed to be constructed within Subdivision including landscaping, signage, yard lighting and sight-obscuring fence or other such improvements.

17. ADHERENCE TO SITE PLAN

Owner hereby agrees that development upon Lot 1A, Block 21, Highland Park Addition, shall be substantially in accordance with the Site Plan attached hereto as Exhibit "A" and by this reference made a part hereof and applicable City Codes, and the terms and conditions contained in this Agreement.

18. UNFORESEEN POTENTIALITIES

It is mutually recognized, understood and agreed by City and Owners that subsequent to the time this agreement was entered into, events may occur and actions may be taken which were unforeseen by either party or both parties hereto. In this perspective, it is, therefore, agreed that the parties may by mutual subsequent agreement modify the terms, conditions and covenants of this Agreement.

19. BINDING EFFECT

The provisions covenants and terms of this Agreement shall run with the land and bind the present owners, their devisees, heirs, successors, and assigns; and any and all parties claiming by, through, or under them, shall be taken to agree and covenant with each of the

parties to the Agreement, their devisees, heirs, successors and assigns, to conform to the provisions, covenants and terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day, month and year first hereinabove written.

THE CITY OF GREAT FALLS, MONTANA  
A Municipal Corporation of the State of Montana

---

Gregory T. Doyon, City Manager

ATTEST:

---

Lisa Kunz, City Clerk

(Seal of City)

APPROVED FOR LEGAL CONTENT:

---

City Attorney

OWNERS

  
DALE YUREK

  
TRACY YUREK

  
DAVID WILLIAMSON

  
ROCHELLE WILLIAMSON

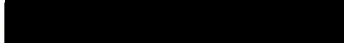
State of Montana )

:ss.

County of Cascade)

On this 13 day of August, in the year Two thousand and Nine, before me, the undersigned, a Notary Public for the State of Montana, personally appeared DALE YUREK, TRACY YUREK, DAVID WILLIAMSON AND ROCHELLE WILLIAMSON, known to me to the persons whose names are subscribed to the instrument within and acknowledged to me that they 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 for the State of Montana

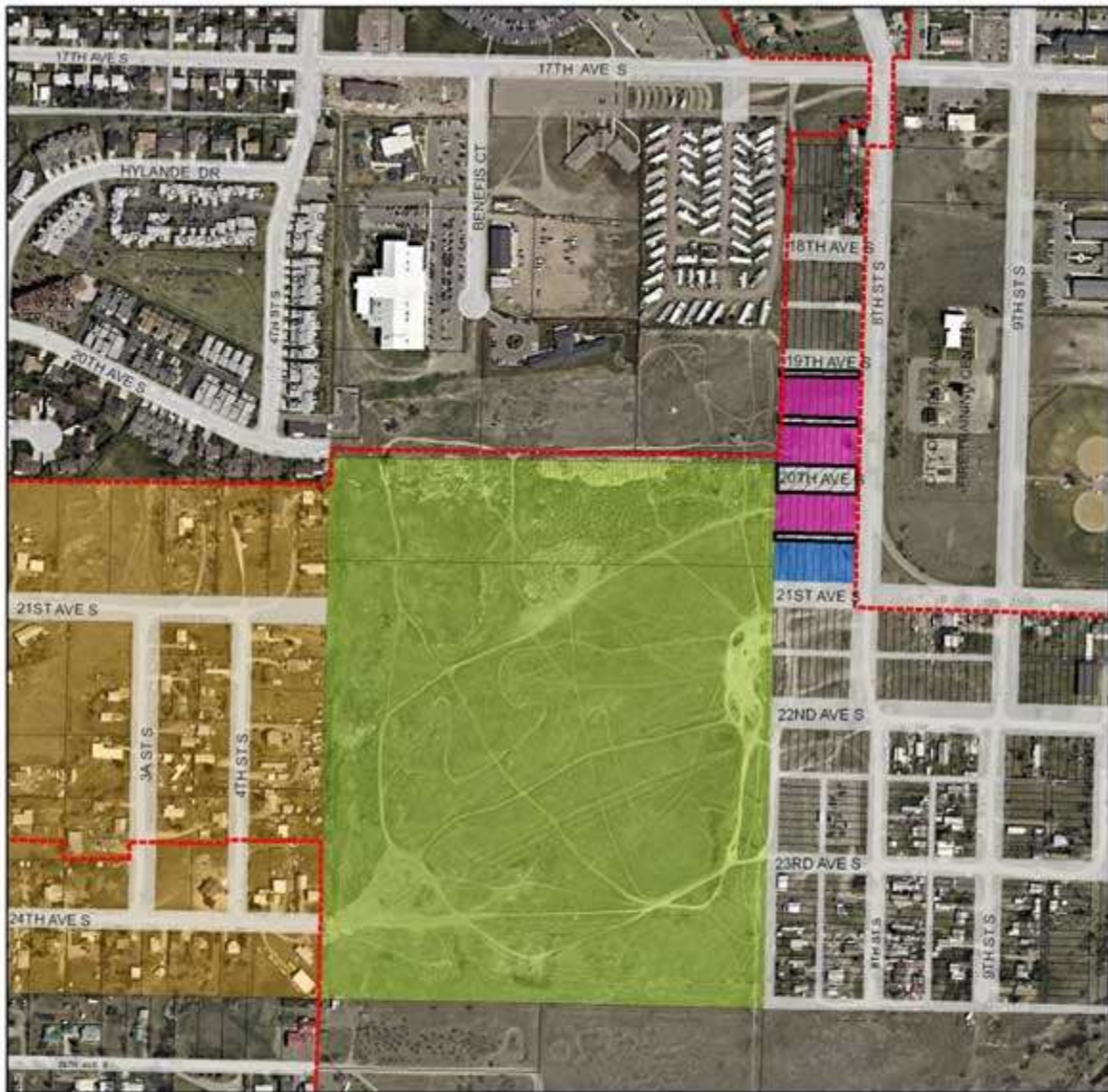
C. JAMES HELSETH

Notary Public for the State of Montana (Printed)

Residing at GREAT FALLS, MT

My commission Expires 10/19/08, 2010

(NOTARIAL SEAL)



- EXISTING CITY LIMITS
- DEDICATED PUBLIC RIGHTS-OF-WAY
- WILLIAMSON FENCING (YUREK) PROPERTY PROPOSED TO BE ANNEXED BY RESOLUTION 9858
- RIGHTS-OF-WAY PROPOSED TO BE VACATED BY RESOLUTION 9859
- WILLIAMSON FENCING PROPERTY NOT PRESENTLY BEING ANNEXED
- VOLK PROPERTY
- GRANDVIEW TRACTS



AFFIDAVIT

On May 21, 2009, I caused to be transmitted by mail to property owners as listed below, a copy of the Notice of Public Hearing to be held before the Great Falls City Zoning Commission on Tuesday, June 9, 2009, at 3:00 P.M. to consider application from Dale and Tracy Yurek, regarding the following:

- 1) Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and vacated rights-of-way, all in Section 13, T20N, R3E, Cascade County, Montana.
- 2) Vacate the southerly 20 feet of 19<sup>th</sup> Avenue South, All of 20<sup>th</sup> Alley South, 21<sup>st</sup> Alley South and 20<sup>th</sup> Avenue South, between the west right-of-way of 8<sup>th</sup> Street South and the west subdivision of Highland Park Addition.
- 3) Annexation of the area contained in said Amended Plat and abutting portion of 19<sup>th</sup> Avenue South.
- 4) Establish City zoning classification of M-1 Mixed use district and grant a conditional use permit to allow a contractor yard, type II upon the property requested to be annexed.

<u>Parcel #</u>	<u>Owner of Record</u> -----
1790500	SPEARHEAD LLC
1790550	ARMSTONG LYNETTE ETAL
1892920	CITY OF GREAT FALLS
1892925	LIVESAY ROBERT & JAN M
2071800	LIVESAY ROBERT L & JAN M
2072000	LIVESAY ROBERT & JAN M
2072100	OVESON JUDITH M
2072300	HUSTED WARREN T & KAREN KAY
2072400	KINKAID ELIZABETH & KAREN K
2073300	YUREK DALE & TRACY ETAL
2073350	YUREK DALE & TRACY ETAL
2075200	WADSWORTH SHANNON
2422300	VOLK ROY D & DIANE K



Charles Sheets 5/21/09

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that the Great Falls Planning Board/Zoning Commission will hold a public hearing in the Commission Chambers, Civic Center Building, Great Falls, Montana, on June 9, 2009, at 3:00 P.M. to consider applications from Dale and Tracy Yurek, regarding the following:

- 1) Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and vacated rights-of-way, all in Section 13, T20N, R3E, Cascade County, Montana.
- 2) Vacate the southerly 20 feet of 19<sup>th</sup> Avenue South, All of 20<sup>th</sup> Alley South, 21<sup>st</sup> Alley South and 20<sup>th</sup> Avenue South, between the west right-of-way of 8<sup>th</sup> Street South and the west subdivision of Highland Park Addition.
- 3) Annexation of the area contained in said Amended Plat and abutting portion of 19<sup>th</sup> Avenue South.
- 4) Establish City zoning classification of M-1 Mixed use district and grant a conditional use permit to allow a contractor yard, type II upon the property requested to be annexed.

Said Amended Plat combines platted lots and rights-of-way requested to be vacated into one lot located along the west side of 8<sup>th</sup> Street South between 19<sup>th</sup> Avenue South and 21<sup>st</sup> Alley South.

Said Amended Plat, site plan and zoning information are on file in the Planning Office, Civic Center, #2 Park Drive South. Any interested person may appear and speak for or against and/or submit written comments regarding said rights-of-way requested to be vacated, amended plat, annexation, assignment of City zoning and conditional use permit to the Planning Board/Zoning Commission prior to or during said public hearing.

If special accommodations for disabilities are needed, please call 771-1180 Ext 438 (TDD 454-0495).

Great Falls Planning Board/Zoning Commission  
/s/ Bill Walters, Interim Secretary

Publication Date: May 24, 2009

NOTICE OF EXTENSION OF BOUNDARIES  
OF CITY LIMITS, ESTABLISHMENT OF CITY ZONING, GRANTING A  
CONDITIONAL USE PERMIT AND VACATION OF RIGHTS-OF-WAY THEREIN

NOTICE IS HEREBY GIVEN that on July 21, 2009, the Great Falls City Commission adopt Resolution 9841, an expression of intent to vacate the southerly 20 feet of 19<sup>th</sup> Avenue South, all of 20<sup>th</sup> & 21<sup>st</sup> Alleys South and 20<sup>th</sup> Avenue South between the west right-of-way of 8<sup>th</sup> Street South and the west boundary of Highland Park Addition and accepted on first reading Ordinance 3040, assigning, upon annexation to the City of Great Falls, a City zoning classification of M-1 Mixed use district and granting a conditional use permit to allow a contractor yard, type II to the Amended Plat of Block 21 & Lots 1-10, Block 22, Highland Park Addition and Vacated Rights-of-Way, all in Section 13, T20N, R3E, Cascade County, Montana.

Said Amended Plat combines platted lots and vacated rights-of-way into one lot located along the west side of 8<sup>th</sup> Street South between 19<sup>th</sup> Avenue South and 21<sup>st</sup> Alley South. Williamson Fencing and Sprinklers intends to relocate to this site.

ALSO TAKE NOTICE that a public hearing on the proposed alteration of the boundaries of said City, vacation of rights-of-way and Ordinance 3040 will be held in the Commission Chambers at the Civic Center, #2 Park Drive South, Great Falls, Montana, on August 18, 2009, at 7:00 P.M. at which hearing said City Commission shall hear all persons and all things relative to said proposed annexation, rights-of-way vacation, establishment of City zoning and granting a conditional use permit.

NOTICE IS FURTHER GIVEN that the City Clerk will receive expressions of approval or disapproval, in writing, of the proposed alteration of the boundaries of said City, vacation of rights-of-way and Ordinance 3040 prior to said public hearing.

If special accommodations for disabilities are needed, please call 771-1180 Ext. 438 (TDD 454-0495).

/s/ Lisa Kunz  
City Clerk

Dates of Publication: August 2 and 9, 2009



**Item:** Ordinance 3034 to add provisions for Wind-powered Electricity Systems to the Land Development Code

**From:** Bill Walters, Interim Planning Director

**Initiated By:** City Staff

**Presented By:** Bill Walters, Interim Planning Director

**Action Requested:** City Commission adopt Ordinance 3034.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Ordinance 3034.”

2. Mayor calls for a second, discussion, inquiries from the public and calls the vote.

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**City Zoning Commission Recommendation:** The City Zoning Commission, at the conclusion of a public hearing held March 10, 2009, unanimously passed a motion recommending the City Commission adopt the ordinance (3034) to amend the Land Development Code to permit certain types of wind-powered electricity systems within the City subject to compliance with specified standards and conditions.

**Background:** As interest and inquiries are increasing regarding wind turbines, ranging in size from the one recently approved through the conditional use process for MSU COT to smaller units that can be mounted on residential rooftops, Staff has drafted amendments to the Land Development Code which will permit certain types of wind-powered electricity systems in all zoning districts, subject to compliance with specified standards and conditions.

In preparing the attached material, Staff started with a ‘wind-powered generator’ ordinance that the City adopted in October, 2001, and upgraded it based upon review of recent publications on the subject, codes from other communities and input from local individuals to date.

A significant factor that influences energy production associated with wind-powered electricity systems is the speed and consistency of the wind. Variations in topography and obstructions such as buildings and trees slow the wind and add turbulence near the ground. Therefore, adequate height is a critical factor in wind-powered electricity system effectiveness. In order to function

well, the lowest part of systems with rotor blades must be a minimum of 25 to 35 feet higher than surrounding obstructions.

Ordinance 3034 essentially allows small wind-powered electricity systems (up to 10 kW and 80 feet in height) as accessory uses in all residential zoning districts and systems (up to 100kW and 125 feet in height) in all other zoning districts subject to setback and other standards. The proposed minimum setbacks of 110% of the tower height for systems 80 feet or less in height and 200% of the tower height of systems more than 80 feet in height are reasonable requirements. Structure failure in wind-powered electricity systems is extremely unlikely. Systems are installed on engineered towers and poles and rooftop models must be installed on structures that are engineered to accommodate the additional weight and stress. Even so, such setbacks of 1.1 to 2 times the tower height address a range of potential impacts including safety, noise, and aesthetics, and can give neighbors peace of mind. Based upon the proposed standards, a standalone 60-foot tall wind-powered electricity system would require a minimum 66 foot (110% x 60ft) setback from any property line. With the vast majority of the lots in the City being less than 80 feet in width, they would be precluded from accommodating such a system. A standalone wind-powered electricity system placed on a typical 50-foot wide lot could not be more than 22.7 feet in height.

Opinions vary widely about whether wind-powered electricity systems are attractive, based largely on personal taste. And there are a variety of different wind-powered electricity systems as is evident from reviewing the attached photo collage. Some would be considered rather innocuous and appear more like ornamental art instead of an energy producing system. However, most systems are usually quite visible because they must be placed high enough to access good wind. The community has to decide if the aesthetic impact is serious enough to enforce height standards that would compromise a system's functionality. The appearance of a turbine is an aesthetic issue which staff has attempted to address through the color, signs and lighting provisions in the attached ordinance.

Noise generated by a wind-powered electricity system is often a first concern of neighbors. Small systems that would be used in a residential setting (up to 10kW) can be compared to a flag flapping in the wind. To further illustrate, the noise level measured 50 feet away from a wind-powered electricity system (up to 10kW) on an 80-foot tower is approximately 45 decibels which is under the maximum 50 decibel limitation in residential areas stipulated by the City's noise ordinance. Of course, the greater the distance between the listener and the turbine, the less the noise level. Off-property noise intrusion from a residential turbine system is typically very limited. The slow-spinning blades on large wind-powered electricity systems can cause thumping vibrating acoustical effects. Faster rotating, smaller systems do not cause the same effects.

Following are some comparative figures for energy production associated with wind turbines.

- ◆ Typical residential roof mounted unit will generate about 500W or .5kW.
- ◆ Models used by Cascade County at its new County shop Complex and to be built at MSU COT are rated about 50kW with an approximate height of 120 feet.
- ◆ The six United Materials' turbines west of International Airport are each rated 1.5mW or 1500kW with a height of about 220 feet.
- ◆ 1mW will power 250 – 300 homes.

During the Public Hearing before the Zoning Commission on March 10, 2009, Mr. Ken Thornton, 31 Paradise Lane, spoke as a proponent, Mr. Joe McMahon, 3121 2<sup>nd</sup> Avenue South, spoke as an opponent, and Mr. Ronald Gessaman, 1006 36<sup>th</sup> Avenue NE, spoke under public comment. A copy of the Minutes of the Zoning Commission Public Hearing are attached.

**Concurrences:** Other City Departments including Public Works, Community Development, and Administration have been involved in the drafting of Ordinance 3034.

**Fiscal Impact:** Adoption of Ordinance 3034 allowing certain types of wind-powered electricity systems subject to specific standards could eventually result in energy cost savings for the user/owner of the systems.

**Alternatives:** The City Commission could deny Ordinance 3034 or stipulate amendments to the Ordinance before it is adopted.

**Attachments/Exhibits:**

Ordinance 3034

Photo Collage of wind-powered electricity systems (3 pages)

Examples of Minimum Setbacks based upon tower height

Minutes of Zoning Commission Public Hearing held March 10, 2009

ORDINANCE 3034

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE  
TO GOVERN WIND-POWERED ELECTRICITY SYSTEMS AS AN  
ACCESSORY USE SUBJECT TO SPECIFIC STANDARDS AND  
ADDING NEW DEFINITIONS FOR WIND-POWERED SYSTEMS

\* \* \* \* \*

WHEREAS, the City of Great Falls Land Development Code allows wind-powered generators in all zoning districts through a conditional use process, but lacks standards for the erection and operation of such generators; and,

WHEREAS, the City of Great Falls desires to establish standards for the erection and operation of wind-powered systems within the City limits of Great Falls, Montana; and,

WHEREAS, the City of Great Falls further desires to allow wind-powered systems as an accessory use in all zoning districts; and,

WHEREAS, the City of Great Falls Planning Board/Zoning Commission has held a public hearing and has recommended standards for wind-powered systems so as to protect the public health and safety; and,

WHEREAS, notice of amending the Land Development Code to add provisions for wind-powered systems was published in the Great Falls Tribune, advising that a public hearing on these proposed amendments would be held on the 7<sup>th</sup> day of July, 2009, before final passage of said Ordinance herein.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. Exhibit 20-2 of Chapter 20 of the Land Development Code is hereby amended to add wind-powered systems as accessory uses permitted in all zoning districts.

Section 2. That new definitions for wind-powered systems as presented in attached Exhibit "A", Paragraph A. are hereby added to Section 17.8.120 General definitions and Appendix F Land Use Definitions of the Land Development Code.

Section 3. That a new Section 17.20.7.110 is hereby added to the Land Development Code providing specific standards for wind-powered systems as presented in attached Exhibit "A", Paragraphs B. through K.

Section 4. That the term "wind turbines" shall be deleted from the definition of "Utility installation" as contained in Section 17.8.120 General definitions and Appendix F Land Use Definitions of the Land Development Code.

Section 5. It is determined that the herein proposed zoning amendments will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of the Unified Land Development Code of the City of Great Falls.

Section 6. All Ordinances and parts of Ordinances in conflict herewith, are hereby repealed.

Section 7. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission.

APPROVED by the City Commission on first reading June 16, 2009.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading July 21, 2009.

---

Dona R. Stebbins, Mayor

ATTEST:

---

Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

---

David V. Gliko, City Attorney

State of Montana )  
County of Cascade : ss.  
City of Great Falls )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3034 in three conspicuous places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;  
On the Bulletin Board, first floor, Cascade County Court House;  
On the Bulletin Board, Great Falls Public Library

---

Lisa Kunz, City Clerk

(CITY SEAL)



## EXHIBIT A

### 17.20.7.110 Wind-powered electricity systems

#### A. Definitions.

- 1) **Small wind-powered electricity systems** have a rated capacity of up to and including 100 kilowatts (kW) and are incidental and subordinate to a permitted use on the same parcel. A system is considered a small wind-powered electricity system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company as may be governed by applicable state statutes.
- 2) **Large wind-powered electricity systems** have a rated capacity of over 100 kilowatts (kW) and are intended to produce electricity for use on-site and/or sale to a rate regulated utility company or other off-site provider of electric power. Such systems may also be termed as “commercial wind-powered electricity systems”.
- 3) **Tower height** means the vertical measurement from the base of the tower to the top of the tower itself or the tip of the highest piece of equipment attached thereto. In the case of building-mounted towers the height of the tower does not include the height of the building on which it is mounted.

#### B. Siting. Small wind-powered electricity systems are allowed as accessory uses in all zoning districts provided the following standards are met:

- 1) In residential districts (R-1, R-2, R-3, R-5, R-6, R-9, and R-10), wind-powered electricity systems rated up to and including 10 kW are allowed. The maximum height shall be eighty (80) feet, as measured from finished ground level to the top of the tower system, which includes the generating unit and the highest vertical extent of any blades or rotors.
- 2) In all other districts (C-1, C-2, C-3, C-4, C-5, M-1, M-2, POS, PLI, IA, I-1, and I-2), wind-powered electricity systems up to and including 100 kW are allowed. The maximum height shall be one-hundred and twenty-five (125) feet, as measured from finished ground level to the top of the tower system, which includes the generating unit and the highest vertical extent of any blades or rotors.
- 3) On parcels greater than one acre in size, except within residential districts, wind-powered electricity systems up to and including 100 kW are also allowed as a primary use provided all other applicable provisions of this section are met.

#### C. Minimum Setback Requirement.

Minimum setback from any property line for wind-powered electricity systems 80 feet or less in height above the ground shall be 110% of the tower height (i.e.  $110\% \times \text{tower height} = \text{minimum setback}$ ). Minimum setback from any property line for wind-powered electricity systems more than 80 feet in height above the ground shall be 200% of the tower height (i.e.  $200\% \times \text{tower height} = \text{minimum setback}$ ).

#### D. Permits. All wind-powered electricity system installations are subject to applicable building, electrical, and mechanical permits issued by the City and shall be located in compliance with any applicable Federal Aviation Administration regulations and guidelines.

#### E. Noise. All wind-powered electricity systems are subject to noise standards set forth in Chapter 8.56, Official Code of the City of Great Falls, and it is incumbent upon the property owner to demonstrate compliance prior to the issuance of any permits by the City.

- F. **Color.** Tower colors should have a matted or non-reflective finish and be of neutral subdued tones such as earth tones of green or brown. Gray, including naturally darkening galvanized gray, is also acceptable. Towers shall not be finished in bright or vivid colors intended to draw attention to the structure or property.
- G. **Signs.** The system tower shall not be used for signs and advertising of any kind. One sign, limited to four square feet, shall be posted at the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the telephone number of the property owner/operator to call in case of emergency.
- H. **Lighting.** The system shall be unlit unless required to meet Federal Aviation Administration regulations in which case tower lighting shall be shielded or directed to the greatest extent possible to minimize the amount of light that falls onto nearby properties, particularly residences.
- I. **Anti-climbing Measures.** All tower systems with climbable features shall be enclosed by a fence or shall incorporate other effective anti climbing measures to discourage unauthorized climbing of the tower and reduce potential for trespass and injury.
- J. **Removal.** Tower systems that remain nonfunctional or inoperative for a continuous period of one year shall be deemed to be abandoned, shall constitute a public nuisance and shall be removed by the owner/operator.
- K. **Prohibited Systems.** Large or commercial wind-powered electricity systems shall not be allowed, erected, operated or maintained within the City.





Dongtan Eco-City, Shanghai,  
masterplanning and engineering by Arup.



VOA Photo - C. Blumie





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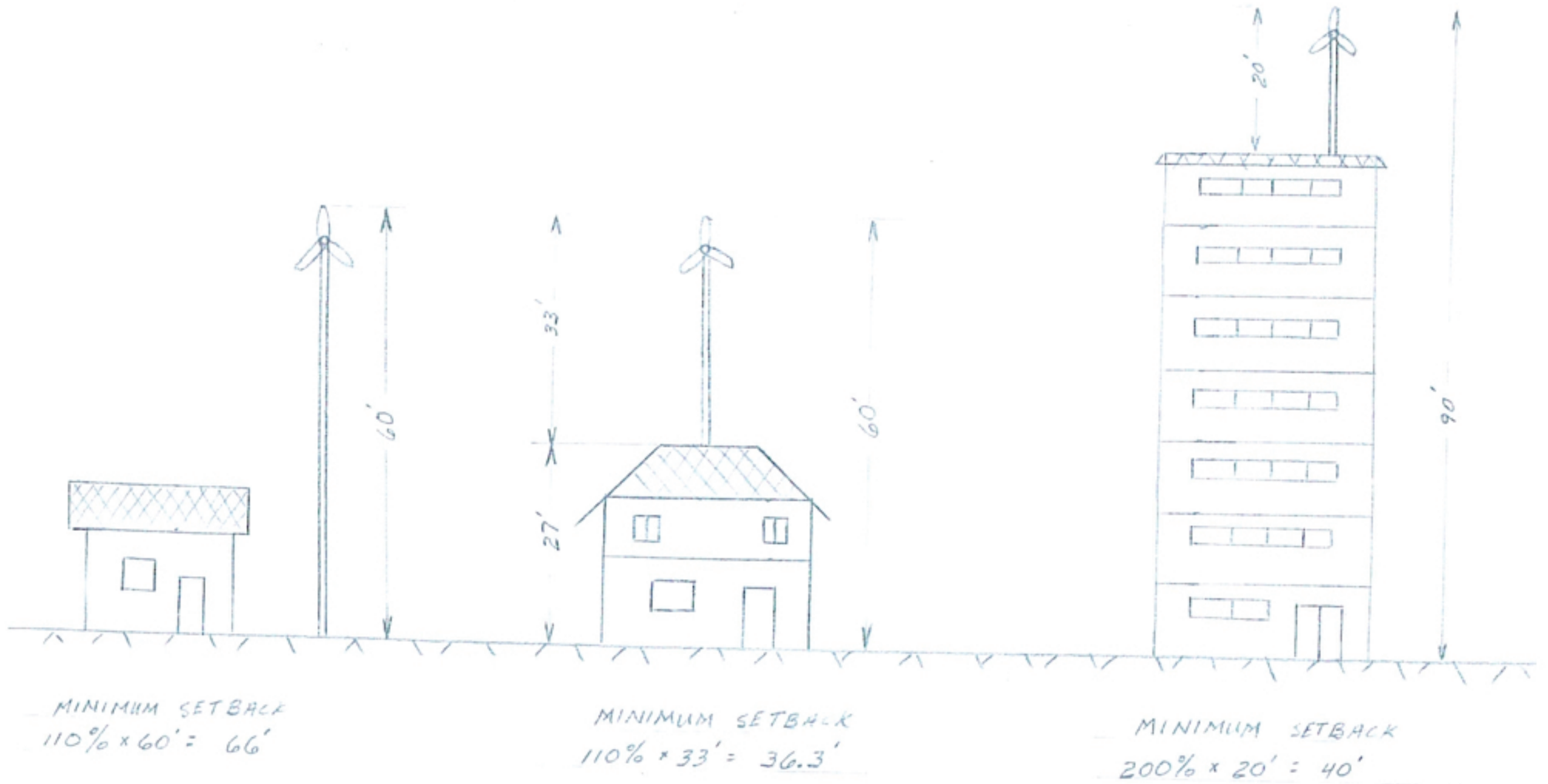
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10/16/2008



10/16/2008



## **GREAT FALLS ZONING COMMISSION**

### **MINUTES OF THE PUBLIC HEARING FOR AMENDING THE LAND DEVELOPMENT CODE TO PERMIT CERTAIN TYPES OF WIND-POWERED ELECTRICITY SYSTEMS AND PROVIDING SPECIFIC STANDARDS FOR SUCH SYSTEMS**

March 10, 2009

The public hearing was called to order at 3:25 p.m. in the Commission Chambers of the Civic Center by Vice Chairman Joe Schaffer.

#### **ROLL CALL & ATTENDANCE**

Zoning Commission Members present:

Mr. Michael Bates  
Mr. Terry Hilgendorf  
Mr. Ron Kinder  
Mr. Bill Roberts  
Mr. Joe Schaffer  
Mr. Wyman Taylor

Zoning Commission Members absent:

Mr. Art Bundtrock  
Ms. Danna Duffy  
Mr. John Harding

Planning Staff Members present:

Mr. Andrew Finch, Senior Transportation Planner  
Ms. Deb McNeese, Administrative Assistant  
Mr. Charlie Sheets, Planner I  
Mr. Bill Walters, Interim Planning Director

Others present:

Mr. Bill Bronson, City Commissioner  
Mr. Dave Dobbs, City Engineer  
Ms. Mary Jolley, City Commissioner  
Mr. John Rosenbaum, City Commissioner

A copy of the attendance list, as signed by those present, is attached and incorporated by reference.

### **EXPLANATION OF HEARING PROCEDURES**

Mr. Schaffer advised that agendas are available on the table at the back of the room and the agenda will be followed. He requested that everyone present sign the attendance list, which was also on the table. There will be an opportunity for proponents and opponents to speak. Mr. Schaffer asked those intending to speak to come to the rostrum, state their name, address and whom they represent. He requested remarks be on the subject before the Board at this hearing and be limited to a reasonable length of time to allow everyone equal opportunity to speak. The Chairman reserves the right to determine reasonable time. The hearing is recorded on tape as an aid in preparing minutes. He asked that cell phones and electronic devices be turned off.

### **READING OF PUBLIC NOTICE**

As there was no response to Mr. Schaffer's question on whether anyone present wished to have the public notice read, the public notice was not read.

### **PLANNING STAFF REPORT & RECOMMENDATION**

After reviewing the staff report and recommendation, Mr. Walters said he would be glad to respond to any questions from the Board. He added that because some folks do not support wind power in urban residential areas and others believe new standards may be too restrictive, he hopes that some consensus can be arrived at in order to allow this draft ordinance to move forward. He reminded the Board that should issues and/or questions arise today that cannot be addressed, the Zoning Commission has the option to continue this hearing to a specific future date.

Mr. Schaffer questioned the statement that systems need the lowest part of the unit with rotor blades to be 25 to 35 feet higher than surrounding structures in order to function properly, and asked where this information was taken. Mr. Walters responded that it was stated in several publications regarding wind turbines.

### **PROponents OPPORTUNITY TO SPEAK**

Mr. Ken Thornton, 31 Paradise Lane, plans to install wind energy in Great Falls. He shared his experience in owning and installing windmills and said that after reading through the ordinance he is happy with it. He remarked that noise levels vary with each model, and



aesthetics is in the eye of the beholder. Mr. Thornton added that the ordinance may need to be reviewed in a year or two, as wind turbine technological is rapidly advancing.

### **OPPONENTS OPPORTUNITY TO SPEAK**

Mr. Joe McMahon, 3121 2<sup>nd</sup> Avenue South, said he is in favor of wind power, but is in opposition of the setback requirements for all four property lines. He asked if written agreements from neighboring property owners could waive the required setbacks.

Mr. Walters explained that the setback distance of 110% of tower height was used in a number of reviewed publications and ordinance standards. In the event of a mishap, it would create a clear zone 360 degrees around the tower. Mr. Walters said that the ordinance is not constructed to waive setbacks, and would spare neighboring property owners from unsafe and/or unwanted proximity to a wind tower.

### **OTHER PUBLIC COMMENT**

Mr. Ronald Gessaman, 1006 36<sup>th</sup> Avenue NE, commented on portions of Exhibit A. He said that the state legislature uses 50 kW as the rated capacity of a "small system", while A. 2) considers systems up to 100 kW. In section B, the height requirement description is not the same as used in the recent City Commission hearing regarding the MSU COT wind turbine. Mr. Gessaman said a single definition needs to be adopted. He was not in favor of minimum setback requirements using a "stepping system", whereas an 80-foot tower would require 110% of the tower height and an 81-foot tower would require 200%. He also questioned how the "property owner must demonstrate compliance" in regard to noise standards.

### **ZONING COMMISSION DISCUSSION & ACTION**

There followed a lengthy discussion regarding maximum height measurement standards, noise compliance, restriction of the number of towers per lot, the possibility of appearance being controlled by the Design Review Board, and removal of inoperable systems. The consensus was to not make any amendments to the draft ordinance and forward it to the City Commission as presented.

**MOTION:** That the Zoning Commission recommend the City Commission adopt the ordinance to amend the Land Development Code to permit certain types of wind-powered electricity systems within the City, subject to compliance with specified standards and conditions.

Made by: Mr. Hilgendorf

Minutes of the March 10, 2009

Public Hearing

Amending the Land Development Code to Permit Certain Types of Wind-Powered Electrical Systems and  
Providing Specific Standards for Such Systems

Page 4

Second: Mr. Roberts

Vote: The motion carried unanimously.

Mr. Walters said the Zoning Commission's recommendation will be presented to the City Commission, with the possibility of the initial consideration in April and a public hearing in May.

## **ADJOURNMENT**

The hearing adjourned at 4:12 p.m.

---

CHAIRMAN

---

SECRETARY



**Item:** Ordinance 3042, Amending OCCGF Title 10, Chapter 30 pertaining to One-Way Streets and Alleys

**From:** Street Division

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Accept Ordinance 3042 on first reading and set final reading for August 4, 2009

---

**Suggested Motion:**

1. Commissioner moves:

"I move the City Commission accept Ordinance 3042 on first reading and set the final reading for August 4, 2009."

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Accept Ordinance 3042 on first reading.

**Background:**

Citizen Participation

A petition was created by Fred Dahlman of 532 25 Avenue Northeast 'in an effort to reduce traffic, speeding, and property damage currently being experienced in the alley located on the Southside of 25<sup>th</sup> Ave. NE,' to support making the alley one-way flowing from East to West from 8<sup>th</sup> Street Northeast to 6<sup>th</sup> Street Northeast. There are twenty residences along this alley. Fifteen residents signed the petition in support of making this change. They were unable to contact three residents. One resident stated they were unsure about the direction of travel recommended. One resident's father-in-law gave a verbal 'yes' to the petition.

Workload Impacts

The current City Sanitation pickup would be unaffected by the change.

Purpose

To reduce traffic, speeding and property damage of residences along 25<sup>th</sup> alley NE.

Project Work Scope

Signage

Evaluation and Selection Process

N/A

**Concurrences:**

Neighborhood Council #3

**Fiscal Impact:**

There will be a cost to install one-way signs in the alley.

**Alternatives:**

The City Commission could vote to deny Ordinance 3042.

**Attachments/Exhibits:**

Citizen Petition

**ORDINANCE 3042**

**AN ORDINANCE AMENDING OCCGF TITLE 10 CHAPTER 30  
PERTAINING TO ONE-WAY STREETS AND ALLEYS**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE  
CITY OF GREAT FALLS, MONTANA:**

Section 1. That OCCGF Title 10 Chapter 30 pertaining to One-Way Streets and Alleys be amended as depicted in Exhibit A, which removes any language indicated by a strike-out and adds any language which is bolded.

APPROVED by the City Commission of the City of Great Falls, Montana, on first reading July 21, 2009.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading August 4, 2009.

---

Dona R. Stebbins, Mayor

ATTEST:

---

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

---

David V. Gliko, City Attorney

State of Montana     )  
County of Cascade   : ss  
City of Great Falls   )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that I did post, as required by law and as prescribed and directed by the City Commission, Ordinance 3042 in three places within the limits of said City to-wit:

- On the Bulletin Board, first floor, Civic Center Building
- On the Bulletin Board, first floor, Cascade County Court House
- On the Bulletin Board, Great Falls Public Library

(Seal of the City)

\_\_\_\_\_  
Lisa Kunz, City Clerk

**Ordinance 3042 – Exhibit A**  
**Chapter 30**  
**ONE WAY STREETS AND ALLEYS**

**Sections:**

- 10.30.010 Sign placement and maintenance
- 10.30.020 Direction designated

**10.30.010 Sign placement and maintenance**

Whenever any laws of this City designate any one-way street or alley, the Public Works Department shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. (Ord. 2646 § (part), 1994; Prior code §10-2-7(A)).

**10.30.020 Direction designated**

- A. Upon those streets and parts of streets and in those alleys described in subsection B of this section, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.
- B. In accordance with Section 10.30.010 and when proper signs are posted, traffic shall move only in the direction indicated upon the following streets or avenues. (Ord, 2867, 2004)

<u>Street, Avenue or Alley</u>	<u>Permitted direction</u>
First Avenue North Park Drive to Thirty-seventh Street (Ord. 1217, 1956)	Eastbound
First Avenue South Park Drive to Fifteenth Street (Ord. 1217, 1956)	Westbound
Second Avenue South Second Street to Fifteenth Street (Ord. 1217, 1956)	Eastbound
Second Avenue North Park Drive to Thirty-seventh Street (Ord. 1217, 1956)	Westbound
Fifth Street Eighth Avenue North to Tenth Avenue South (Ord. 1471, 1964)	Southbound
Sixth Street Eighth Avenue North to Tenth Avenue South (Ord. 1471, 1964)	Northbound
Fourteenth Street Twelfth Avenue North to Tenth Avenue South (Ord. 1454,1963)	Southbound
Fifteenth Street Twelfth Avenue North to Tenth Avenue South (Ord. 1454, 1963)	Northbound
<b>Twenty-fifth Alley Northeast</b> <b>Sixth Street Northeast to Ninth Street Northeast (Ord. 3042, 2009)</b>	<b>Westbound</b>
Twenty-fifth Street Tenth Avenue South to Eighth Avenue North (Ord. 1627, 1969)	Southbound
Twenty-sixth Street Tenth Avenue South to Eighth Avenue North (Ord. 1627, 1969)	Northbound
Park Drive First Avenue South to Second Street	Southbound

(Ord. 2867, 2004; Ord. 2646 §(part), 1994; Prior code §10-2-7(B)).

# Petition to Designate 25<sup>th</sup> Ave NE Alley as One-Way

In an effort to reduce traffic, speeding, and property damage currently being experienced in the alley located on the Southside of 25<sup>th</sup> Ave NE, would you support making this alley one-way? The traffic flow would be from 8<sup>th</sup> Street NE towards 6<sup>th</sup> Street NE. The East to West flow would allow sanitation pickup to maintain their current route for collection purposes.

*NO CONTACT*

Resident of 600 25<sup>th</sup> Ave NE

*Julie Lewis*

Resident of 604 25<sup>th</sup> Ave NE

*NOT SURE ABOUT DIRECTION OF TRAVEL*

Resident of 608 25<sup>th</sup> Ave NE

*Melby Rowe*

Resident of 612 25<sup>th</sup> Ave NE

*Joseph Francis*

Resident of 616 25<sup>th</sup> Ave NE

*Verbal yes by Father-in-law*

Resident of 620 25<sup>th</sup> Ave NE

*Kenn Olson*

Resident of 624 25<sup>th</sup> Ave NE

*Albert L. Objenko*

Resident of 628 25<sup>th</sup> Ave NE

*Paul Ann Dahlman*

Resident of 632 25<sup>th</sup> Ave NE

*Bonnie DeKane*

Resident of 636 25<sup>th</sup> Ave NE



Donnie Wuchman  
Resident of 700 25<sup>th</sup> Ave NE

Clara L. Allen  
Resident of 704 25<sup>th</sup> Ave NE

RHOUDA MATSKE *Red*  
Resident of 708 25<sup>th</sup> Ave NE

+ Gordon Jendro  
Resident of 712 25<sup>th</sup> Ave NE

x A. M. MALISANI  
Resident of 716 25<sup>th</sup> Ave NE

No contact  
Resident of 720 25<sup>th</sup> Ave NE

Ernesto Lopez  
Resident of 724 25<sup>th</sup> Ave NE

No Contact  
Resident of 728 25<sup>th</sup> Ave NE

x Robert E. Diney  
Resident of 732 25<sup>th</sup> Ave NE

Robert Rein  
Resident of 736 25<sup>th</sup> Ave NE



**Item:** Resolution 9815, Ratifying the sale and prescribing the form, terms and the security of the \$2,000,000 Tax Increment Urban Renewal Revenue Bonds, Series 2009 (Federal Courthouse/4<sup>th</sup> Avenue NW Project)

**From:** Martha Capps, Operations Supervisor

**Initiated By:** Bond Council

**Presented By:** Coleen Balzarini, Fiscal Services Director

**Action Requested:** Adopt Resolution 9815

---

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 9815”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

---

**Staff Recommendation:** Staff recommends the City Commission adopt Resolution 9815.

**Background:** On March 20, 2007 the City Commission approved Ordinance 2967 which established the Great Falls West Bank Urban Renewal Plan. This plan included a Tax Increment Financing provision to give the City an additional funding tool in the redevelopment effort. Ordinance 3028, adopted by the City Commission on December 16, 2008 approved the Federal Courthouse/4<sup>th</sup> Avenue NW Project, which includes the planned public infrastructure improvements within the District Boundaries, and authorized the financing from District tax increment revenues.

Resolution 9814, adopted March 3, 2009, established the terms, conditions and documentation for a private, negotiated sale of \$2,000,000 in Revenue Bonds and approved D.A. Davidson & Company as underwriter for the sale. The tax increment generated annually from property improvements within the district, based on reports from the Department of Revenue has been determined to adequately pay the principal and interest of the Series 2009A Bonds of the term of the debt.

On July 9, 2009, the City Manager and Fiscal Services Director entered into and executed a Bond Purchase Agreement with the Underwriter on behalf of the City. The purchase price, redemption features, interest rate and other terms and conditions of the sale of the Bonds are as follows:

- (1) the aggregate principal amount of the Series 2009A Bonds shall not exceed \$2,000,000;
- (2) the final stated maturity of the Series 2009A Bonds of 2034 is not more than twenty-five (25) years from the date of issue of the Series 2009A Bonds;

- (3) the average interest rate on the Series 2009A Bonds is 5.78%, which is within the parameters not to exceed 6.75% per annum;
- (4) the purchase price of \$1,965,000 is not less than 98.25% of the principal amount of the Series 2009A Bonds, exclusive of original issue discount or premium, if any; and
- (5) the \$45,000 of issuance costs of the Series 2009A Bonds (including, without limitation, the fees and expenses of Bond Counsel, the fees of the Paying Agent and Registrar, if any, and the costs of printing the Preliminary Official Statement, the Official Statement and the Series 2009A Bonds) shall be paid by the City from the proceeds of the Series 2009A Bonds.

The closing and delivery of the funds will take place July 30, 2009.

**Concurrences:** Representatives from Fiscal Services, Planning, Engineering, and Public Works have been working with Bond Counsel throughout the entire process.

**Fiscal Impact:** The public projects within the District will be financed from the proceeds of West Bank Urban Renewal Tax Increment Bonds in the principal amount of \$2,000,000 (the “Bonds”) payable over a term of 25 years. The Series 2009A Bonds will be repaid from tax increment generated annually from property improvements within the district.

**Alternatives:** The City Commission could choose to not approve Resolution 9815

**Attachments/Exhibits:** Resolution 9815

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Great Falls, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 9815, entitled: "RESOLUTION RELATING TO \$2,000,000 TAX INCREMENT URBAN RENEWAL REVENUE BONDS, SERIES 2009A (WEST BANK URBAN RENEWAL DISTRICT); RATIFYING THE SALE AND PRESCRIBING THE FORM AND TERMS THEREOF AND THE SECURITY 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 Commission of the City at a regular meeting on July 21, 2009, and that the meeting was duly held by the City Commission 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 Commission members voted in favor thereof: \_\_\_\_\_  
\_\_\_\_\_;  
voted against the same: \_\_\_\_\_; abstained from  
voting thereon: \_\_\_\_\_; or were  
absent: \_\_\_\_\_.

WITNESS my hand and seal officially this \_\_\_\_\_ day of July, 2009.

\_\_\_\_\_  
Lisa Kunz, City Clerk

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[Not a part of the Resolution; for convenience of reference only.]

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RESOLUTION NO. 9815

RESOLUTION RELATING TO 2,000,000 TAX INCREMENT URBAN RENEWAL REVENUE BONDS, SERIES 2009A (WEST BANK URBAN RENEWAL DISTRICT); RATIFYING THE SALE AND PRESCRIBING THE FORM AND TERMS THEREOF AND THE SECURITY THEREFOR

BE IT RESOLVED by the City Commission of the City of Great Falls, Montana, as follows:

Section 1. Definitions, Authorizations and Findings.

1.01. Definitions. The terms defined in this Section 1.01 shall for all purposes of this Resolution have the meanings herein specified, unless the context clearly otherwise requires:

A. "Resolution" means this Resolution No. 9815 as originally adopted or as it may from time to time be amended or supplemented pursuant to the applicable provisions hereof.

B. All references in this Resolution to designated sections and other subdivisions are to the designated sections and other subdivisions of this instrument as originally adopted.

C. The words "herein," "hereof" and "hereunder" and other words of similar import without reference to any particular section or subdivision refer to this Resolution as a whole and not to any particular section or other subdivision unless the context clearly indicates otherwise.

D. The terms defined in this Section include the plural as well as the singular.

E. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles applicable to governmental entities.

F. All computations provided herein shall be made in accordance with generally accepted accounting principles applicable to governmental entities consistently applied.

G. "Or" is not intended to be exclusive, but is intended to contemplate or encompass one, more or all of the terms or alternatives conjoined.

H. For purposes of amendments to this Resolution, direction of remedies and waivers of default, Outstanding Notes shall be treated as "Bonds" Outstanding under this Resolution and Owners of such Notes shall have the rights given Owners of Bonds in such circumstances.

Accountant shall mean a Person engaged in the practice of accounting as a certified public accountant, whether or not employed by the City.

Act shall mean the Urban Renewal Law, Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended or supplemented.

Additional Bonds shall mean any Bonds issued pursuant to Section 4.02 or 4.03.



Bond Account shall mean the account so designated in the Tax Increment Bond Fund.

Bond Counsel shall mean any firm of nationally recognized bond counsel experienced in matters relating to tax-exempt financing, selected by the City.

Bond Register shall mean the register maintained for the purpose of registering the ownership, transfer and exchange of the Bonds of any series.

Bond Registrar shall mean, with respect to the Series 2009A Bonds, U.S. Bank National Association, of Seattle, Washington, or any successor appointed pursuant to Section 3.03, and, with respect to any series of Additional Bonds, the Person or Persons designated by or pursuant to this Resolution or a Supplemental Resolution to receive and disburse the principal of, premium, if any, and interest on the Bonds on behalf of the County and to hold and maintain the Bond Register.

Bondowner shall mean the Owner of a Bond.

Bonds shall mean the Series 2009A Bonds and any Additional Bonds.

Business Day shall mean, with respect to the Bonds of any series, any day other than a Saturday, Sunday or other day on which the Paying Agent and Bond Registrar for such series of Bonds is not open for business.

City shall mean the City of Great Falls, Montana, or its successors.

City Resolution shall mean a resolution, ordinance or other appropriate enactment by the Commission certified by the City Clerk to have been duly adopted and to be in full force and effect.

Code shall mean the Internal Revenue Code of 1986, as amended.

Construction Account shall mean the account so designated in the Tax Increment Capital Project Fund.

Commission shall mean the City Commission of the City or any successor governing body thereof.

District shall mean the West Bank Urban Renewal District, or any successor to its functions.

Financial Consultant shall mean an Independent Person selected by the City, qualified to study urban renewal areas and projects and tax increment financing plans, and in the judgment of the Commission, having a favorable repute for skill and experience in such work.

Fiscal Year shall mean the period commencing on the first day of July of any year and ending on the last day of June of the next calendar year, or any other twelve-month period authorized by law and specified by the Commission as the City's fiscal year.

Government Obligations shall mean (a) direct general obligations of, or obligations the prompt payment of the principal of and the interest on which is fully and unconditionally guaranteed by, the United States of America, (b) obligations the payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America, and (c) certificates or other evidence of ownership in principal to be paid or interest to accrue on a pool of obligations of the type described in the foregoing clause (a) or (b), which obligations are held by a custodian, any obligations described in the foregoing clause (a) or (b) may be issued or held in book-entry form on the books of the Department of Treasury of the United States of America.

Independent shall mean, when used with respect to any specified Person, such a Person who (i) is in fact independent; (ii) does not have any direct financial interest or any material indirect financial interest in the City, other than the payment to be received under a contract for services to be performed by such Person; and (iii) is not connected with the City as an officer, employee, promoter, trustee, partner, director, underwriter or person performing similar functions. Whenever it is herein provided that any Independent Person's opinion or certificate shall be furnished, such Person shall be appointed by the City and such opinion or certificate shall state that the signer has read this definition and that the signer is Independent within the meaning hereof.

Interest Account shall mean the subaccount so designated in the Bond Account.

Interest Payment Date shall mean the Stated Maturity of an installment of interest on any of the Bonds.

Maturity shall mean, when used with respect to any Bond, the date on which the principal of such Bond becomes due and payable as therein or herein provided, whether at its Stated Maturity or by declaration of acceleration, redemption or otherwise.

Note shall mean any note issued in anticipation of the issuance of Bonds pursuant to Section 4.05.

Opinion of Counsel shall mean a written opinion of counsel, who may (except as otherwise expressly provided in this Resolution) be counsel for the City.

Ordinance shall mean Amended Ordinance No. 2967, adopted by the Commission on March 20, 2007, as such may be further amended or supplemented in accordance with the Act, the Ordinance and this Resolution.

Original Purchaser shall mean, with respect to any series of Bonds, the Person who purchases such series of Bonds from the City when first issued. The Original Purchaser of the Series 2009A Bonds is D.A. Davidson & Co., of Great Falls, Montana.

Outstanding shall mean, with reference to Bonds or Notes, as of the date of determination, all Bonds or Notes theretofore issued and delivered under this Resolution except:

- (i) Bonds or Notes theretofore cancelled by the City or delivered to the City cancelled or for cancellation;

(ii) Bonds and portions of Bonds for whose payment or redemption money or Government Obligations (as provided in Section 8) shall have been theretofore deposited in trust for the Owners of such Bonds; provided, however, that if such Bonds are to be redeemed, notice of such redemption shall have been duly given pursuant to this Resolution or irrevocable instructions to call such Bonds for redemption at a stated Redemption Date shall have been given by the City; and

(iii) Bonds or Notes in exchange for or in lieu of which other Bonds or Notes shall have been issued and delivered pursuant to this Resolution;

provided, however, that in determining whether the Owners of the requisite principal amount of Outstanding Bonds or Notes have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds or Notes owned by the City shall be disregarded and deemed not to be Outstanding.

Owner shall mean, with respect to any Bond, the Person in whose name such Bond is registered in the Bond Register.

Paying Agent shall mean the Person designated by or pursuant to this Resolution to receive and disburse the principal of, premium, if any, and interest on the Bonds of a series on behalf of the City.

Person shall mean any individual, corporation, partnership, joint venture, limited liability company, limited liability partnership, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

Plan shall mean the West Bank Urban Renewal Plan adopted by the Commission on March 20, 2007, including all further amendments thereof adopted in accordance with the Act.

Principal and Interest Requirements shall mean, with respect to any Bonds and for any Fiscal Year or other specified period, the amount required to pay the principal of and interest on such Bonds during such Fiscal Year or other period, determined on the assumption that each Serial Bond is to be paid on its Stated Maturity and each Term Bond is to be paid on the Sinking Fund Payment Dates according to the mandatory redemption requirements established for such Term Bond by the applicable section of this Resolution or any Supplemental Resolution.

Principal Payment Date shall mean the Stated Maturity of principal of any Serial Bond and the Sinking Fund Payment Date for any Term Bond.

Project shall mean the 2009 Project and any urban renewal project undertaken in or with respect to the Urban Renewal Area under the Act, the costs of which are to be paid, in whole or in part, from the proceeds of Bonds.

Qualified Investments shall mean the investments described as such in Section 5.06.

Redemption Date when used with respect to any Bond to be redeemed shall mean the date on which it is to be redeemed.

Redemption Price when used with respect to any Bond to be redeemed shall mean the price at which it is to be redeemed.

Reserve Account shall mean the account so designated in the Tax Increment Bond Fund.

Reserve Requirement shall mean, as of the date of calculation, an amount equal to the lesser of: (1) the maximum Principal and Interest Requirements on Outstanding Bonds for the then current or any future calendar year, or (2) ten percent (10%) of the aggregate original principal amount of all series of Bonds any Bond of which is then Outstanding.

Serial Bonds shall mean Bonds which are not Term Bonds.

Series 2009A Bonds shall mean the City's Tax Increment Urban Renewal Revenue Bonds, Series 2009A (West Bank Urban Renewal District), issued in the original aggregate principal amount of \$2,000,000.

Sinking Fund Account shall mean the subaccount so designated in the Bond Account.

Sinking Fund Payment Date shall mean a date set forth in any applicable provision of this Resolution or a Supplemental Resolution for the making of a mandatory principal payment for the redemption of a Term Bond.

Stated Maturity when used with respect to any Bond or any installment of interest thereon shall mean the date specified in such Bond as the fixed date on which principal of such Bond or such installment of interest is due and payable.

Subordinate Obligations shall mean any bonds, notes or obligations of the City issued on a subordinate basis to the Bonds as to the Tax Increment pursuant to Section 4.04.

Supplemental Resolution shall mean any resolution supplemental to this Resolution adopted pursuant to Section 7.

Tax Increment shall mean the amount received by the City pursuant to the Act and the Plan from the extension of levies of Taxes (expressed in mills), against the incremental taxable value, as defined in the Act, of all taxable property within the Urban Renewal Area, and shall include any payments in lieu of Taxes attributable to the incremental taxable value, and all payments received by the City designated as replacement revenues for lost Tax Increment, as provided in Section 6.13.

Tax Increment Capital Project Fund shall mean the fund established pursuant to Section 5.01.

Tax Increment Bond Fund shall mean the fund established pursuant to Section 5.01.

Tax Increment Development Fund shall mean the fund established pursuant to Section 5.01.

Taxes shall mean all taxes levied on an ad valorem basis by a Taxing Body against taxable real and personal property located within the Urban Renewal Area (exclusive of the six-mill levy for university purposes levied by the State) and shall include all payments in lieu of taxes received by the City with respect to property within the Urban Renewal Area.

Taxing Body shall mean the City; Cascade County, Montana; School District No. 1 (Great Falls), Cascade County, Montana; High School District No. A (Great Falls), Cascade County, Montana; the Great Falls Transit District; the State of Montana; and any other political subdivision or governmental unit which may hereafter levy Taxes against property within the Urban Renewal Area.

Term Bond shall mean any Bond for the payment of the principal of which mandatory payments are required by the Resolution or Supplemental Resolution to be made at times and in amounts sufficient to redeem all or a portion of such Bond prior to its Stated Maturity.

2009 Project shall mean the Project described in Section 1.04.

Urban Renewal Area shall mean the City of Great Falls West Bank Urban Renewal District, created and established pursuant to the Act and the Ordinance, as such area may be enlarged or reduced in accordance with the Act and the Ordinance.

1.02. Authorization. Under the provisions of the Act, the City is authorized to create urban renewal areas, prepare and adopt an urban renewal plan therefor and amendments thereto, undertake urban renewal projects therein, provide for the segregation and collection of tax increment with respect to taxes collected in such areas, issue its bonds to pay the costs of such projects and to refund bonds previously issued under the Act and pledge to the repayment of the bonds the tax increment and other revenues derived from projects undertaken within the Urban Renewal Area.

1.03. Prior City Actions. Pursuant to the Act, the City has determined that blighted property is located within the Urban Renewal Area, and that the rehabilitation, redevelopment or a combination thereof is necessary for the public health, safety, morals or welfare of the residents of the City, and the Commission has adopted the Plan which provides for the segregation and collection of Tax Increment with respect to the Urban Renewal Area. The Urban Renewal Area and the Plan providing for the segregation and collection of the Tax Increment have been duly and validly created and adopted in strict accordance with applicable provisions of the Act and are in full force and effect.

1.04. The 2009 Project. Pursuant to the Act and Ordinance No. 3028, adopted on December 16, 2008, the City designated and approved, following a public hearing of which notice was duly given, undertaking a survey of the historical and cultural resources in the District to assure preservation and enhancements in the redevelopment of the District (the "Historical & Cultural Inventory Study"); various improvements to the City's West Bank Park including improved access, parking lot, fire protection, landscaping, and rehabilitation of facilities; the 4<sup>th</sup> Avenue NW Reconstruction Project consisting of a track crossing and rail signals, realignment and reconstruction of 4<sup>th</sup> Avenue NW, including land acquisition; improvements to the intersection with 3<sup>rd</sup> Street NW; the extension and looping of the City's water main to connect 3<sup>rd</sup>

Street NW to Central Avenue West and the Federal Courthouse; relocation of existing utilities; and cleanup as necessary of contaminated soils (the “Brownfield Cleanup”) (collectively, the “Public Projects”) (together with the Federal Courthouse, the “Federal Courthouse/4<sup>th</sup> Avenue NW Project”).

1.05. Federal Courthouse/4<sup>th</sup> Avenue NW Project. BC Development of Kansas City, Missouri (the “Developer”) is in the process of constructing a 64,133 square foot building which will be leased to the United States General Accounting Office (the “GAO”) for use as the Federal Courthouse (the “Federal Courthouse”). Construction of the Federal Courthouse is expected to be completed and available for occupancy in early summer 2009. The Developer and the GAO have entered into a lease which among other things provides that notwithstanding the federal government’s use of the Federal Courthouse, it will be subject to real and personal property tax which will be paid by the Developer as Lessor. The construction and installation of certain public improvements are necessary for the development of the Federal Courthouse, in particular the extension of the City’s water main to serve the Federal Courthouse and the reconstruction of 4<sup>th</sup> Avenue NW.

1.06. Estimated Costs of 2009 Project. The estimated costs of completing the Federal Courthouse, exclusive of any costs of the Public Projects described in Section 1.04, is \$16,400,000, and the City Staff has estimated that costs of designing, engineering, constructing and implementing the Public Projects is approximately \$1,763,00. The total costs of the Public Project including costs associated with the sale and issuance and security of the Series 2009A Bonds to be authorized herein are as follows:

Construction Costs	\$1,763,000.00
Costs of Issuance of the Bonds	45,766.00
Underwriter’s Discount	35,000.00
Debt Service Reserve Fund	156,530.00
<u>Total Application of Funds</u>	<u>\$2,000,296.00</u>

1.07. Authorization and Sale of Series 2009A Bonds; Official Statement. This Commission determined by Ordinance No. 3028, adopted on December 16, 2008, and Resolution No. 9814, adopted on March 3, 2009 (the “Parameters Resolution”) that it is in the best interests of the City that the City issue its Series 2009A Bonds, as authorized by Section 7-15-4301(1)(b) of the Act and this Resolution, in order to provide funds to pay the costs of the 2009 Project, to fund a deposit to the Reserve Account and to pay costs of issuance of the Series 2009A Bonds. Pursuant to Ordinance No. 3028 and the Parameters Resolution, this Commission, authorized the negotiated sale of the Series 2009A Bonds to D.A. Davidson & Co., of Great Falls, Montana (the “Original Purchaser”) and authorized the Mayor, the City Manager, the City Clerk and the City Fiscal Services Director to enter into a Bond Purchase Agreement with the Original Purchaser (the “Bond Purchase Agreement”). Pursuant to the Bond Purchase Agreement, dated as of July 9, 2009, the Original Purchaser agreed to purchase the Series 2009A Bonds at the aggregate purchase price of \$1,965,296.00 (representing the par amount of the Bonds, less Underwriter’s compensation of \$35,000 plus a net reoffering premium of \$296.00), subject to the terms and conditions of the Bond Purchase Agreement and this Resolution. The terms of the purchase as

reflected in the Bond Purchase Agreement are consistent with the Parameters Resolution. The provisions of this Resolution shall control any conflict.

The Series 2009A Bonds have been offered for sale by the Original Purchaser thereof by means of an Official Statement, dated July 9, 2009 (the "Official Statement"). The City hereby consents to the distribution of the Official Statement to prospective purchasers of the Series 2009A Bonds and this Commission hereby authorizes and directs the Mayor, the City Manager, the City Clerk and the City Fiscal Services Director to execute such certificates relating to the accuracy and completeness of the Official Statement as may be appropriate. The determination by the City Manager, or in his absence or disability, the acting City Manager or the City Fiscal Services Director that the Preliminary Official Statement was "final" as of its date for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934 is hereby ratified and confirmed.

1.08. Estimate of Tax Increment. The City (with assistance from the Department of Revenue) estimates that the annual tax increment resulting from the Project will be \$174,982. Based on that estimate and actual collections of tax increment for fiscal year ending June 30, 2009, it is estimated that the Tax Increment to be received in each of the Fiscal Years the Series 2009A Bonds that will be outstanding will be at least \$189,982. The maximum amount of principal and interest on the Series 2009A Bonds is \$156,530.

1.09. Findings and Determinations. It is hereby found, determined and declared by this Commission as follows:

(a) the conditions precedent to the issuance of the Series 2009A Bonds under the Act, the Ordinance and this Resolution have or shall be met prior to the issuance of the Series 2009A Bonds;

(b) the estimated Tax Increment to be received by the City, as set forth in Section 1.08, and pledged to the payment of the Series 2009A Bonds will be sufficient to pay the principal thereof and interest thereon when due; and

(c) it is in the best interests of the City to issue and sell the Series 2009A Bonds to provide funds to pay a portion of the costs of the 2009 Project as provided in this Resolution.

## Section 2. The Bonds.

2.01. General Title. The general title of the Bonds of all series shall be "Tax Increment Urban Renewal Revenue Bonds," with appropriate additions for refunding Bonds and to distinguish Bonds of each series from Bonds of other series.

2.02. General Limitations; Issuable in Series. The aggregate principal amount of Bonds that may be authenticated and delivered and Outstanding under this Resolution is not limited, except as provided in Section 4 and except as may be limited by law.

The Bonds may be issued in series as from time to time authorized by the Commission.

The Bonds are special, limited obligations of the City. Principal of, premium, if any, and interest on the Bonds (except to the extent payable out of proceeds of the Bonds) are payable solely from the Tax Increment and from other revenues derived by the City from Projects or other sources which may be pledged to the payment of any series of Bonds. The Bonds shall not pledge the general credit or taxing powers of the City, and the State of Montana shall not in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the performance of any pledge of any kind whatsoever that may be undertaken by the City. Neither the Bonds nor any of the agreements or obligations of the City contained herein or therein shall be construed to constitute an indebtedness of the State of Montana, the City or Cascade County within the meaning of any constitutional or statutory provisions whatsoever.

With respect to the Bonds of any particular series, the City may incorporate in or add to the general title of such Bonds any words, letters or figures designed to distinguish that series.

If any Stated Maturity, Redemption Date or Sinking Fund Payment Date shall be on a day which is not a Business Day, then payment of principal, premium, if any, or interest due on such day may be made on the next succeeding Business Day, with the same force and effect as if made on such Stated Maturity, Redemption Date or Sinking Fund Payment Date (whether or not such next succeeding Business Day occurs in a succeeding month).

2.03. Terms of Particular Series. Each series of Bonds (except the Series 2009A Bonds, which are created by Section 3) shall be created by a Supplemental Resolution. The Bonds of each series (other than the Series 2009A Bonds, as to which specific provision is made in Section 3) shall bear such date or dates, shall be payable at such place or places, shall have such Stated Maturities and Redemption Dates, shall bear interest at such rate or rates, from such date or dates, payable in such installments and on such dates and at such place or places, and may be redeemable at such price or prices and upon such terms (in addition to the prices and terms herein specified for redemption of all Bonds) as shall be provided in the Supplemental Resolution creating that series. The City may, at the time of the creation of any series of Bonds or at any time thereafter, make, and the Bonds of that series may contain, provision for:

- A. a sinking, amortization, improvement or other analogous fund;
- B. limiting the aggregate principal amount of the Bonds of that series or of all Additional Bonds thereafter issued;
- C. exchanging Bonds of that series, at the option of the Owners thereof, for other Bonds of the same series of the same aggregate principal amount of a different authorized kind and/or authorized denomination or denominations; or
- D. the issuance of Bonds not registered as to principal or interest and the exchange of such Bonds for fully registered Bonds;

all upon such terms as the City may determine. All Bonds of the same series shall be substantially identical except as to denomination and the differences specified herein or in a Supplemental Resolution between interest rates, Stated Maturities and redemption provisions.



2.04. Form and Denominations. The form of the Bonds (other than the Series 2009A Bonds, as to which specific provision is made in Section 3) shall be established by the Supplemental Resolution creating such series. The Bonds of each series shall be distinguished from the Bonds of other series in such manner as the Commission may determine.

The Bonds of any series shall be issuable as fully registered Bonds unless the Supplemental Resolution provides otherwise.

The Bonds of each series shall be issuable in such denominations as shall be provided in the provisions of the Supplemental Resolution creating such series (other than the Series 2009A Bonds, as to which specific provision is made in Section 3). In the absence of any such provision with respect to the Bonds of any particular series, Bonds shall be in the denomination of \$5,000 or any integral multiple thereof, of a single Stated Maturity.

2.05. Execution, Authentication and Delivery. Each Bond shall be executed on behalf of the City by the manual or facsimile signature of the Mayor, City Manager and the City Fiscal Services Director, and attested by the signature of the City Clerk (or other officers of the City authorized by City Resolution); provided that if required by applicable laws, one such signature on each Bond shall be a manual signature. The seal of the City need not be affixed to or imprinted on any Bond. Any Bond bearing the manual or facsimile signature of an individual who was at any time an appropriate officer of the City shall be valid and sufficient for all purposes, regardless whether such individual held such office as of the date of sale, issue or delivery of such Bond or certificate. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Bond Registrar. Certificates of authentication on each Bond need not be signed by the same representative. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution and in accordance with the provisions hereof.

2.06. Temporary Bonds. Pending the preparation of definitive Bonds, the City, if authorized by law, may execute and deliver, temporary Bonds which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are issued, in registered form, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such Bonds may determine, as evidenced by their signing of such Bonds.

If temporary Bonds are issued, the City will cause definitive Bonds to be prepared without unreasonable delay. After the preparation of definitive Bonds, the temporary Bonds shall be exchangeable for definitive Bonds upon surrender of the temporary Bonds, without charge to the Owner. Upon surrender for cancellation of any one or more temporary Bonds the City shall execute and deliver in exchange therefor a like principal amount of definitive Bonds of authorized denominations. Until so exchanged the temporary Bonds shall in all respects be entitled to the security and benefits under this Resolution, and interest thereon, when and as payable, shall be paid to the bearers of the temporary Bonds upon presentation thereof for notation of such payment thereon, unless such temporary Bonds shall be fully registered Bonds.

Section 3. The Series 2009A Bonds.

3.01. Denomination, Maturities, Payment and Date of Series 2009A Bonds. The Series 2009A Bonds to be issued hereunder, in the aggregate principal amount of \$2,000,000, shall be denominated “Tax Increment Urban Renewal Revenue Bonds, Series 2009A (West Bank Urban Renewal District),” shall be issued as fully registered bonds of single Stated Maturities in any denomination which is an integral multiple of \$5,000. The Series 2009A Bonds shall mature on July 1 in the years and principal amounts set forth below, and Series 2009A Bonds maturing in such years and principal amounts shall bear interest from the date of original issue until paid or duly called for redemption at the rates per annum set forth opposite such years and amounts, respectively:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2011	\$50,000	3.00%
2012	50,000	3.00%
2013	50,000	3.33%
2014	50,000	3.70%
2015	55,000	4.00%
2016	55,000	4.20%
2017	60,000	4.50%
2018	60,000	4.65%
2019	65,000	4.85%
2024*	380,000	5.20%
2029*	480,000	5.55%
2034*	645,000	5.80%

\*Term bond subject to mandatory sinking fund redemption as set forth in Section 3.02 below

Interest shall be calculated on the basis of a year of 360 days composed of twelve 30-day months.

The Series 2009A Bonds shall be issuable only in fully registered form, and the ownership of the Series 2009A Bonds shall be transferred only upon the Bond Register of the City hereinafter described. Principal of and interest on the Series 2009A Bonds are payable in lawful money of the United States of America. Principal and premium, if any, shall be payable by check or draft drawn on the Paying Agent hereinafter described upon presentation and surrender of the Series 2009A Bonds at maturity or upon redemption at the principal office of the Paying Agent. Interest on the Series 2009A Bonds shall be payable semiannually on each January 1 and July 1 in each year, commencing January 1, 2010, by check or draft of the Paying Agent mailed to the owners of record thereof as such appear in the Bond Register as of the close of business on the fifteenth day of the immediately preceding month, whether or not such day is a Business Day.

Each Series 2009A Bond shall bear an original issue date as of the date of its delivery, which is expected to be on or about July 30, 2009. Upon delivery of the Series 2009A Bonds to the Original Purchaser thereof pursuant to Section 3.05 or upon the delivery of Series 2009A

Bonds upon a transfer or exchange pursuant to Section 3.02, the Bond Registrar shall date each such Series 2009A Bond so delivered as of the date of its authentication.

3.02. System of Registration. The City shall appoint, and shall maintain, a bond registrar, transfer agent and paying agent for the Series 2009A Bonds (the Bond Registrar). This Section 3.02 shall establish a system of registration for the Series 2009A Bonds as defined in the Model Public Obligations Registration Act of Montana, and shall govern in the event provisions of the Resolution relating to registration, transfer or exchange of Series 2009A Bonds are inconsistent herewith, except as otherwise provided in Section 3.08. The effect of registration and the rights and duties of the City and the Bond Registrar with respect thereto shall be as follows:

(a) Bond Register. The Bond Registrar shall keep at its principal office a Bond Register in which the Bond Registrar shall provide for the registration of ownership of Series 2009A Bonds and the registration of transfers and exchanges thereof.

(b) Transfer. Upon surrender for transfer of any Series 2009A Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Bond Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Bond Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Series 2009A Bonds of the same series and a like aggregate principal amount, interest rate and maturity as requested by the transferor. The Bond Registrar may, however, close the books for registration of the transfer of any Series 2009A Bond or portion thereof selected or called for redemption.

(c) Exchange. Whenever any Series 2009A Bond is surrendered by the registered owner for exchange, the Bond Registrar shall authenticate and deliver one or more new Series 2009A Bonds of the same series and a like aggregate principal amount, interest rate and maturity, as requested by the registered owner or the owner's attorney in writing.

(d) Cancellation. All Series 2009A Bonds surrendered upon any transfer or exchange shall be promptly cancelled by the Bond Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When any Series 2009A Bond is presented to the Bond Registrar for transfer, the Bond Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Series 2009A Bond or separate instrument of transfer is legally authorized. The Bond Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Bond Registrar may treat the Person in whose name any Series 2009A Bond is at any time registered in the Bond Register as the absolute owner of such Series 2009A Bond, whether such Series 2009A Bond shall be overdue or not, for the purpose of receiving payment of, or on account of,

the principal of, premium, if any, and interest on such Series 2009A Bond and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability of the City upon such Series 2009A Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of Series 2009A Bonds (except upon a partial redemption of a Series 2009A Bond pursuant to Section 3.04), the Bond Registrar may impose a charge upon the owner thereof sufficient to reimburse the Bond Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Series 2009A Bonds. In case any Series 2009A Bond shall become mutilated or be lost, stolen or destroyed, the Bond Registrar shall deliver a new Series 2009A Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Series 2009A Bond or in lieu of and in substitution for any such Series 2009A Bond lost, stolen or destroyed, upon the payment of the reasonable expenses and charges of the Bond Registrar in connection therewith; and, in the case of a Series 2009A Bond lost, stolen or destroyed, upon filing with the Bond Registrar of evidence satisfactory to it that such Series 2009A Bond was lost, stolen or destroyed, and of the ownership thereof, and upon furnishing to the Bond Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the City and the Bond Registrar shall be named as obligees. All Series 2009A Bonds so surrendered to the Bond Registrar shall be cancelled by it and evidence of such cancellation shall be given to the City. If the mutilated, lost, stolen or destroyed Series 2009A Bond has already matured or such Series 2009A Bond has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Series 2009A Bond prior to payment.

3.03. Initial Bond Registrar and Paying Agent. The City hereby appoints U. S. Bank National Association, of Seattle, Washington, as the initial Bond Registrar and the Paying Agent for the Series 2009A Bonds. The City reserves the right to appoint a successor Bond Registrar or Paying Agent, and the City agrees to pay the reasonable and customary charges of the Bond Registrar and the Paying Agent for the services performed. Upon merger or consolidation of a bank or trust company that is acting as the Bond Registrar or the Paying Agent, if the resulting corporation is a bank or trust company authorized by law to conduct such business, such corporation shall be authorized to act as successor Bond Registrar or Paying Agent, as the case may be. The City reserves the right to remove any Bond Registrar or Paying Agent upon 30 days' notice and upon the appointment of a successor Bond Registrar or Paying Agent, in which event the predecessor Bond Registrar or Paying Agent shall deliver all cash and Series 2009A Bonds in its possession as Bond Registrar or Paying Agent to the successor Bond Registrar or Paying Agent and shall deliver the Bond Register to the successor Bond Registrar. On or before each principal or interest due date, without further order of this Commission, the City Fiscal Services Director shall transmit to the Bond Registrar, solely from money in the Bond Account of the Tax Increment Fund available therefor, money sufficient for the payment of all principal, premium, if any, and interest then due on the Series 2009A Bonds.

3.04. Redemption.

(a) Optional Redemption. The Series 2009A Bonds with stated maturities in years 2011 through 2020 shall not be subject to redemption prior to maturity, but Series 2009A Bonds having stated maturities in the years 2021 and any date thereafter, will be subject to redemption and prepayment at the option of the City, in whole or in part, and if in part in principal amounts and from Stated Maturities selected by the City, and within a Stated Maturity in \$5,000 principal amounts selected by lot or such other manner as determined by the Paying Agent, on July 1, 2020 and any date thereafter, at a price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date, without premium.

(b) Mandatory Sinking Fund Redemption. The Series 2009A Bonds having Stated Maturities in the years 2024, 2029 and 2034 are Term Bonds and are subject to mandatory sinking fund redemption prior to maturity on July 1 in the respective years and the respective principal amounts set forth below, in \$5,000 principal amounts selected by the Bond Registrar, by lot or other manner it deems fair, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued thereon to the redemption date:

2024 Term Bond		2029 Term Bond		2034 Term Bond	
Mandatory Sinking Fund Redemption Date	Redemption Amount	Mandatory Sinking Fund Redemption Date	Redemption Amount	Mandatory Sinking Fund Redemption Date	Redemption Amount
July 1, 2020	\$70,000	July 1, 2025	\$85,000	July 1, 2030	\$115,000
July 1, 2021	\$70,000	July 1, 2026	\$90,000	July 1, 2031	\$120,000
July 1, 2022	\$75,000	July 1, 2027	\$95,000	July 1, 2032	\$125,000
July 1, 2023	\$80,000	July 1, 2028	\$100,000	July 1, 2033	\$140,000
July 1, 2024*	\$85,000	July 1, 2029*	\$110,000	July 1, 2034*	\$145,000

\*Maturity

The Bond Registrar shall select the Series 2009A Term Bonds to be redeemed on each Sinking Fund Payment Date in accordance with Section 3.04, and the Series 2009A Bonds selected by the Bond Registrar shall become due and payable on such date. The City may reduce the amount of any Mandatory Sinking Fund Payment payable on any Sinking Fund Payment Date or Dates by an amount equal to the principal amount of Outstanding Series 2009A Term Bonds then to be redeemed that shall be surrendered uncanceled by the City to the Bond Registrar; provided that the City shall have surrendered such Series 2009A Term Bonds to the

Bond Registrar not less than forty-five days before the first such Sinking Fund Payment Date, together with a City Certificate stating its election to use such Series 2009A Term Bonds for such purpose and designating the Sinking Fund Payment Date or Dates as to which such credit is to be applied (if no such designation is made, such credits shall be applied in inverse order of Sinking Fund Payment Dates). In such case, the City may reduce the amount of Series 2009A Bonds to be redeemed on the Sinking Fund Payment Date or Dates so determined by the principal amount of Series 2009A Term Bonds so surrendered by the City.

If Series 2009A Term Bonds are redeemed at the option of the City pursuant to Subsection (a) of this Section 3.04, the Series 2009A Bonds so optionally redeemed may, at the option of the City, be applied as a credit against any subsequent Mandatory Sinking Fund Payment or Payments with respect to Series 2009A Term Bonds, such credit to be equal to the principal amount of such Series 2009A Term Bonds redeemed pursuant to Subsection (a) of this Section 3.04; provided that the City shall have delivered to the Bond Registrar not less than forty-five (45) days before the first such Sinking Fund Payment Date a City Certificate stating its election to apply such Series 2009A Term Bonds as such a credit and designating the Sinking Fund Payment Date or Dates as to which such credit is to be applied (if no such designation is made, such credits shall be applied in inverse order of Sinking Fund Payment Dates). In such case, the City may reduce the amount of Series 2009A Bonds to be redeemed on the Sinking Fund Payment Date or Dates so determined by the principal amount of Series 2009A Bonds of the same Stated Maturity so redeemed pursuant to Subsection (b) of this Section 3.04.

Any credit given to Mandatory Sinking Fund Payments pursuant to this Section 3.04(b) shall not affect any other Mandatory Sinking Fund Payments, which shall remain payable as otherwise provided in this Section 3.04(c), unless and until another credit is given in accordance with the provisions hereof.

(c) Notice of Redemption. The City Fiscal Services Director shall give notice thereof to the Registrar at least forty-five days prior to the date of redemption. The Registrar shall, at least thirty days prior to the designated redemption date, cause notice of redemption to be mailed, by first class mail, to the registered owners of each Series 2009A Bond to be redeemed at their addresses as they appear on the bond register described in Section 3.02, but no defect in or failure to give such mailed notice shall affect the validity of proceedings for the redemption of any Bond not affected by such defect or failure. The notice of redemption shall specify the redemption date, redemption price, the numbers, interest rates and CUSIP numbers of the Bonds to be redeemed and the place at which the Bonds are to be surrendered for payment, which is the principal office of the Registrar. Notice of the call of any Series 2009A Bond for redemption having been mailed as herein provided, and funds sufficient for the payment thereof with accrued interest having been deposited with the Paying Agent on or before the redemption date, interest on such Series 2009A Bond shall cease to accrue on said date, and the Owner shall have no further rights with respect thereto or under the Resolution except to receive the redemption price so deposited.

In addition to the notice prescribed by the preceding paragraph, the City Fiscal Services Director shall also give, or cause the Bond Registrar to give, notice of the redemption of any Series 2009A Bond or Bonds or portions thereof at least 35 days before the Redemption Date by certified mail, telecopy or express delivery service to the Original Purchaser of the Series 2009A

Bonds and all registered securities depositories then in the business of holding substantial amounts of obligations of the character of the Series 2009A Bonds (such depositories now being The Depository Trust Company, of New York, New York) and the one or more national information services that disseminate information regarding municipal bond redemptions; provided that any defect in or any failure to give any notice of redemption prescribed by this paragraph shall not affect the validity of the proceedings for the redemption of any Series 2009A Bond or portion thereof.

3.05. Execution and Delivery of Series 2009A Bonds. The Series 2009A Bonds shall be forthwith prepared for execution under the direction of the City Clerk, at the expense of the City, and shall be executed on behalf of the City and authenticated as provided in Section 2.05. When the Series 2009A Bonds have been fully executed and authenticated, they shall be delivered by the Bond Registrar to the Original Purchaser thereof upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Original Purchaser thereof shall not be obligated to see to the application of the purchase price.

3.06. Form of Series 2009A Bonds. The Series 2009A Bonds shall be in substantially the form set forth in Exhibit B hereto (which is hereby incorporated herein and made a part hereof), with such appropriate variations, omissions and insertions as are permitted or required by this Resolution.

3.07. Transcript Certification. The officers of the City are directed to furnish to the Original Purchaser of the Series 2009A Bonds and to Bond Counsel certified copies of all proceedings and information in their official records relevant to the authorization, sale and issuance of the Series 2009A Bonds, and such certificates and affidavits as to other matters appearing in their official records or otherwise known to them as may be reasonably required to evidence the validity and security of the Series 2009A Bonds, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations and recitals of the City as to the correctness of all facts stated therein and the completion of all proceedings stated therein to have been taken.

3.08. Securities Depository.

(a) For purposes of this Section 3.08, the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Series 2009A Bond, the Person in whose name such Series 2009A Bond is recorded as the beneficial owner of such Series 2009A Bond by a Participant on the records of such Participant, or such Person’s subrogee.

“CEDE & Co.” shall mean CEDE & CO., the nominee of DTC, and any successor nominee of DTC with respect to the Series 2009A Bonds.

“DTC” shall mean The Depository Trust Company, of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Series 2009A Bonds as securities depository.

“Representation Letter” shall mean the Blanket Issuer Letter of Representation executed by the City to DTC pursuant to which the City agrees to comply with DTC’s Operational Arrangements.

(b) The Series 2009A Bonds shall be initially issued as separately authenticated fully registered bonds, and one Series 2009A Bond shall be issued in the principal amount of each Stated Maturity of the Series 2009A Bonds. Upon initial issuance, the ownership of such Series 2009A Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC. The Bond Registrar, Paying Agent and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Series 2009A Bonds registered in its name for the purposes of payment of the principal of or interest on the Series 2009A Bonds, selecting the Series 2009A Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Series 2009A Bonds under this resolution, registering the transfer of Series 2009A Bonds, and for all other purposes whatsoever; and neither the Bond Registrar, Paying Agent nor the City shall be affected by any notice to the contrary. Neither the Bond Registrar, Paying Agent nor the City shall have any responsibility or obligation to any Participant, any Person claiming a beneficial ownership interest in the Series 2009A Bonds under or through DTC or any Participant, or any other Person which is not shown on the Bond Register as being a registered owner of any Series 2009A Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Series 2009A Bonds, with respect to any notice which is permitted or required to be given to owners of Series 2009A Bonds under this resolution, with respect to the selection by DTC or any Participant of any Person to receive payment in the event of a partial redemption of the Series 2009A Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Series 2009A Bonds. So long as any Series 2009A Bond is registered in the name of Cede & Co., as nominee of DTC, the Paying Agent shall pay all principal of and interest on such Series 2009A Bond, and shall give all notices with respect to such Series 2009A Bond, only to Cede & Co. in accordance with DTC’s Operational Arrangements, and all such payments shall be valid and effective to fully satisfy and discharge the City’s obligations with respect to the principal of and interest on the Series 2009A Bonds to the extent of the sum or sums so paid. No Person other than DTC shall receive an authenticated Series 2009A Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Bond Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Series 2009A Bonds will be transferable to such new nominee in accordance with paragraph (d) hereof.

(c) In the event the City determines to discontinue the book-entry only system, the City may notify DTC and the Bond Registrar and Paying Agent, whereupon DTC shall notify the Participants of the availability through DTC of Series 2009A Bonds in the form of certificates. In such event, the Series 2009A Bonds will be transferable in accordance with paragraph (d) hereof. DTC may determine to discontinue providing its services with respect to the Series 2009A Bonds at any time by giving notice to the City, the Paying Agent and the Bond Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Series 2009A Bonds will be transferable in accordance with paragraph (d) hereof.



(d) In the event that any transfer or exchange of Series 2009A Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Bond Registrar of the Series 2009A Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this resolution. In the event Series 2009A Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Series 2009A Bonds, or another securities depository as owner of all the Series 2009A Bonds, the provisions of this resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Series 2009A Bonds in the form of bond certificates and the method of payment of principal of and interest on such Series 2009A Bonds in the form of bond certificates.

3.09. Application of Proceeds and Other City Funds. The City shall deposit the proceeds of the sale of the Series 2009A Bonds as follows:

(a)

Deposit \$156,530 to the Reserve Account to cause the balance to equal the Reserve Requirement in respect of the Series 2009A Bonds; and

(b) Deposit the balance of the proceeds of the Series 2009A Bonds in the Acquisition and Construction Account in the Tax Increment Fund to be used to pay costs of the 2009 Project and to pay costs of issuance of the Series 2009A Bonds.

Section 4. Additional Bonds.

4.01. General Provisions. In addition to the Series 2009A Bonds, whose issuance and delivery is provided for in Section 3, Additional Bonds may at any time and from time to time be issued, sold and delivered by the City but only upon compliance with the conditions of, Sections 4.02 and 4.03, whichever may be applicable, and upon filing with the City Clerk the following:

A. A Supplemental Resolution authorizing the issuance and creating the designated series of Additional Bonds and the sale thereof to the Original Purchaser or Purchasers named therein for the purchase price set forth therein;

B. A certificate executed by the Mayor, City Manager and the City Fiscal Services Director stating that upon the issuance of the Additional Bonds, no default hereunder has occurred and is continuing which would not be cured upon the issuance of the Additional Bonds and application of the proceeds thereof.

C. An Opinion of Bond Counsel (who may rely on factual representations of the City and which opinion may be qualified by customary qualifications and exceptions) stating that:

(1) all conditions precedent provided for in this Resolution relating to the issuance and delivery of such Additional Bonds have been complied with, including any conditions precedent specified in this Section;

(2) the series of Additional Bonds when issued and delivered by the City will be valid and binding special, limited obligations of the City in accordance with their terms and entitled to the benefits of and secured by this Resolution; and

(3) the issuance of such Additional Bonds will not affect the tax-exempt nature for federal income tax purposes of the Bonds then Outstanding.

No Additional Bonds shall be issued unless, immediately after the issuance thereof and the application of the proceeds thereof the balance on hand in the Reserve Account will be at least equal to the Reserve Requirement after giving effect to the issuance of such Additional Bonds.

Any Additional Bonds shall be dated, shall bear interest at a rate or rates not exceeding the maximum rate, if any, permitted by law, shall have Stated Maturities, and may be subject to redemption at such times and prices and on such terms and conditions, all as may be provided by the Supplemental Resolution authorizing their issuance. All Additional Bonds issued pursuant to Sections 4.02 and 4.03 shall be payable and secured ratably and equally and on a parity with the Series 2009A Bonds and any Additional Bonds theretofore issued, entitled to the same benefits and security of this Resolution.

4.02. Additional Bonds To Pay the Cost of Projects. Additional Bonds may be issued under this Section 4.02, at one time or from time to time, subject to the conditions provided in Section 4.01 and this Section 4.02, for the purpose of providing funds, in an aggregate amount sufficient with any other funds available and committed therefor to pay the cost of one or more Projects.

Before any Additional Bonds shall be issued under this Section 4.02, the City shall adopt a Supplemental Resolution authorizing the issuance of such series of Additional Bonds, fixing the amount and the details thereof, describing in brief and general terms the Projects to be acquired, constructed, altered or improved and estimating the costs thereof.

In addition, prior to the execution and delivery of any series of Additional Bonds under this Section 4.02, there shall be filed with the City Clerk:

(a) A certificate executed by the Mayor, City Manager and the City Fiscal Services Director stating: (i) the estimated cost of the Projects being financed thereby, including an allowance for contingencies and all fees, expenses and financing costs, (ii) the amount, if any, which will be required to be deposited to the credit of the Reserve Account in connection with the issuance of the Additional Bonds, (iii) the amount, if any, which will be required to be credited to the Bond Account to pay interest on the Additional Bonds prior to collection of sufficient Tax Increment available therefor, (iv) the amount of Tax Increment received by the City in the last completed Fiscal Year, (v) the amount of the maximum Principal and Interest Requirements on the Outstanding Bonds and the Additional Bonds proposed to be issued for any future Fiscal Year during the term of the Outstanding Bonds, and (vi) that the principal amount of such Additional Bonds is sufficient to provide for the payment of all estimated costs of

Projects to be financed thereby and credits to the Reserve Account and Bond Account as set forth above; and

(b) a certificate executed by the Mayor, City Manager and the City Fiscal Services Director stating that:

(i) the Tax Increment received by the City in the last completed Fiscal Year was equal to at least 140% of the maximum Principal and Interest Requirements for any future calendar year (during the term of the Outstanding Bonds) with respect to Outstanding Bonds and the Additional Bonds proposed to be issued; and

(ii) the Tax Increment received by the City in the last completed Fiscal Year, adjusted as provided in this Section 4.02(b)(ii), was, and the Tax Increment estimated to be received in the next succeeding three Fiscal Years, adjusted as provided in Section 4.02(c), is estimated to be, equal to at least 140% of the maximum Principal and Interest Requirements for any future calendar year (during the term of the Outstanding Bonds) with respect to the Outstanding Bonds and the Additional Bonds proposed to be issued. For this purpose, the Tax Increment received by the City in the last completed Fiscal Year may be adjusted by adding any increase in Tax Increment which would have resulted from applying the aggregate tax rates of the Taxing Bodies effective for the last completed Fiscal Year to the value of any projects which have been completed in the Urban Renewal Area before the date of issuance of the Additional Bonds and the taxable values of which as so completed are not included in the "actual taxable value" of the Urban Renewal Area (within the meaning of the Act).

The Commission shall approve and confirm the findings and estimates set forth in the above-described certificates in the Supplemental Resolution authorizing the issuance of the Additional Bonds.

(c) For purposes of the foregoing paragraph (b), in estimating the Tax Increment to be received in any future Fiscal Year, the Mayor, City Manager and the City Fiscal Services Director shall assume that: (1) 90% of the Taxes levied in the Urban Renewal Area will be collected in any Fiscal Year, (2) no Taxes delinquent in a prior Fiscal Year will be collected in any subsequent Fiscal Year, and (3) there will be no increase in the Tax Increment to be received in any future Fiscal Year resulting from projected inflation in property values or projected increases in Taxes.

4.03. Additional Bonds for Refunding Purposes. Additional Bonds may be issued at any time or from time to time, subject to the conditions hereinafter stated in this Section 4.03, for the purpose of providing funds, with any other funds available and committed therefor, for paying at, or redeeming prior to, their Stated Maturities any Outstanding Bonds, including the payment of any redemption premium thereon and interest which will accrue on such Bonds to any Redemption Date or the Stated Maturities thereof, and any expenses in connection with such

financing. Such Additional Bonds shall be designated substantially as the Bonds to be refunded, with the addition of the term “Refunding”.

Prior to authentication and delivery of any Additional Bonds under this Section 4.03 there shall be filed with the City Clerk such documents as shall be required to show that provisions have been duly made in accordance with the provisions of this Resolution for the redemption of all of the Outstanding Bonds to be refunded.

The City shall not deliver any Additional Bonds under this Section 4.03 unless there shall be filed with the City Clerk:

(i) a report of an Independent Accountant to the effect that (a) the proceeds (excluding accrued interest but including any premium) of the Additional Bonds plus any moneys to be withdrawn from the Bond Account for such purpose, together with any other funds deposited for such purpose, will be not less than an amount sufficient to pay the principal of and redemption premium, if any, on the Outstanding Bonds to be refunded and the interest which will become due and payable on and prior to the Redemption Date or Stated Maturities of the Bonds to be refunded, or (b) from such proceeds there shall be deposited in trust, Government Obligations which do not permit the redemption thereof at the option of the issuer, the principal of and the interest on which when due and payable (or redeemable at the option of the holder thereof) will provide, together with any other moneys which shall have been deposited in trust irrevocably for such purpose, but without reinvestment, sufficient moneys to pay such principal, redemption premium and interest;

(ii) an opinion of Bond Counsel to the effect that the issuance of such Additional Bonds will not prejudice the exclusion from gross income for purposes of federal income taxation of the interest accruing on any of the Outstanding Bonds; and

(iii) if Additional Bonds are issued to refund Subordinate Obligations issued pursuant to Section 4.04, the conditions for the issuance of Additional Bonds pursuant to Section 4.02 be satisfied.

4.04. Subordinate Obligations. Except as provided in Sections 4.01 to 4.03, no bonds, notes or other evidence of indebtedness of the City will be issued under or secured by the provisions of this Resolution, and no bonds, notes or other evidence of indebtedness will be made payable from the Bond Account, unless the pledge and appropriation of such Tax Increment for the payment and security of such bonds, notes or other evidence of indebtedness is expressly subordinated to the pledge and appropriation made for the benefit and security of the Series 2009A Bonds and all Additional Bonds issued and to be issued under and secured by this Resolution in accordance with Sections 4.01 to 4.03. In the event of the issuance of any such Subordinate Obligations, the principal, interest and redemption premiums thereon will be made payable from one or more additional accounts created within the Tax Increment Funds for that purpose, and the balance of funds at any time on hand in any such accounts shall be available and shall be transferred whenever needed to meet the current requirements of the Bond Account and Reserve Account set forth in Sections 5.03 and 5.04.

4.05. Notes. When and if the City has established that all of the conditions precedent to the issuance of a series of Additional Bonds have been satisfied (assuming a specified principal amount, maturity schedule and interest rate to be borne by such Additional Bonds), the City may, after authorizing the issuance of such series of Additional Bonds but in lieu of issuing such series of Additional Bonds, issue a series of special, limited Notes, denominated as “Bond Anticipation Notes,” which shall have a Stated Maturity not more than three years from their date of original issue and which shall be secured by a lien on the Tax Increment subordinate to all Outstanding Bonds except that at their Stated Maturity they shall be paid as to principal and interest to the extent required from the proceeds of the series of Additional Bonds in anticipation of which they were issued or, if for any reason the City has been unable to sell and issue that series of Additional Bonds, then, at the option of the holders of such Notes, Bonds of such series of Additional Bonds shall be issued to the Holders of the Notes, in exchange therefor, on a par-for-par basis, without the necessity for meeting the other requirements of this Section 4 in respect of such Additional Bonds.

#### Section 5. The Tax Increment Funds.

5.01. Bond Proceeds and Tax Increment Pledged and Appropriated. Within the City’s West Bank Urban Renewal District Tax Increment Fund, the City hereby establishes on its books and records three funds designated as the Tax Increment Capital Project Fund, the Tax Increment Bond Fund and the Tax Increment Development Fund (collectively, the Tax Increment Funds) related to the Series 2009A Bonds and any Additional Parity Bonds (the Bonds). The Tax Increment Funds shall be maintained as separate and special bookkeeping accounts on the official books and records of the City until all Bonds have been fully paid, or the City’s obligation with reference to all Bonds has been discharged as provided in this Resolution. All proceeds of Bonds and all other funds hereafter received or appropriated for purposes of the Projects are appropriated to the Tax Increment Funds. All Tax Increment is irrevocably pledged and appropriated and shall be credited as received to the Tax Increment Bond Fund. The Bonds shall be secured by a first pledge of and lien on all of the Tax Increment and of all other moneys from time to time in the Tax Increment Funds in the manner and to the extent provided in this Section 5. The City shall not issue any obligation or security superior to or on a parity with the Series 2009A Bonds, payable or secured, in whole or in part, from or by the Tax Increment other than Additional Bonds issued pursuant to Section 4, until all of the Series 2009A Bonds have been paid or discharged as provided herein. The Tax Increment Funds shall be subdivided into separate accounts as designated and described in Sections 5.03 to 5.06.

5.02. Tax Increment Receipts. All Tax Increment received by the City and credited to the Tax Increment Bond Fund, as required in Section 5.01, shall be credited as received as follows: (a) first, to the Interest Account, until the balance on hand in the Interest Account is at least equal to all interest on Bonds due and payable from the Interest Account within the next six full calendar months; (b) second, after any credit to the Interest Account required by the preceding clause, to the Sinking Fund Account, until the balance on hand in the Sinking Fund Account is at least equal to all principal of and premium, if any, on Outstanding Bonds due and payable from the Sinking Fund Account (including amounts due and payable on a Sinking Fund Payment Date) within the next twelve full calendar months; (c) third, after any credit to the Interest Account or the Sinking Fund Account required by the preceding clauses, to the Reserve Account until the balance on hand in the Reserve Account is equal to the Reserve Requirement; and (d)

fourth, after any credit to the Interest Account, the Sinking Fund Account or the Reserve Account required by the preceding clauses, to the Tax Increment Development Fund.

5.03. Construction Account. For each Project there shall be a separate Construction Account within the Tax Increment Capital Project Fund, to be used only to pay allowed costs as incurred, which under accepted accounting principles are costs of the particular Project, including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands and easements, and other interests in land, interest accruing on Bonds during the period of construction of a Project financed thereby and for a period of time thereafter authorized by the Act and deemed necessary by the Commission, if and to the extent that the Interest Account is not sufficient for payment of such interest, reimbursement of any advances made from other City funds, and all other expenses incurred in connection with the acquisition, construction and financing of the Project. To the Construction Account shall be credited as received all proceeds of Bonds issued to finance such Project, except amounts otherwise appropriated in Section 3.09 or in a Supplemental Resolution or received from Additional Bonds issued to refund Outstanding Bonds pursuant to Section 4 and all other funds appropriated by the City for the Project, and all income received from the investment of the Construction Account. Upon completion of any Project and payment of the cost thereof, the City may transfer any money then remaining in the Construction Account for that Project, if permitted by the Act and if such transfer will not adversely affect the tax exemption of interest on the series of Bonds that financed the Project, to the Tax Increment Development Fund. Money in the Construction Account shall be transferred as needed to the Interest Account to pay interest on Bonds payable therefrom to the extent moneys therein are insufficient.

5.04. Bond Account.

(a) General. The Bond Account is hereby established as a special account within the Tax Increment Bond Fund. There are hereby established within the Bond Account two separate subaccounts, designated as the Interest Account and the Sinking Fund Account.

(b) Interest Account. There shall be credited to the Interest Account the following amounts: (i) any amount specified in any Supplemental Resolution to be credited to the Interest Account; (ii) from the Tax Increment as received by the City, the amount specified in clause (a) of Section 5.02; and (iii) any other amounts appropriated from time to time to the Interest Account.

On or before each Interest Payment Date, the City shall withdraw from the Interest Account an amount sufficient to pay the interest coming due on the Bonds on such Interest Payment Date, and shall use such amount to pay, or make provision with the Paying Agent for the payment of, interest on the Bonds on such Interest Payment Date.

If on any Interest Payment Date the balance in the Interest Account is not sufficient to pay the total amount of interest due on such Interest Payment Date, the City shall transfer any money then on hand in the Tax Increment Development Fund, the Construction Account, the Reserve Account or the Sinking Fund Account, in the order listed and in an amount equal to such deficiency, to the Interest Account.

All income derived from the investment of amounts in the Interest Account shall be credited as received to the Interest Account.

(c) Sinking Fund Account. There shall be credited to the Sinking Fund Account the following amounts: (i) any amount specified in a Supplemental Resolution to be credited to the Sinking Fund Account; (ii) from the Tax Increment as received by the City, the amount specified in clause (b) of Section 5.02; investment income from the Reserve Account as provided in Section 5.05; and (iv) any other amounts appropriated from time to time to the Sinking Fund Account.

Amounts on hand in the Sinking Fund Account shall be used on any Interest Payment Date to make up a deficiency in the Interest Account, if and to the extent required by the third subparagraph of paragraph (b) of this Section.

On or before each Principal Payment Date, the City shall withdraw from the Sinking Fund Account an amount sufficient to pay the principal due on the Bonds on such Principal Payment Date, and shall use such amount to pay, or make provision with the Paying Agent for the payment of, principal of the Bonds on such Principal Payment Date, whether a Stated Maturity or a Sinking Fund Payment Date.

If on any Principal Payment Date the balance in the Sinking Fund Account is not sufficient to pay the total amount of principal due on such Principal Payment Date, the City shall transfer any money then on hand in the Tax Increment Development Fund, Construction Account or Reserve Account, in the order listed and in an amount equal to such deficiency, to the Sinking Fund Account.

5.05. Reserve Account. The Reserve Account is hereby established as a special account within the Tax Increment Bond Fund. There shall be credited to the Reserve Account the following amounts: (i) \$156,530 from proceeds of the Series 2009A Bonds, as provided in Section 3.10; (ii) from the Tax Increment as received by the City, the amount specified in clause (c) of Section 5.02; (iii) any amount specified in any Supplemental Resolution to be credited to the Reserve Account; and (iv) any other amounts appropriated from time to time to the Reserve Account.

If on any Interest Payment Date or on any Principal Payment Date there shall exist, after the other transfers required by Sections 5.02(a) and (b), a deficiency in the Interest Account or Sinking Fund Account, the City shall transfer from the Reserve Account to such account an amount equal to such deficiency.

All income derived from the investment of amounts in the Reserve Account shall be credited as received to the Reserve Account until such time as the balance in the Reserve Account is equal to the Reserve Requirement, and thereafter all such investment income as received shall be transferred to the Sinking Fund Account.

Money in the Reserve Account shall be used only to pay when due principal of, premium, if any, and interest on Bonds when the balance on hand in the Bond Account is insufficient therefor; provided that on any date when the balance then on hand in the Bond Account allocable to a series of Bonds, plus the balance then on hand in the Reserve Account allocable to the series

of Bonds, is sufficient with other money available for the purpose to pay or discharge all Outstanding Bonds of that series and the interest accrued thereon in full, and the balance thereafter on hand in the Reserve Account will be at least equal to the Reserve Requirement for all Outstanding Bonds not to be discharged, it may be used for that purpose. In addition, amounts on hand in the Reserve Account may be used to make any arbitrage rebate payments due under Section 148(f) of the Code in respect of any Bonds if available amounts on hand in the Tax Increment Development Fund are insufficient therefor.

If at any time (including, but not limited to, any Principal Payment Date and any Redemption Date), the balance in the Reserve Account exceeds the Reserve Requirement, the City shall transfer such excess to the Sinking Fund Account.

5.06. General Tax Increment Development Fund. There shall be credited to the Tax Increment Development Fund any and all Tax Increment remaining after the required credits to the Bond Account and Reserve Account, subject to the creation of any other accounts and the appropriation of Tax Increment thereto as provided in Sections 4.04 and 4.05, any investment income and other moneys in any of the accounts within the Tax Increment Funds in excess of the requirements of said accounts and which the City determines in its discretion to transfer to the Tax Increment Development Fund. Money from time to time on hand in the Tax Increment Development Fund shall be transferred to the Bond Account and Reserve Account as provided by Sections 5.04 and 5.05 and in addition may be used for any of the following purposes and not otherwise:

- (a) to be transferred to the Construction Account to pay costs authorized to be paid therefrom;
- (b) to pay administrative costs of the City and costs incurred in connection with Projects within the Urban Renewal Area as authorized by the Act and approved by the Commission;
- (c) to make arbitrage rebate payments owing in respect of Bonds under Section 148(f) of the Code;
- (d) to redeem or discharge Bonds prior to their Stated Maturities in accordance with the provisions of this Resolution or any Supplemental Resolution;
- (e) to purchase Bonds on the open market;
- (f) to pay, redeem or otherwise secure the payment of any Subordinate Obligations; and
- (g) to pay to Taxing Bodies a portion of the annual Tax Increment received by the City pursuant to an agreement authorized by the Act; provided that the City may remit to Taxing Bodies pursuant to such an agreement only from Tax Increment received in the fiscal year and on hand in the Tax Increment Development Fund, only if, on the date of remittance, the balance in the Reserve Account is not less than the Reserve Requirement and the funding requirements of the Bond Account have been satisfied, and only to the extent that the balance on deposit in the Tax Increment



Development Fund, after such remittance, is not less than 125% of the principal of and interest payable on Outstanding Bonds in the Fiscal Year such Tax Increment is received; and provided, further, that if the Constitution or laws of the State of Montana are amended to abolish or substantially reduce or eliminate real property taxation, and so long as replacement revenues are not available to pay principal of and interest on the Bonds in accordance with the provisions of Section 6.13, money in the Tax Increment Development Fund is to be used, so long as any Bonds are Outstanding, solely for the payment of principal of, interest or premium, if any, on Outstanding Bonds, whether at their Stated Maturities, on a Redemption Date or otherwise, or to purchase Outstanding Bonds on the open market.

5.07. Investments. The City Fiscal Services Director shall cause all moneys from time to time in the Tax Increment Funds to be deposited as received with one or more depository banks duly qualified in accordance with the provisions of Montana Code Annotated, Section 7-6-201, as amended, and shall cause the balances in such accounts, except any part thereof covered by federal deposit insurance, to be secured by the pledge of bonds or securities of the kinds required by law, and no money shall at any time be withdrawn from such deposit accounts except for the purposes of the Tax Increment Funds as defined and authorized by this Resolution. The funds to the credit of the several accounts within the Tax Increment Funds may be commingled in one or more deposit accounts. The balance on hand in any of the accounts of the Tax Increment Funds may at any time be invested and reinvested in Qualified Investments as provided below, maturing and bearing interest payable at the times and in the amounts estimated to be required to provide cash when needed for the purposes of the respective accounts; provided that the Reserve Account and Tax Increment Development Fund shall be invested in Qualified Investments maturing not later than five years from the date of investment. Income from the investment of the moneys in the various accounts shall be credited thereto. Subject to the provisions of law now or hereafter controlling investment of such funds, money on hand in any of the accounts of the Tax Increment Funds may be invested in any of the following Qualified Investments, but no others:

- (a) direct obligations of or obligations guaranteed by the United States of America;
- (b) bank time deposits or certificates of deposit secured by obligations and securities described in clause (a) above; and
- (c) the Montana short-term investment pool administered by the Board of Investments of the State of Montana or any similar pool hereafter created for the investment of public funds.

#### Section 6. Other Covenants of City.

6.01. Punctual Payment. The City will punctually pay or cause to be paid the principal and interest to become due in respect to all the Bonds, in strict conformity with the terms of the Bonds and of this Resolution, and it will faithfully observe and perform all of the conditions, covenants and requirements of this Resolution and all Supplemental Resolutions and of the Bonds. Nothing herein contained shall prevent the City from making advances of its own

moneys however derived to any of the uses or purposes referred to herein, nor shall be deemed or constitute a pledge or appropriation of funds or assets of the City other than those expressly pledged or appropriated hereby.

6.02. Accumulation of Claims of Interest. In order to prevent any accumulation of claims for interest after maturity, the City will not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the Bonds and will not, directly or indirectly, be a party to or approve any such arrangements by purchasing or funding said claims for interest or in any other manner. In case any such claim for interest shall be extended or funded, whether or not with the consent of the City, such interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Resolution, except subject to the prior payment in full of the principal of all of the Bonds then outstanding and of all claims for interest which shall not have been so extended or funded.

6.03. Against Encumbrances. The City will not encumber, pledge or place any charge or lien upon any of the Tax Increment superior to or on a parity with the pledge and lien herein created for the benefit of the Bonds.

6.04. Management and Operation of Properties. The City will manage and operate or cause to be managed and operated all Projects owned by the City in a sound and businesslike manner, and will keep such Projects insured at all times in conformity with sound business practice.

6.05. Books and Accounts; Financial Statements. The City will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the Projects, Tax Increment and the Tax Increment Funds. Such books of record and accounts shall be at all time during business hours subject to the inspection of the Owners of not less than ten percent (10%) of the principal amount of the Bonds then Outstanding, or their representatives authorized in writing.

The City will prepare and file with the City Clerk annually, within two hundred seventy (270) days after the close of each Fiscal Year so long as any of the Bonds are Outstanding, complete financial statements with respect to the preceding Fiscal Year showing (1) the actual taxable value, the base taxable value and the incremental taxable value (each as defined in the Act) of the Urban Renewal Area; (2) the mill rates of all Taxing Bodies; (3) the Tax Increment, including a breakdown of Tax Increment attributable to current and delinquent property tax collections; (4) all disbursements from the Tax Increment Funds; and (5) the balances in the Tax Increment Funds and accounts therein as of the end of each such Fiscal Year, which statements shall be accompanied by a certificate or opinion in writing of an Independent Accountant.

6.06. Completion of Projects. The City will commence, and will continue to completion, with all practicable dispatch all Projects undertaken in the Urban Renewal Area in conformity with the Urban Renewal Plan and the Act.

6.07. Taxation of Leased Property. Other than a Project owned and operated as a public improvement or facility, whenever the City leases real property in the Urban Renewal Area to

any Person other than a governmental entity, the property shall to the extent authorized by law be assessed and taxed in the same manner as privately-owned property and the lease shall provide (1) that the lessee shall pay Taxes upon the taxable value for the entire property and not merely upon the assessed value of his or its leasehold interest, and (2) that if for any reason the Taxes paid by the lessee on such property in any year during the term of the lease shall be less than the Taxes which would have been payable upon the assessed value of the entire property if the property were assessed and taxed in the same manner as privately-owned property, the lessee shall pay such difference to the City within thirty days after the Taxes for such year become payable to the Taxing Bodies and in any event prior to the delinquency date of such Taxes established by law. All such payments to the City shall be treated as Tax Increment and shall be deposited by the City in the Tax Increment Funds.

6.08. Disposition of Property. The City will not authorize the disposition (or acquisition) of any land or real property in the Urban Renewal Area to anyone which will result in such property becoming exempt from taxation because of public ownership or use or otherwise (except property planned for such ownership or use by the Urban Renewal Plan in effect on the date of this Resolution) if such disposition shall consist of more than two percent (2%) of the land area in the Urban Renewal Area, except as provided in this Section 6.08. The City shall appoint a reputable Independent Financial Consultant and direct said consultant to report on the effect of said disposition. If the Report of the Independent Financial Consultant concludes that Tax Increment (including any amounts resulting from payments in lieu of taxes agreed to be paid with respect to the property) will not be reduced by the proposed disposition in each of the three complete Fiscal Years following such disposition (based on tax levies not greater than those for the current Fiscal Year) below 200% of the maximum Principal and Interest Requirements on all Outstanding Bonds in any future Fiscal Year and that the security of the Bonds or the rights of the Bondowners will not be materially impaired by said proposed disposition, the City may make the proposed disposition.

6.09. Further Assurances. The City will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for better assuring and conferring to the Owners of the Bonds the rights and benefits provided in this Resolution.

6.10. Amendment of Plan or Ordinance. Except to authorize additional Projects, the City will not amend or modify the Plan or the Ordinance or reduce the size of the Urban Renewal Area if an effect thereof will be to materially and adversely affect the security of the Outstanding Bonds; provided, however, the City may reduce the size of the Urban Renewal Area if a report as provided in Section 6.08 is received from the Financial Consultant regarding the reduction in size of the Urban Renewal Area.

6.11. Adjustment of Tax Incremental Base. The City shall not adjust the tax incremental base of the Urban Renewal Area pursuant to Section 7-15-4287 of the Act so long as any Bonds are Outstanding, if the effect would be to reduce the base.

6.12. Federal Tax Exemption. The City will not use the proceeds of any Bonds or use or permit the use of any Project financed from the proceeds of the Bonds or revenues derived

therefrom in such a way as to cause the exemption from federal income taxation of interest on any Bonds to become adversely affected.

6.13. Pledge of Replacement Revenues. In the event the Constitution or laws of the State of Montana are amended to abolish or substantially reduce or eliminate real or personal property taxation and State law then or thereafter provides to the City an alternate or supplemental source or sources of revenue specifically to replace or supplement reduced or eliminated Tax Increment, then the City pledges, and covenants to appropriate annually, subject to the limitations of then applicable law, to the Bond Fund from such alternate or supplemental revenues an amount that will, with money on hand in the Bond Fund or available and to be transferred to the Bond Fund during such Fiscal Year, be sufficient to pay the principal of, premium, if any, and interest on the Outstanding Bonds payable in that Fiscal Year.

6.14. Bondowner Rights. No Owner of any Bond issued and secured under the provisions of this Resolution shall have the right to institute any proceeding, judicial or otherwise, for the enforcement of the covenants herein contained, without the written concurrence of the Owners of not less than 25% in aggregate principal amount of all Bonds which are at the time Outstanding; but the Owners of this amount of such Bonds may, either at law or in equity, by suit, action or other proceedings, protect and enforce the rights of all Owners of such Bonds and compel the performance of any and all of the covenants required herein to be performed by the City and its officers and employees. The Owner of a majority in principal amount of such Outstanding Bonds shall have the right to direct the time, method and place of conducting any proceedings for any remedy available to the Owners or the exercise of any power conferred on them, and the right to waive a default in the performance of any such covenant, and its consequences, except a default in the payment of the principal of or interest on any Bond when due. However, nothing herein shall impair the absolute and unconditional right of the Owner of each Bond to receive payment of the principal of and interest on such Bond as such principal and interest respectively become due, and to institute suit for the enforcement of any such payment. In the Event of Default in any such payment, any court having jurisdiction of the action may appoint a receiver to administer the Tax Increment Funds and to collect and segregate and apply the Tax Increment and other revenues pledged thereto as provided by this Resolution and the Act.

## Section 7. Supplemental Resolutions.

7.01. General. The City reserves the right to adopt Supplemental Resolutions to this Resolution from time to time and at any time, for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective provision contained herein, or of making such provisions with regard to matters or questions arising hereunder as the City may deem necessary or desirable and not inconsistent with this Resolution, and which shall not adversely affect the interests of the Owners of Bonds issued hereunder, or for the purpose of adding to the covenants and agreements herein contained, or to the Tax Increment herein pledged, other covenants and agreements thereafter to be observed and additional revenues or income thereafter appropriated to the Tax Increment Funds, or for the purpose of surrendering any right or power herein reserved to or conferred upon the City, or for the purpose of authorizing the creation and issuance of a series of Additional Bonds, as provided in and subject to the conditions and

requirements of Section 4. Any such Supplemental Resolution may be adopted by resolution, without the consent of the Owner of any of the Bonds issued hereunder.

7.02. Consent of Bondowners. With the consent of the Owners of Outstanding Bonds as provided in Section 7.03, the City may from time to time and at any time adopt a Supplemental Resolution for the purpose of amending this Resolution by adding any provisions hereto or changing in any manner or eliminating any of the provisions hereof or of any Supplemental Resolution, except that no Supplemental Resolution shall be adopted at any time without the consent of the Owners of all Outstanding Bonds affected thereby, if it would extend the time of payment of interest thereon, would reduce the amount of the principal thereof or redemption premium thereon, would give to any Bond or Bonds any privilege over any other Bond or Bonds (except for the privilege accorded Bonds over Subordinate Bonds), would reduce the sources of Tax Increment or other revenues or income appropriated to the Tax Increment Funds, or would reduce the percentage in principal amount of such Bonds required to authorize or consent to any such Supplemental Resolution.

7.03. Notice. Notice of a Supplemental Resolution to be adopted pursuant to Section 7.02 shall be mailed by first-class mail, postage prepaid, to the Owners of all Outstanding Bonds at their addresses appearing in the Bond Register and shall become effective only upon the filing of written consents with the City Clerk, signed by the Owners of not less than two-thirds in principal amount of the Bonds issued hereunder which are then Outstanding. Any written consent to the Supplemental Resolution may be embodied in and evidenced by one or any number of concurrent written instruments of substantially similar tenor signed by Owners in person or by agent duly appointed in writing, and shall become effective when delivered to the City Clerk. Any consent by the Owner of any Bond shall bind that Owner and every future Owner of the same Bond with respect to any Supplemental Resolution adopted by the City pursuant to such consent; provided that any Owner may revoke his consent with reference to any Bond by written notice received by the City Clerk before the Supplemental Resolution has become effective. In the event that unrevoked consents of the Owners of the required amount of Bonds have not been received by the City Clerk within one year after the publication of notice of the Supplemental Resolution, the Supplemental Resolution and all consents theretofore received shall be of no further force and effect.

7.04. Manner of Consent. Proof of the execution of any consent, or of a writing appointing any agent to execute the same shall be sufficient for any purpose of this Resolution and shall be conclusive in favor of the City if made in the manner provided in this Section 7.04. The fact and date of the execution by any Person of any such consent or appointment may be proved by the affidavit of a witness of such execution or by the certification of any notary public or other officer authorized by law to take acknowledgment of deeds, certifying that the Person signing it acknowledged to him the execution thereof. The fact and date of execution of any such consent may also be proved in any other manner which the City may deem sufficient; but the City may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. The ownership of any registered Bonds shall be proved by the Bond Register.

## Section 8. Defeasance.

8.01. General. When the liability of the City on all Bonds issued under and secured by this Resolution and all interest thereon has been discharged as provided in this section, all pledges, covenants and other rights granted by this Resolution to the Owners of such Bonds shall cease.

8.02. Maturity. The City may discharge its liability with reference to all Bonds and interest thereon which are due on any date by depositing with the Paying Agent for such Bonds on or before the date a sum sufficient for the payment thereof in full; or if any Bond or interest shall not be paid when due, the City may nevertheless discharge its liability with reference thereto by depositing with the Paying Agent a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

8.03. Redemption. The City may also discharge its liability with reference to any Bonds which are called for redemption on any date in accordance with their terms, by depositing with the Paying Agent on or before that date an amount equal to the principal, interest and redemption premium, if any, which are then due thereon; provided that notice of such redemption has been duly given as provided in this Resolution or a Supplemental Resolution.

8.04. Escrow. The City may also at any time discharge its liability with reference to any Bond subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or securities which are Government Obligations which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required to provide funds sufficient to pay all principal and interest to become due on all such Bonds on or before the Stated Maturities thereof or, if such Bonds are subject to redemption and the City has given the redemption notice required therefor or given irrevocable instructions to give such notice and the funds provided will also be sufficient to pay any applicable redemption premium, to an earlier Redemption Date.

## Section 9. Tax Covenants.

9.01. Security for the Series 2009A Bonds. The City shall not enter into any lease, use or other agreement with any non-governmental Person relating to the security for the payment of the Series 2009A Bonds which might cause the Series 2009A Bonds to be considered “private activity bonds” or “private loan bonds” within the meaning of Section 141 of the Code. No “impermissible agreement” as defined in Treasury Regulations, Section 1.141-4(e)(4)(ii), has been or will be entered into by the City in respect of the Tax Increment or otherwise to secure the Series 2009A Bonds.

9.02. General Covenant. The City covenants and agrees with the owners from time to time of the Series 2009A Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2009A Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations promulgated thereunder (the “Regulations”), and covenants to take any and all actions within its powers to ensure that the interest on the Series 2009A Bonds

will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

9.03. Arbitrage Certification. The Mayor, City Manager and the City Fiscal Services Director, being the officers of the City charged with the responsibility for issuing the Series 2009A Bonds pursuant to this resolution, are authorized and directed to execute and deliver to the Original Purchaser a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2009A Bonds, it is reasonably expected that the proceeds of the Series 2009A Bonds will be used in a manner that would not cause the Series 2009A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

9.04. Arbitrage Rebate. The City acknowledges that the Series 2009A Bonds are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Treasury Regulations to preserve the exclusion of interest on the Series 2009A Bonds from gross income for federal income tax purposes, unless the Series 2009A Bonds qualify for the spending exceptions from the rebate requirement under Section 148(f)(4)(B) of the Code and the Treasury Regulations and no “gross proceeds” of the Series 2009A Bonds (other than amounts constituting a “bona fide Bond Fund”) arise during or after the expenditure of the sale proceeds thereof. In furtherance of the foregoing, the City Fiscal Services Director is hereby authorized and directed to execute a Rebate Certificate, substantially in the form of the Rebate Certificate prepared by Bond Counsel and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

9.05. Designation as Qualified Tax-Exempt Obligations. Pursuant to Section 265(b)(3)(B)(ii) of the Code, the City hereby designates the Series 2009A Bonds as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code. The City has not designated any bonds in 2009 under Section 265(b)(3) other than the Series 2009A Bonds. The City hereby represents that it does not anticipate that the City and all “subordinate entities” of the City will issue in 2009 obligations bearing interest exempt from federal income taxation under Section 103 of the Code (including “qualified 502(c)(3) bonds” but excluding other “private activity bonds,” as defined in Sections 141(a) and 145(a) of the Code) in an amount greater than \$10,000,000.

9.06. Information Reporting. The City shall file with the Secretary of the Treasury, not later than November 15, 2009, a statement concerning the Series 2009A Bonds containing the information required by Section 149(e) of the Code.

## Section 10. Continuing Disclosure.

10.01. Purpose and Beneficiaries. To provide for the public availability of certain information relating to the Series 2009A Bonds and the security therefor and to permit the Original Purchaser and other participating underwriters in the primary offering of the Series 2009A Bonds to comply with amendments to Rule 15c2-12 promulgated by the Securities and

Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12), relating to continuing disclosure (as in effect and interpreted from time to time, the “Rule”), which will enhance the marketability of the Series 2009A Bonds, the City hereby makes the following covenants and agreements for the benefit of the Owners (as hereinafter defined) from time to time of the Outstanding Series 2009A Bonds. The Tax Increment Fund of the City and the City are the only “obligated persons” in respect of the Series 2009A Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made. The City has complied in all material respects with any undertaking previously entered into by it under the Rule.

If the City fails to comply with any provisions of this Section 10, any Person aggrieved thereby, including the Owners of any Outstanding Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this Section 10, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Section 10 constitute a default under the Series 2009A Bonds or under any other provision of this Resolution.

As used in this Section 10, “Owner” or “Bondowner” means, in respect of a Series 2009A Bond, the registered owner or owners thereof appearing in the Bond Register maintained by the Bond Registrar or any “Beneficial Owner” (as hereinafter defined) thereof, if such Beneficial Owner provides to the Bond Registrar evidence of such beneficial ownership in form and substance reasonably satisfactory to the Bond Registrar. As used herein, “Beneficial Owner” means, in respect of a Series 2009A Bond, any Person which (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, such Series 2009A Bond (including Persons or entities holding Series 2009A Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of the Series 2009A Bond for federal income tax purposes.

10.02. Information To Be Disclosed. The City will provide, in the manner set forth in subsection (c) hereof, either directly or indirectly through an agent designated by the City, the following information at the following times:

(1) on or before 270 days after the end of each Fiscal Year, commencing with the Fiscal Year ended June 30, 2009, the following financial information and operating data in relating to the Urban Renewal Area and the City for the preceding Fiscal Year of the City as hereinafter specified (the “Disclosure Information”).

The Disclosure Information comprises the following (subject to modification as described below):

(A) the audited financial statements of the City for such Fiscal Year, accompanied by the complete audit report and opinion of an independent certified public accountant or state legislative auditor relating thereto, including the financial statements of the Tax Increment Fund of the City, as permitted or required by the laws of the State of Montana, containing balance



sheets as of the end of such Fiscal Year and a statement of operations, changes in fund balances and cash flows for the Fiscal Year then ended, showing in comparative form such figures for the preceding Fiscal Year of the City prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Montana law, as in effect from time to time, or, if and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, noting the discrepancies therefrom and the effect thereof, and certified as to accuracy and completeness in all material respects by the City Fiscal Services Director; and

(B) To the extent not included in the financial statements referred to in paragraph (A) hereof, the information for such Fiscal Year or for the period most recently available of the type identified below contained in the Official Statement, which information may be unaudited, but shall be certified as to accuracy and completeness in all material respects by the City Fiscal Services Director to the best of his or her knowledge, which certification may be based on the reliability of information obtained from governmental or other third-party sources:

- (1) updated figures for the City for the then current fiscal year to information relating to Tax Increment revenue, investment earnings, debt service and debt service coverage and incremental taxable value, amount of Tax Increment resulting from property tax levy and Tax Increment actually received of the type contained under the captions “Estimated Debt Service Requirements and Coverage,” “Great Falls Urban Renewal District—Property Tax Levies in the District,” “—Major Taxpayers in the District,” and “—Comparison of Incremental Taxable Value of the District to City Taxable Value” and “—Financial Statement Regarding the District Tax Increment Fund”;
- (2) updated figures for the City for the then current fiscal year to include information relating to the market value and taxable value of taxable property in the District in format similar to the table on page 23 in the section “West Bank Urban Renewal District—Value of Property in the District”; and
- (3) updated figures for the City for the then current fiscal year to include information relating to identification of the ten taxpayers in District with the largest taxable value of property by name, type of property and taxable value in format similar to the table on page 27 in the section “West Bank Urban Renewal District—Major Taxpayers in the District.”

Notwithstanding the foregoing paragraph, if the audited financial statements from which such extracts are to be taken are not available by the date specified, the City shall provide on or before such date extracts from unaudited financial statements in the format required for the audited financial statements as part of the Disclosure Information and, within 10 days after the receipt thereof, the City shall provide the audited financial statements.

Any or all of the Disclosure Information may be incorporated by reference, if it is updated as required hereby, from other documents, including official statements, which have been submitted to each of the repositories hereinafter referred to under subsection (b) or the SEC. If the document incorporated by reference is a final official statement, it must also be available from the Municipal Securities Rulemaking Board. The City shall clearly identify in the Disclosure Information each document so incorporated by reference.

If any part of the Disclosure Information can no longer be generated because the operations of the City have materially changed or been discontinued, such Disclosure Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided, however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be a Material Fact (as defined in paragraph (2) hereof), then, from and after such determination, the Disclosure Information shall include such additional specified data regarding the replacement operations.

If the Disclosure Information is changed or this Section 10.02 is amended in accordance with its terms, then the City shall include in the next Disclosure Information to be delivered hereunder, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

(2) In a timely manner, notice of the occurrence of any of the following events which is a Material Fact (as hereinafter defined):

- (A) Principal and interest payment delinquencies;
- (B) Non-payment related defaults;
- (C) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (D) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (E) Substitution of credit or liquidity providers, or their failure to perform;
- (F) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (G) Modifications to rights of security holders;
- (H) Bond calls;
- (I) Defeasances;
- (J) Release, substitution, or sale of property securing repayment of the securities;

and

- (K) Rating changes.

As used herein, a "Material Fact" is a fact as to which a substantial likelihood exists that a reasonably prudent investor would attach importance thereto in deciding to buy, hold or sell a

Series 2009A Bond or, if not disclosed, would significantly alter the total information otherwise available to an investor from the Official Statement, information disclosed hereunder or information generally available to the public. Notwithstanding the foregoing sentence, a “Material Fact” is also an event that would be deemed “material” for purposes of the purchase, holding or sale of a Series 2009A Bond within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

(3) In a timely manner, notice of the occurrence of any of the following events or conditions:

(A) the failure of the City to provide the Disclosure Information at the time specified under “Annual Information” above;

(B) the amendment or supplementing of the Disclosure Covenants pursuant to the Resolution, together with a copy of such amendment or supplement and any explanation provided by the City under the Disclosure Covenants;

(C) the termination of the obligations of the City under the Disclosure Covenants pursuant to the Resolution; and

(D) any change in the Fiscal Year of the City.

10.03. Manner of Disclosure. The City agrees to make available the information described in Section 10.02 to the following entities by telecopy, overnight delivery, mail or other means, as appropriate:

(1) the information described in paragraph (1) of Section 10.02, to each then nationally recognized municipal securities information repository under the Rule and to any state information depository then designated or operated by the State of Montana as contemplated by the Rule (the “State Depository”), if any;

(2) the information described in paragraphs (2) and (3) Section 10.02, to the Municipal Securities Rulemaking Board and to the State Depository, if any.

In addition, any filing under this Section 10 may be made solely by transmitting such filing to the Texas Municipal Advisory Commission (“MAC”) as provided at <http://www.disclosureusa.org>, unless the United States Securities and Exchange Commission has withdrawn the interpretative advice in its letter to MAC dated September 7, 2004.

10.04. Term; Amendments; Interpretation.

(1) The covenants of the City in this Section 10 shall remain in effect so long as any Series 2009A Bonds are Outstanding. Notwithstanding the preceding sentence, however, the obligations of the City under this Section 10 shall terminate and be without further effect as of any date on which the City files in the office of the City Clerk an opinion of Bond Counsel to the effect that, because of legislative action or final judicial or administrative actions or proceedings, the failure of the City to comply with the requirements of this Section 10 will not cause

participating underwriters in the primary offering of the Series 2009A Bonds to be in violation of the Rule or other applicable requirements of the Securities Exchange Act of 1934, as amended, or any statutes or laws successory thereto or amendatory thereof.

(2) This Section 10 (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph 13.02(3) hereof) or the consent of the Owners of any Series 2009A Bonds, by a resolution of the City Commission filed in the office of the City Clerk accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that: (i) such amendment or supplement (a) is made in connection with a change in circumstances that arises from a change in law or regulation or a change in the identity, nature or status of the City, the Urban Renewal Area or the Tax Increment Fund or the type of operations conducted by the City or the Urban Renewal Area, or (b) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule; (ii) this Section 10 as so amended or supplemented would have complied with the requirements of paragraph (b)(5) of the Rule at the time of the primary offering of the Series 2009A Bonds, giving effect to any change in circumstances applicable under clause (i)(a) and assuming that the Rule as in effect and interpreted at the time of the amendment or supplement was in effect at the time of the primary offering; and (iii) such amendment or supplement does not materially impair the interests of the Bondowners under the Rule.

If the Disclosure Information is so amended, the City agrees to provide, contemporaneously with the effectiveness of such amendment, an explanation of the reasons for the amendment and the effect, if any, of the change in the type of financial information or operating data being provided hereunder.

(3) This Section 10 is entered into to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

10.05. Further Limitation of Liability of City. In and to the extent the limitations of liability contained in Section 10.01 are not effective, anything contained in this Section 10 to the contrary notwithstanding, in making the agreements, provisions and covenants set forth in this Section 10, the City has not obligated itself except with respect to the Tax Increment and other amounts specifically pledged under this Resolution. None of the agreements or obligations of the City contained herein shall be construed to constitute an indebtedness of the City within the meaning of any constitutional or statutory provisions whatsoever or constitute a pledge of the general credit or taxing powers of the City.

Section 11. Repeal. All provisions of ordinances, resolutions and other actions and proceedings of the City which are in any way inconsistent with the terms and provisions of this Resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this Resolution.

Section 12. Effective Date. This Resolution shall be in full force and effect from and after its final passage and approval according to law.

PASSED AND APPROVED by the City Commission of the City of Great Falls, Montana, this 21st day of July, 2009.

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Dona R. Stebbins, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

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David V. Gliko, City Attorney

EXHIBIT A

FORM OF SERIES 2009A BONDS

UNITED STATES OF AMERICA  
STATE OF MONTANA  
COUNTY OF CASCADE

**CITY OF GREAT FALLS**

TAX INCREMENT URBAN RENEWAL REVENUE BOND  
SERIES 2009A (WEST BANK URBAN RENEWAL DISTRICT)

No. \_\_\_\_\_ \$ \_\_\_\_\_

<u>Interest Rate</u>	<u>Stated Maturity</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	July 1, ____	July 30, 2009	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ AND NO/100 DOLLARS

FOR VALUE RECEIVED, THE CITY OF GREAT FALLS (the "City"), a duly organized municipal corporation located in Cascade County, Montana, acknowledges itself to be specially indebted and hereby promises to pay to the registered owner specified above or registered assigns, solely from the Tax Increment received by the City from certain taxable property in its Urban Renewal Area (as hereinafter defined) which has been pledged and appropriated for the payment hereof as stated below, the principal amount specified above on the maturity date specified above, or, if this Bond is prepayable as stated below, on an earlier date on which it shall have been duly called for redemption, with interest thereon from the date of original issue hereof, or such later date to which interest hereon has been paid or duly provided for, until the principal amount is paid or until this Bond, if prepayable, has been duly called for redemption, at the annual rate specified above. Interest hereon is payable semiannually on January 1 and July 1 in each year, commencing January 1, 2010, by check or draft drawn on U.S. Bank National Association, in Seattle, Washington, as Bond Registrar, Transfer Agent and Paying Agent, or its successor designated under the Resolution described herein (the "Bond Registrar"), mailed to the registered owner of this Bond as such appears of record in the Bond Register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month. The principal of this Bond is payable upon presentation and surrender hereof at maturity or earlier redemption at the principal office of the Bond Registrar. Such principal and interest are payable in lawful money of the United States of America.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Bond Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the City.

This Bond is one of a duly authorized issue of Bonds of the City designated as “Tax Increment Urban Renewal Revenue Bonds” (collectively, the “Bonds”), issued and to be issued in one or more series under, and all equally and ratably secured by Resolution No. 9815, adopted by the City Commission on July 21, 2009 (as amended or supplemented in accordance with the provisions thereof, the Resolution), to which Resolution, copies of which are on file with the City, reference is hereby made for a description of the nature and extent of the security, the respective rights thereunder of the Owners of the Bonds and the City and the terms upon which the Bonds are to be issued and delivered. As provided in the Resolution, the Bonds are issuable in series which may vary as in the Resolution provided or permitted. This Bond is one of the series specified in its title, issued in the aggregate principal amount of \$2,000,000 (the “Series 2009A Bonds”), all of like date of original issue and tenor except as to serial number, denomination, date, interest rate, maturity date and redemption privilege. The Series 2009A Bonds are issued by the City for the purpose of financing a portion of the cost of a portion of an urban renewal project within the City of Great Falls West Bank Urban Renewal District (the “Urban Renewal Area”) of the City, thereby assisting activities in the public interest and for the public welfare of the City.

The Series 2009A Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Montana, particularly Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the “Act”), and pursuant to the Resolution. The Bonds are payable solely and ratably from Tax Increment received by the City and resulting from the extension of ad valorem taxes levied by certain Taxing Bodies against the incremental taxable value of properties within the Urban Renewal Area pursuant to the Act, except that under certain conditions as described in the Resolution, the Bonds may be payable from replacement revenues, if any, provided in the event of the abolition or substantial elimination of property taxation in Montana.

The Bonds are not general obligations of the City and the City’s general credit and taxing powers are not pledged to the payment of the Bonds or the interest thereon. The Bonds shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitations.

Series 2009A Bonds maturing in the years 2011 through 2020 are not subject to redemption, but Series 2009A Bonds having stated maturities in 2021 and later years are subject to redemption at the option of the City and in whole or in part, and if in part from such stated maturities and in such principal amounts as the City may designate and, within a stated maturity, in \$5,000 principal amounts selected by lot or other manner deemed fair, on July 1, 2020, and any date thereafter, at a redemption price equal to the par amount of the Series 2009A Bonds to

be redeemed together with the interest accrued on the principal amount to be redeemed to the date fixed for redemption.

The Series 2009A Bonds having Stated Maturities in the years 2024, 2029 and 2034 are Term Bonds and are subject to mandatory sinking fund redemption prior to maturity on July 1 in the respective years and the respective principal amounts set forth below, in \$5,000 principal amounts selected by the Bond Registrar, by lot or other manner it deems fair, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued thereon to the redemption date:

2024 Term Bond		2029 Term Bond		2034 Term Bond	
Mandatory Sinking Fund Redemption Date	Redemption Amount	Mandatory Sinking Fund Redemption Date	Redemption Amount	Mandatory Sinking Fund Redemption Date	Redemption Amount
July 1, 2020	\$70,000	July 1, 2025	\$85,000	July 1, 2030	\$115,000
July 1, 2021	\$70,000	July 1, 2026	\$90,000	July 1, 2031	\$120,000
July 1, 2022	\$75,000	July 1, 2027	\$95,000	July 1, 2032	\$125,000
July 1, 2023	\$80,000	July 1, 2028	\$100,000	July 1, 2033	\$140,000
July 1, 2024*	\$85,000	July 1, 2029*	\$100,000	July 1, 2034*	\$145,000

\*Maturity

The Bond Registrar shall select the Series 2009A Term Bonds to be redeemed on each Sinking Fund Payment Date in accordance with Section 3.04, and the Series 2009A Bonds selected by the Bond Registrar shall become due and payable on such date. The City may reduce the amount of any Mandatory Sinking Fund Payment payable on any Sinking Fund Payment Date or Dates by an amount equal to the principal amount of Outstanding Series 2009A Term Bonds then to be redeemed that shall be surrendered uncanceled by the City to the Bond Registrar; provided that the City shall have surrendered such Series 2009A Term Bonds to the Bond Registrar not less than forty-five days before the first such Sinking Fund Payment Date, together with a City Certificate stating its election to use such Series 2009A Term Bonds for such purpose and designating the Sinking Fund Payment Date or Dates as to which such credit is to be applied (if no such designation is made, such credits shall be applied in inverse order of Sinking Fund Payment Dates). In such case, the City may reduce the amount of Series 2009A Bonds to be redeemed on the Sinking Fund Payment Date or Dates so determined by the principal amount of Series 2009A Term Bonds so surrendered by the City.

If Series 2009A Term Bonds are redeemed at the option of the City pursuant to Subsection the Resolution, the Series 2009A Bonds so optionally redeemed may, at the option of the City, be applied as a credit against any subsequent Mandatory Sinking Fund Payment or Payments with respect to Series 2009A Term Bonds, such credit to be equal to the principal



amount of such Series 2009A Term Bonds redeemed pursuant to the Resolution; provided that the City shall have delivered to the Bond Registrar not less than forty-five (45) days before the first such Sinking Fund Payment Date a City Certificate stating its election to apply such Series 2009A Term Bonds as such a credit and designating the Sinking Fund Payment Date or Dates as to which such credit is to be applied (if no such designation is made, such credits shall be applied in inverse order of Sinking Fund Payment Dates). In such case, the City may reduce the amount of Series 2009A Bonds to be redeemed on the Sinking Fund Payment Date or Dates so determined by the principal amount of Series 2009A Bonds of the same Stated Maturity so redeemed pursuant to the Resolution.

Any credit given to Mandatory Sinking Fund Payments pursuant to the Resolution shall not affect any other Mandatory Sinking Fund Payments, which shall remain payable as otherwise provided in the Resolution, unless and until another credit is given in accordance with the provisions hereof.

The Resolution permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the City and the Owners of the Bonds at any time without the consent of any Bondowners or with the consent of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding (as defined in the Resolution) which are affected by such modifications. The Resolution also contains provisions permitting Owners of a majority in aggregate principal amount of the Bonds of all series at the time Outstanding, on behalf of all the Owners of all Bonds, to waive compliance by the City with certain provisions of the Resolution and certain past defaults under the Resolution and their consequences. Any such consent or waiver by the Owner of this Bond shall be conclusive and binding upon such Owner and on all future Owners of this Bond and of any Bond issued in lieu hereof, whether or not notation of such consent or waiver is made upon this Bond.

The Owner of this Bond shall have no right to enforce the provisions of the Resolution, or to institute action to enforce the covenants therein or take any action with respect to a default under the Resolution or to institute, appear in or defend any suit or other procedure with respect thereto except as provided in the Resolution.

This Series 2009A Bond is a negotiable investment security as provided in the Montana Uniform Commercial Code. As provided in the Resolution and subject to certain limitations set forth therein, this Series 2009A Bond is transferable upon the books of the City at the principal office of the Bond Registrar, by the registered owner hereof in person or by his attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Series 2009A Bonds of other authorized denominations. Upon such transfer or exchange, the City will cause a new Series 2009A Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City, the Bond Registrar and Paying Agent may deem and treat the Person in whose name this Series 2009A Bond is registered as the absolute owner hereof, whether this Series 2009A Bond is overdue or not, for the purpose of receiving payment and for all other purposes,

and neither the City, the Bond Registrar nor the Paying Agent shall be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and laws of the State of Montana and ordinances and resolutions of the City to be done, to exist, to happen and to be performed in order to make this Series 2009A Bond a valid and binding special, limited obligation of the City in accordance with its terms have been done, do exist, have happened and have been performed as so required; that this Series 2009A Bond has been issued by the City in connection with an urban renewal project (as defined in the Act); that the City, in and by the Resolution, has validly made and entered into covenants and agreements with and for the benefit of the Owners from time to time of all Bonds issued thereunder, including covenants that it will pledge, appropriate and credit the Tax Increment derived from properties in the Urban Renewal Area to the Tax Increment Bond Fund of the City; that additional bonds may be issued and made payable from the Tax Increment Bond Fund on a parity with the Series 2009A Bonds upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Tax Increment, unless the lien thereof shall be expressly made subordinate to the lien of the Series 2009A Bonds on the Tax Increment; that all provisions for the security of the Owners of the Bonds as set forth in the Resolution will be punctually and faithfully performed as therein stipulated; and that the issuance of the Series 2009A Bonds does not cause the obligations of the City to exceed any constitutional or statutory limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon shall have been executed by the Bond Registrar by the manual signature of an authorized representative.

IN WITNESS WHEREOF, the City of Great Falls, Montana, by its City Commission, has caused this Bond to be executed by the facsimile signatures of the Mayor, the City Manager, the City Fiscal Services Director, and the City Clerk.

CITY OF GREAT FALLS, MONTANA

(Facsimile Signature)  
Mayor

(SEAL)

(Facsimile Signature)  
City Manager

(Facsimile Signature)  
City Fiscal Services Director

(Facsimile Signature)  
City Clerk

Dated: \_\_\_\_\_

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Tax Increment Urban Renewal Revenue Bonds, Series 2009A (West Bank Urban Renewal District) delivered pursuant to the Resolution mentioned within.

U.S. Bank National Association,  
as Bond Registrar, Transfer  
Agent and Paying Agent

By \_\_\_\_\_  
Authorized Representative





**Item:** Resolution 9844, Minor modifications to Special Improvement Lighting District 1295 – Commercial Lighting District (SLD-C) and Special Improvement Lighting District 1269

**From:** Martha Capps, Operations Supervisor

**Initiated By:** Great Falls Business Improvement District and the Kathryn Building Condos Property Owners

**Presented By:** Coleen Balzarini, Fiscal Services Director

**Action Requested:** Adopt Resolution 9844

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**Suggested Motion:**

1. Commissioner moves:

“I move the City Commission (adopt/deny) Resolution 9844”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

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**Staff Recommendation:** Staff recommends the City Commission adopt Resolution 9844

**Background:** The Business Improvement District submitted a proposal to the City of Great Falls to improve the streetscape in front of the Kathryn Building Condos on the corner of 5<sup>th</sup> Street South and 1<sup>st</sup> Avenue South, to include street trees, decorative sidewalk, benches, and period lighting. The project proposal included donated design and construction oversight and administration by L’Heureux Page Werner, an architectural firm and the major tenant of the Kathryn Building. The project would be funded through the Community Transportation Enhancement Program (or CTEP - as administered by the Great Falls Planning Department) with matching funds from the Business Improvement District. The City Commission approved the project for use of CTEP funds on September 6, 2006, and received notification from the Montana Department of Transportation to proceed with project development on January 18, 2008.

After the construction for the project was awarded on May 19, 2009, it was determined the plan for the project proposes the removal of two existing lights within Special Lighting District-Commercial (SLD-C) 1295 and to tie four new lights into existing Special Lighting District (SLD) 1269, necessitating modifications to both lighting districts.

Montana Code allows for an abbreviated SLD modification process to be followed, if the change is determined to be a “minor modification”. The specific code reference is MCA 7-12-4354, which states, in part: “...’minor modifications’ includes but is not limited to adding properties or lights if the additions:

- 1) Reduce assessments within the maintenance district; or
- 2) Increase the average assessments within the maintenance district by 3% or less in a fiscal year.”

SLD 1269 was created on November 4, 1992 as a part of the “Central Avenue Streetscape”, which included the installation of 3-globe period lighting along the side streets.

**Boundaries:**

The modifications needed are the addition of the Kathryn Building Condominiums into the district. The project proposes modifying the boundaries to add 18,537 square feet to the existing 641,286 square feet for a total of 659,823 or an increase 2.81%.

**Lights:**

The project includes the installation of four period lighting poles (3-globe period lighting) to the district, which are similar to the existing poles within the district.

SLD-C 1295 was created on August 7, 2001 by the consolidation of seven (7) separate districts. The 220 light fixtures, poles, and wiring found within the commercial areas throughout the City are of similar size, type and material.

**Boundaries:**

The boundaries of this area of SLD-C 1295 encompass the area from 1<sup>st</sup> Alley South to 3<sup>rd</sup> Alley South, from Park Drive to 9<sup>th</sup> Street. This project has no effect on the existing boundaries.

**Lights:**

Due to the large size of the district and the small operational and maintenance costs associated with two lights, the removal of two lights will have virtually no effect on the current maintenance assessment.

The removal of two lights within SLD-C 1295 and the changes to SLD 1269 qualify this request as minor modifications under MCA 7-12-4354.

**Concurrences:** The City Planning department has been working with the property owners and Fiscal Services on the modification requests.

**Fiscal Impact:** There is no direct impact to the City’s budget as all construction expenses will be paid by CTEP funds and matched by the Business Improvement District and the Kathryn Building Condos. The annual assessment to SLD-C 1295 property owners will decrease an insignificant amount due to the removal of two (2) lights. The annual maintenance assessment to the existing benefitting property owners within SLD 1269 will increase approximately 0.0046%. The property owners of the Kathryn Building Condos will see, and have agreed to, an approximate increase of 56% in their maintenance assessment due to the addition of the specialized lighting. The attached spreadsheet lists the detailed anticipated expenses for review.

**Alternatives:** The City Commission may deny Resolution 9844

**Attachments/Exhibits:** Modification Calculations  
Resolution 9844

<b>CURRENT OPERATING/MAINTENANCE</b>			
<b>SLD 1269</b>			
POWER-METERED			
	2	162	324
	225	20	4500
KWH USAGE/MONTH	129	29	3741
NORTHWESTERN ENERGY - as of 6/09			
SERVICE CHARGE		0	
DISTRIBUTION		0.027203	232.99
CTC-QF		0.003295	28.22
USBC		0.003404	29.16
OWNERSHIP		21.580000	43.16
OPERATIONS		0.560000	199.36
BILLING		0.230000	81.42
MAINTENANCE		0.540000	1.08
ELECTRIC CITY POWER			
SUPPLY - thru 6/30/10		0.05185	444.10
TRANSMISSION - thru 3/31/09		0.00870	74.47
ADMIN FEE - SUPPLY		3%	13.32
ADMIN FEE - DISTRICT		10%	82.23
TOTAL OPERATING/MAINTENANCE COSTS PER MONTH		<u>904.49</u>	
COSTS PER YEAR		<u>10,853.85</u>	
Maintenance Expense		6,687.15	
<b>CURRENT SQUARE FEET</b>		<b>641,286</b>	
<b>CURRENT COST PER SQ FT</b>		<b><u>\$0.027353</u></b>	

<b>PROPOSED OPERATING/MAINTENANCE</b>			
<b>SLD 1269</b>			
POWER-METERED			
	2	162	324
	225	20	4500
KWH USAGE/MONTH	141	29	4089
NORTHWESTERN ENERGY - as of 6/09			
SERVICE CHARGE		0	
DISTRIBUTION		0.027203	242.46
CTC-QF		0.003295	29.37
USBC		0.003404	30.34
OWNERSHIP		21.580000	43.16
OPERATIONS		0.560000	206.08
BILLING		0.230000	84.18
MAINTENANCE		0.540000	1.08
ELECTRIC CITY POWER			
SUPPLY - thru 6/30/10		0.05185	462.14
TRANSMISSION - thru 3/31/09		0.00870	77.50
ADMIN FEE - SUPPLY		3%	13.86
ADMIN FEE - DISTRICT		10%	85.57
TOTAL OPERATING/MAINTENANCE COSTS PER MONTH		<u>941.24</u>	
COSTS PER YEAR		<u>11,294.85</u>	
Maintenance Expense		6,754.02	
<b>PROPOSED SQUARE FEET</b>		<b>659,823</b>	
<b>PROPOSED COST PER SQ FT</b>		<b><u>\$0.027354</u></b>	

Current Square Footage	641,286
Proposed Square Footage	659,823
Current Cost per Square Foot	\$0.027353
Proposed Cost per Square Foot	\$0.027354
% Square Footage Change	2.81%
% Cost per Square Foot Change	0.0046%

	Current SLD-C 1295	Proposed SLD 1269	Net Change	% Change
<b>KATHRYN BUILDING CONDOS</b>				
15 5th St S Unit 1 - LPW	\$ 129.13	\$202.07	\$ 72.94	56%
17th 5th St S Unit 2 - Danson	\$ 28.34	\$ 44.34	\$ 16.01	56%
501 1st Ave S Unit 3 - Silvertip	\$ 37.78	\$ 59.12	\$ 21.34	56%
505 1st Ave S Unit 4 - NHS	\$ 18.89	\$ 29.56	\$ 10.67	56%
509 1st Ave S Unit 5 - NHS	\$ 50.39	\$ 78.85	\$ 28.46	56%
509 1st Ave S Unit 6 - Danson	\$ 50.39	\$ 78.85	\$ 28.46	56%



**RESOLUTION NO. 9844**

**A RESOLUTION TO MODIFY THE BOUNDARIES OF SPECIAL IMPROVEMENT LIGHTING DISTRICT (SLD) NO. 1269 TO INCLUDE BLOCK 363 LOTS 12-14, AND TO INSTALL FOUR (4) 70 WATT PERIOD LIGHTING UNITS; AND REMOVE ONE (1) 200 HPS TYPE III ROADWAY LIGHT AND POLE FROM THE NORTHWEST CORNER OF LOT 14 BLOCK 363 AND ONE (1) 200 HPS TYPE III ROADWAY LIGHT AND POLE FROM THE SOUTHEAST CORNER OF LOT 12 BLOCK 363 WITHIN SPECIAL IMPROVEMENT LIGHTING DISTRICT-COMMERCIAL (SLD-C) NO. 1295**

**BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:**

**Section 1.** That public interest and convenience requires and it is deemed necessary to modify the boundaries, and the City Commission of the City of Great Falls, Montana intends to order and modify Special Improvement Lighting District (SLD) No. 1269 as shown on the attached Exhibit A for the installation of the improvements and the addition of properties hereinafter described as authorized by 7-12-4301 MCA.

**Section 2.** That the general character of the improvements to be made within or for the benefit of the District is the installation of four (4) period lighting poles with 3-globe period lighting within SLD No. 1269 as shown on the attached Exhibit A.

**Section 3.** That the addition of 18,537 square feet to the boundaries of said SLD No. 1269 as shown on the attached Exhibit A.

**Section 4.** That the modified boundaries to SLD No. 1269 as shown on Exhibit A of said SLD are hereby declared to be as follows:

Beginning at the intersection of Park Drive and 1<sup>st</sup> Alley South; thence easterly along the centerline of 1<sup>st</sup> Alley South to the intersection of 1<sup>st</sup> Alley South and 5<sup>th</sup> Street South; thence southerly along the centerline of 5<sup>th</sup> Street South to the intersection of 5<sup>th</sup> Street South and 1<sup>st</sup> Avenue South; thence easterly along the centerline of 1<sup>st</sup> Avenue South to the extended east boundary of lot 12, block 363; thence northerly along the east boundary of lot 12, block 363, to the centerline of 1<sup>st</sup> Alley South; thence easterly along the centerline of 1<sup>st</sup> Alley South to the intersection of 7<sup>th</sup> Street South; thence northerly along the centerline of 7<sup>th</sup> Street South to the intersection of 7<sup>th</sup> Street North and 1<sup>st</sup> Alley North; thence westerly along the centerline of 1<sup>st</sup> Alley North to the intersection of Park Drive and 1<sup>st</sup> Alley North; thence south to the intersection of Park Dr South and 1<sup>st</sup> Alley South being the true point of beginning. Embracing Blocks 312 to 317, Lots 8 to 14, Blocks 362 to 367, Lots 1 to 7, and Block 363, Lots 12 to 14.

**Section 5.** That it is deemed necessary and the City Commission of the City of Great

Falls, Montana intends to order the removal of two (2) 200 HPS type III Roadway lights and poles within SLD-C No. 1295 to allow for installation of (4) four period lighting units.

**Section 6.** That the boundaries to SLD-C No. 1295 as shown on Exhibit B of said SLD-C will not change.

**Section 7.** That the modification of SLD No. 1969 and SLD-C No. 1295 will supersede and take precedence over any existing, overlapping street lighting district's boundaries and improvements.

**Section 8.** That the City Commission having met this day in regular session, does hereby find and determine that the protests against the modification of the District and against the making of the proposed improvements be and the same are hereby declared insufficient.

**Section 9.** There is hereby-modified Special Lighting District known and designated as SLD No. 1269 of the City of Great Falls, Montana, and the boundary modifications and the improvements described in this Resolution to Modify are considered minor modifications and are hereby ordered to be made.

**Section 10.** There is hereby-modified Special Lighting District known and designated as SLD-C No. 1295 of the City of Great Falls, Montana, and the improvements described in this Resolution to Modify are considered minor modifications and are hereby ordered to be made.

**Section 11.** That the City Commission hereby finds and determines that all real estate situated in said district will be especially benefited and affected by such improvement and the properties included within the boundaries of said district are hereby declared to be the properties assessed for the cost an expense of making said improvements. The utility and administrative costs will be assessed against benefited properties within the District on the following basis pursuant to Section 7-12-4323 MCA:

Each lot or parcel of land within such district to be assessed for that part of the whole cost which its area bears to the area of the entire district, exclusive of streets, avenues, alleys and public places.

PASSED AND ADOPTED by the Commission of the City of Great Falls, Montana, on this 21<sup>st</sup> day of July 2009.

---

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

\_\_\_\_\_  
Approved for Legal Content: City Attorney

State of Montana                    )  
County of Cascade                : ss  
City of Great Falls                )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9844 was passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 21<sup>st</sup> day of July, 2009, and approved by the Mayor of said City on the 21<sup>st</sup> day of July, 2009.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 21<sup>st</sup> day of July, 2009.

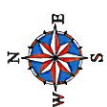
\_\_\_\_\_  
Lisa Kunz, City Clerk

(SEAL OF CITY)



**SLD 1269**  
**= 4 Lights to be installed**  
**Boundary Modification**





- City Limit
- Streets
- FULLNAME Labels
- Airport
- MAFB
- Schools
- SCH\_NAME Labels
- Parks
- PK\_NAME Labels
- Parcels
- Water Features



# Resolution 9844 - Exhibit A

1 in. = 341.9 feet



-  City Limit
-  Streets
-  FULLNAME Labels
-  Airport
-  City Properties
-  Parcels
-  Water Features



# Resolution 9844 - Exhibit B

1 in. = 288.8 feet



Regular City Commission Meeting

Mayor Stebbins presiding

**CALL TO ORDER:** 7:00 PM

## **PLEDGE OF ALLEGIANCE**

**ROLL CALL:** City Commissioners present: Dona R. Stebbins, Bill Bronson, John Rosenbaum and Mary Jolley. Also present were the City Manager, Assistant City Manager, Chief Prosecutor, Directors of Community Development, Fiscal Services, Park and Recreation, Planning and Public Works, Assistant Library Director, the Fire Chief, Police Chief, and the City Clerk.

**PRESENTATION:** Todd Carmichael announced that the Great Falls Lions Club is hosting Lions Family FunFest at Lions Park on July 11, 2009, from 11 a.m. to 3 p.m. The event is for the whole family. Mr. Carmichael thanked the Park and Recreation Department for all the help. He was hopeful there would be a good turnout to make it an annual event.

## **NEIGHBORHOOD COUNCILS**

**NC 8.**

**1. Karen Grove, NC 8,** invited everyone to an ice cream social on July 15<sup>th</sup> at Memorial Park from 6:30-8:00 p.m. She also reported that there will be a chalk coloring contest for kids in the park.

## **PUBLIC HEARINGS**

**Ord. 3034. Public hearing conducted; City Commission action continued to July 21, 2009.**

**2. ORDINANCE 3034, TO ADD PROVISIONS FOR WIND-POWERED ELECTRICITY SYSTEMS TO THE LAND DEVELOPMENT CODE.**

Interim Planning Director Bill Walters reported that Ordinance 3034, if adopted, will amend the Land Development Code to permit certain types of wind-powered electricity systems within the City subject to compliance with specified standards and conditions.

Mr. Walters explained that some of the key provisions of Ordinance 3034 are: (1) Size – Small wind-powered electricity systems are defined as having a rated capacity up to 100 kilowatts (kW). Large wind-powered electricity systems are defined as having a rated capacity over 100 kilowatts (kW) which are not allowed in the City; (2) Sites – Systems rated up to 10kW and having a maximum height of 80 feet are allowed in all residential zoning districts. Systems rated up to 100 kW and having a maximum height of 125 are allowed in all commercial, mixed-use, and industrial zoning districts; and, (3) Minimum setback – Minimum setback for systems 80 feet or less in height shall be 110% of the tower height. Minimum setback for systems more than 80 feet in height shall be 200% of the tower height.

The Ordinance also contains provisions pertaining to appearance and sound.

At the conclusion of a public hearing held March 10, 2009, the City Zoning

Commission unanimously passed a motion recommending the City Commission adopt the provisions contained in Ordinance 3034.

Mayor Stebbins declared the public hearing open.

Speaking in opposition to Ordinance 3034 was **Scott Palmer**, 122 23rd Avenue NE. Mr. Palmer disagreed with the setback rule and suggested looking at the way the turbines are manufactured instead.

Speaking in support of Ordinance 3034 was:

**Keith Allen**, Master Electrician and Business Manager for International Brotherhood of Electrical Workers Local 233 stated that the union supports this Ordinance as long as the permit section of the Code clarifies that the installation is subject to applicable building, electrical and mechanical permits. He believes it is important for the City to educate the community as to the need to have the wind-powered electricity systems constructed by licensed electricians. The work either needs to be done by the homeowner and inspected, or by a licensed electrical contractor. He further expressed that it is a violation of law for the homeowner to take out the permit and have someone else perform the work.

**Ken Thornton**, 31 Paradise Lane, stated that he was in favor of the Ordinance, except for the designated heights. He would rather see more safety in engineering requirements. Mr. Thornton pointed out that technology is changing rapidly. If the Ordinance is passed, he suggested it be revisited in six months to one year as the industry changes.

**Ron Gessaman**, 1006 36th Avenue NE, stated that he was not in support of or opposition to Ordinance 3034. He pointed out that Exhibit A, item 3 was confusing to him. Mr. Walters explained that not all electricity producing systems have turbines. In cases where there are turbines, height is measured to the highest point. In other instances, it would be the maximum height of the tower itself. Mr. Gessaman suggested that the paragraph be re-worded to state the maximum of either the tower or the tip of the highest piece of equipment.

**Mike Witsoe**, 2612 1st Avenue South, commented that he was in support of Ordinance 3034, but believes it needs some tweaking. Mr. Witsoe inquired if the permit process would require neighbor approval.

Mayor Stebbins closed the public hearing.

Commissioner Bronson explained that he has been researching this subject and finds it interesting that it is a significant issue in various parts of the country. There was some consensus about safety requirements and permitting noise, and no consistency about setbacks. He favored an Ordinance, rather than a review on a case-by-case basis, to avoid

inconsistent standards. His inclination is to continue the public hearing for at least two weeks, get additional input, and consider some amendments at the next meeting.

**Commissioner Bronson moved, seconded by Commissioner Rosenbaum, that the City Commission continue the public hearing until the next regularly scheduled meeting of the City Commission for the purpose of acquiring additional information from interested parties and considering amendments to the Ordinance.**

Mayor Stebbins asked if there was any further discussion amongst the Commissioners.

Commissioner Rosenbaum commented that the conditional use process works better in other instances. The Commission's charge here is public safety and welfare. He suggested that posting bonds be entertained. That way the company would be accepting responsibility.

Assistant City Manager Cheryl Patton pointed out that the Mayor had already closed the public hearing and the appropriate motion would be to continue action for two weeks.

**Commissioner Bronson moved, seconded by Commissioner Rosenbaum, to amend his motion that the City Commission continue taking any action on this matter until the next regularly scheduled meeting of the City Commission.**

Mayor Stebbins asked if there was any further discussion amongst the Commissioners.

Commissioner Jolley commented that she was prepared to vote in favor of this Ordinance this evening. She attended the Planning Board meeting and heard the concerns about aesthetics. Commissioner Jolley believes the setbacks are not just for safety, but to make sure that it doesn't disturb the neighbors. She would prefer larger properties for the installation a wind-powered electricity system.

Mayor Stebbins concurred with Commissioners Bronson and Rosenbaum and that this matter warrants further research and discussion.

Commissioner Bronson requested those who have particular suggestions or amendments to the language submit them to the City Manager's Office so that they are available for all of the Commissioners to review.

Motion carried 3-1 (Commissioner Jolley dissenting).



Res. 9833. Adopted.

3. **RESOLUTION 9833, TO RE-CREATE A BUSINESS IMPROVEMENT DISTRICT WITHIN THE CITY OF GREAT FALLS.**

Fiscal Services Director Coleen Balzarini reported that this Resolution will re-create the Business Improvement District. It was originally created in 1989. State statutes require that it be re-created every 10 years. In order to do that, petitions of the owners within the district have to exceed 60%. The City received petitions from 72% of the owners. The notice of intent to re-create and this public hearing were published in the Tribune on June 5 and 12, 2009. Ms. Balzarini requested that the City Commission conduct the public hearing and consider this Resolution to re-create the district.

Mayor Stebbins declared the public hearing open.

No one spoke in opposition to Resolution 9833.

Speaking in favor of Resolution 9833 was **Sheila Rice**, 913 3rd Avenue North. Ms. Rice commented that the BID has done a lot of good for downtown and believes there is great opportunity lying ahead. She complemented the BID Board of Directors for personally collecting signatures. Ms. Rice urged the Commission's support of this Resolution.

Mayor Stebbins closed the public hearing.

**Commissioner Bronson moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9833.**

Mayor Stebbins asked if there was any discussion amongst the Commissioners.

Commissioner Rosenbaum commended the BID for assessing themselves in this tough economic time. He has seen the list of accomplishments over the years and finds it incredible. It has been a positive part of downtown renovation.

Mayor Stebbins commented that she is fully supportive of the BID and its re-creation.

Motion carried 4-0.

**OLD BUSINESS**

**NEW BUSINESS**

**Labor Agreement with the Great Falls Police Protective Association. Approved.**

**4. APPROVE TWO-YEAR LABOR AGREEMENT WITH THE GREAT FALLS POLICE PROTECTIVE ASSOCIATION.**

City Manager Greg Doyon reported that the Commission is being asked to ratify a labor agreement between the City and the Great Falls Police Protective Association. The term of the agreement is two years, from July 1, 2009 – June 30, 2011. Mr. Doyon discussed the issues that came up during negotiations and the major changes made to this agreement. He was pleased to report that they were able to conclude the negotiations in two sessions. Mr. Doyon expressed appreciation for Officer Gerhart's leadership on his team, as well as the City personnel that participated.

**Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission approve the labor agreement between the City of Great Falls and the Great Falls Police Protective Association, and authorize the City Manager to execute the agreement.**

Mayor Stebbins asked if there was any discussion amongst the Commissioners or inquiries from the public. No one responded.

Motion carried 4-0.

**Energy Consultant Proposal Awarded to Burns & McDonnell.**

**5. ENERGY CONSULTANT PROPOSAL AWARD.**

City Manager Greg Doyon reported that this request is to engage the firm of Burns & McDonnell to perform a review of Electric City Power. Discussions have been ongoing over the past year to determine what the City's direction will be with ECP. It was also discussed at the budget work session, and at a work session to discuss the draft RFP. The desire of the Commission at that point was to hire a professional to help assess not only where the City is at with ECP and the relationship with Southern, but also where the City is going with this. Eight proposals were received in response to an RFP that was issued in April. Burns & McDonnell was ranked number one by the committee that was comprised of the City Manager, Commissioners Bronson and Jolley, and ECP Board members, Golie and Ebeling. The committee interviewed Burns & McDonnell via tele-conference and is making this recommendation. The engagement of that firm will be \$59,660. Mr. Doyon reviewed the scope of work and tasks to be completed. His expectation is that, after task 3, to take a look at their analysis. At that point there may be an alternative that is evident. After conferring with the City Commission, then the firm will proceed with task 4.

**Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission authorize the City Manager to engage the firm of Burns & McDonnell to perform a comprehensive review of Electric City Power and offer recommendations regarding its future operations.**

Mayor Stebbins asked if there was any discussion amongst the Commissioners. No one responded.

Mayor Stebbins asked if there were any inquiries from the public.

**Larry Rezendes**, 2208 1st Avenue North, stated his position that the City of Great Falls has no authority to do anything other than shut down Electric City Power. Mr. Rezendes continued to read a several page statement.

**Ron Gessaman**, 1006 36th Avenue NE, asked where the money would come from in the current budget to pay for the consultant. City Manager Doyon responded that what he proposed to the Commission was utilizing funds from the City Manager's contingency fund. Mr. Gessaman asked what opportunity the public would have to interact with the consultant. Mr. Doyon responded that the firm indicated they wanted a process that was transparent and engage the parties that have concerns about the City's involvement. He is not sure how that will materialize. He will recommend that they have a session with interested members of the public to provide input when they interview Commissioners, staff and ECP Board members. Mr. Gessaman asked if the scope of work would be re-written. Mr. Gessaman believes this consultant has a conflict of interest and is opposed to the hiring of this particular consultant.

**Mike Witsoe**, 2612 1st Avenue South, discussed prior comments and called the Commissioners and ECP Board members incompetent people. He believes the contract will be filled with misinformation. Mr. Witsoe stated that he wanted to discuss the Soccer Park lease under the heading of "Old Business."

**Ed McKnight**, 906 3rd Avenue North, asked if the consultant would have access to the "secret box." Mr. Doyon responded that he conferred with City Attorney, Dave Gliko, and his opinion was that if Southern/SME do not allow access, that is their prerogative since they labeled it trade secrets. Mr. Doyon added that he doesn't believe it is critical for the long term decisions that need to be made. Mr. McKnight asked what the timeframe would be for the consultation to be completed. Mr. Doyon responded three months from the point of engagement. Mr. McKnight suggested that the results of an election in four months should be taken into consideration and could negate the need for a consultant.

Motion carried 4-0.

**Request to submit an Application to DNRC modifying the City's water reservation 41 K 71890. Approved.**

**6. APPLICATION TO MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) MODIFYING THE CITY'S WATER RESERVATION 41K 71890.**

Fiscal Services Director Coleen Balzarini reported that in March, 2005, a Raw Water Agreement was entered into with Southern Montana. That

agreement allows Southern Montana the use of 3,200 gallons per minute of the City's water reservation. The agreement also allowed the City to make and application to DNRC to move a point of diversion and place of use from its original location to where Southern Montana would need to access that water. Since that time there has been a request from Southern Montana's consultant asking the City Commission to authorize an application to DNRC to add an additional point of diversion. There is no request for additional water, nor is there a request for a reduction in the amount of water that was agreed to in the original contract. The reasons for the additional point of diversion are outlined in the consultant's letter. The costs associated with the request would be reimbursed by SME.

**Commissioner Rosenbaum moved, seconded by Commissioner Bronson, that the City Commission approve the request to authorize Water Right Solutions to prepare and submit the application to DNRC modifying the City's Water Reservation 41K 71890 by adding an additional point of diversion, and authorize the City Manager to execute the application prior to submittal.**

Mayor Stebbins asked if there was any discussion amongst the Commissioners.

Commissioner Jolley asked Ms. Balzarini if the City would need to negotiate in any way with PP&L regarding this new point of diversion. Ms. Balzarini responded that there would be a public process. PP&L was initially contacted and didn't anticipate anything different than what was already agreed to. Commissioner Jolley commented that the Water Service Agreement was for a 250 mW coal plant. The PP&L negotiations performed by Harley Harris were still in the "secret box," so she was inclined to not vote for this. Ms. Balzarini responded that the outcome of the negotiations and what all the parties agreed to do is part of the agreement on file with DNRC. Commissioner Jolley concluded that perhaps she was remembering emails to Commissioners about SME that were not in the secret box.

Mayor Stebbins asked if there were any inquiries from the public.

**Kathy Gessaman**, 1006 36th Avenue NE, asked if the new diversion point was on PP&L land. It was her understanding that it needed to be hydraulically connected to its source on the Missouri River, and assumed it was a well on PP&L land. Ms. Balzarini responded that irregardless of where the water is drawn, authorization from DNRC is needed to make that draw. She doesn't believe it is on PP&L land. Ms. Gessaman reported that the application will be posted on the DNRC website, as well as under public notices in the Tribune.

**Ron Gessaman**, 1006 36th Avenue NE, asked where the new diversion point was that would belong to the City. Ms. Balzarini responded that it would be part of the application. Mr. Gessaman referred to PBS&J's letter

and opined that since SME was having approval problems with the Army Corps of Engineers, this was an attempt to circumvent the process. He finds it unusual that the City doesn't know where the new location is going to be since it is the City's water that is going to be diverted to the new location.

**Mike Witsoe**, 2612 1st Avenue South, agreed with the previous speakers' comments. Mr. Witsoe suggested holding off on this matter pending additional information.

Motion carried 3-1 (Commissioner Jolley dissenting).

**Ord. 3038. Accepted on first reading and set public hearing for August 4, 2009.**

**7. ORDINANCE 3038, ASSIGN CITY ZONING TO A TRACT OF LAND LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF RIVER DRIVE NORTH AND 52ND STREET NORTH.**

Interim Planning Director Bill Walters reported that Steel Etc. is in the process of moving its recycling and salvage business out of the downtown area to a site at River Drive North and 52nd Street North. Steel Etc. has petitioned to annex a portion of its new site in order to obtain City services.

At the conclusion of a public hearing held April 28, 2009, the Planning Board passed a motion recommending the City Commission annex a 4.676 acre parcel owned by Steel Etc., and the Zoning Commission passed a motion recommending the City Commission assign a City zoning classification of I-2 Heavy Industrial District as provided in Ordinance 3038 upon annexation of the subject parcel.

Mr. Walters requested that the City Commission accept Ordinance 3038 on first reading, and set a public hearing for August 4, 2009, when the annexation documents will also be considered.

**Commissioner Bronson moved, seconded by Commissioner Rosenbaum, that the City Commission accept Ordinance 3038 on first reading, and set a public hearing for August 4, 2009.**

Mayor Stebbins asked if there was any discussion amongst the Commissioners.

Commissioner Rosenbaum commented that this was a great move and great for the City of Great Falls.

Mayor Stebbins asked if there were any inquiries from the public.

John Hubbard, 615 7th Avenue South, asked what was going to happen with the old yard that he believes to be toxic. Mayor Stebbins directed him to the owners of the property.

Motion carried 4-0.

### ORDINANCES/RESOLUTIONS

Res. 9837. Adopted.

8. **RESOLUTION 9837, AUTHORIZING THE LOAN AGREEMENT WITH THE MONTANA BOARD OF HOUSING FOR \$20,516 TO FUND THE INSTALLATION COST OF FIVE (5) CITY-OWNED STREET LIGHTS IN WATER TOWER PARK ADDITION.**

Fiscal Services Director Coleen Balzarini reported that on February 3, 2009, the City Commission approved creation of the Special Improvement Lighting District. On June 2, 2009, the contract was approved for installation of the lights. There are five lights to be installed that are owned by the City. The cost will be reimbursed by the property owners within that lighting district. The source of money is a borrowing from the Montana Board of Investments in the amount of \$20,516.

Ms. Balzarini requested that the City Commission authorize the loan agreement.

**Commissioner Rosenbaum moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 9837.**

Mayor Stebbins asked if there was any discussion amongst the Commissioners. No one responded.

Mayor Stebbins asked if there were any inquiries from the public.

**Kathy Gessaman**, 1006 36th Avenue NE, asked if these lights would be the latest LED technology. Ms. Balzarini responded that this district is too small and is cost prohibitive.

**Ed McKnight**, 906 3rd Avenue North, asked if he heard the cost correctly that it would cost \$20,000 for five lights and was responded to affirmatively.

Motion carried 4-0.

Res. 9842. Adopted.

9. **RESOLUTION 9842, RESOLUTION RELATING TO \$750,000 WATER SYSTEM REVENUE BONDS (DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAMS), CONSISTING OF \$416,300 SUBORDINATE LIEN TAXABLE SERIES 2009A BOND AND \$333,700 SERIES 2009 B BOND; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF.**

Fiscal Services Director Coleen Balzarini reported that these were American Recovery and Reinvestment Act Bonds. As noted, a portion is a grant and a

portion is a loan. In order to receive the grant, the City was required to borrow the money at 1.75% for water distribution lines in need of replacement. The borrowing will fund the reserves that are necessary, as well as cost of issuance and construction. In order to enter into this debt, the City had to demonstrate that its fees were adequate to repay the debt and meet coverage required by existing bond resolutions. This ability was confirmed by JCCS under an independent review, as well as DNRC's initial review.

**Commissioner Jolley moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9842.**

Mayor Stebbins asked if there was any discussion amongst the Commissioners or inquiries from the public. No one responded.

Motion carried 4-0.

**Res. 9845. Adopted.**

**10. RESOLUTION 9845, ESTABLISH NATIONWIDE RETIREMENT SOLUTIONS ("NATIONWIDE") AS AN ALTERNATIVE DEFERRED COMPENSATION PLAN.**

City Manager Greg Doyon reported that during the last collective bargaining session with the Firefighters Union, it was requested that the City consider allowing Nationwide to be used as the deferred compensation provider. The current agreement with ICMA was exclusive and will expire allowing the City to extend this option.

**Commissioner Bronson moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9845 to establish Nationwide as an alternative Deferred Compensation Plan.**

Mayor Stebbins asked if there was any discussion amongst the Commissioners or inquiries from the public. No one responded.

Motion carried 4-0.

**Consent Agenda.  
Approved.**

**CONSENT AGENDA**

11. Minutes, June 16, 2009, Commission meeting.
12. Total expenditures of \$4,884,738 for the period of June 11-30, 2009, to include claims over \$5,000, in the amount of \$4,463,189..
13. Contracts list.
14. Set public hearing for July 21, 2009, on Resolution 9838, Intent to Increase Property Tax, and Resolution 9839, Annual Budget Resolution.
15. Approve Change Order No. 1 for the Wastewater Treatment Re-Roof Projects to Treasure State Roofing in the amount of \$8,425. **OF 1457.4**
16. Postpone construction contract for the 2009 CDBG Handicap Ramps

- until July 21, 2009. **OF 1565.1**
17. Postpone construction contract for the 2009 CDBG Sidewalk Replacement until July 21, 2009. **OF 1565.2**
  18. Approve water meter equipment purchase for FY 2010 to Dana Kepner Co. of Billings in an amount not to exceed \$270,000.
  19. Approve final payment for the North Park Sewer Lift Station #27 replacement to Dick Anderson Construction, Inc., and the State Miscellaneous Tax Fund in the amount of \$10,975. **OF 1374.5.**

**Commissioner Rosenbaum moved, seconded by Commissioners Bronson and Jolley, that the City Commission approve the Consent Agenda as presented.**

Mayor Stebbins asked if there was any discussion amongst the Commissioners. No one responded.

Mayor Stebbins asked if there were any inquiries from the public.

**Kathy Gessaman**, 1006 36th Avenue NE, inquired why the SME wire transfer was not included in Item 12. Ms. Balzarini responded the wire transfer was made and will be added to the next meeting's report. Ms. Gessaman asked if the cash on deposit to Southern on that report was a cumulative total or a monthly deposit. Ms. Balzarini responded that the \$5,000 report indicates the amounts of money sent out within that timeframe. The cumulative total is available on the Electric City Power financial balance sheet which is posted on the website each month.

**John Hubbard**, 615 7th Avenue South, stated his opposition to Item 14. Mr. Hubbard stated that he read that 53% of the people were in favor of the public safety mill levies and said the public has got to be stupid. He reported that he represents the poor people and they cannot afford it. Mr. Hubbard discussed deregulation, his lawsuit and why he is unemployed.

**Ron Gessaman**, 1006 36th Avenue NE, asked if there were any other items missing from the \$5,000 report.

**Mike Witsoe**, 2612 1st Avenue South, asked what the first date of publication was regarding Item 14. Assistant City Manager Cheryl Patton responded July 12, 2009. Mr. Witsoe thought there was a 30 day public notice requirement for tax increases. Mr. Witsoe asked if Items 16 and 17 were being postponed because of City financial problems and when would construction begin. Mayor Stebbins responded that the agenda report states that, due to pending approval of CDBG funds on a national level, award of the construction contract will need to be postponed until approval is received.

Commissioner Jolley referred to the budget development process and asked if a step was missed. Ms. Patton responded that usually the public hearing



is set at the same time the City Manager presents the budget. The only inconsistency is that this year the City Manager presented the budget, and the City Commission will set the public hearing at this meeting.

Motion carried 4-0.

### **BOARDS & COMMISSIONS**

**Preliminary Amended Plat, Findings of Fact and Agreement, all related to Lot 3, Twilite Theatre Tracts. Approved.**

**20. PRELIMINARY AMENDED PLAT OF LOT 3, TWILITE THEATER TRACTS, LOCATED ALONG THE NORTH SIDE OF SMELTER AVENUE BETWEEN DIVISION ROAD AND 4th STREET NE.**

Interim Planning Director Bill Walters reported that Twilite LLC, the owner of a 7.5 acre parcel formerly occupied by the Twilite Outdoor Theater along Smelter Avenue NE, desires to subdivide the parcel into eight lots. The involved property is presently zoned C-2 General Commercial District, wherein commercial development has occurred on three of the proposed lots with five lots remaining to be developed.

At the conclusion of the public hearing held June 9, the Planning Board passed a motion recommending the City Commission approve the Preliminary Amended Plat and the accompanying Findings of Fact subject to fulfillment of stipulated conditions. The final amended plat will be processed through the Planning Board and City Commission in the near future.

**Commissioner Rosenbaum moved, seconded by Commissioner Bronson, to approve the Preliminary Amended Plat of Lot 3, Twilite Theater Tracts, and the accompanying Findings of Fact, subject to fulfillment of stipulated conditions.**

Mayor Stebbins asked if there was any discussion amongst the Commissioners. No one responded.

Mayor Stebbins asked if there were any inquiries from the public.

**Kathy Gessaman**, 1006 36th Avenue NE, stated that this is in the NC 3 area. She suggested that a temporary third lane be constructed in the area pending the redesign of Smelter Avenue in 2012 to help with traffic. Public Works Director Jim Rearden responded that MDT has jurisdiction over that roadway and has a project planned for 2012. But, staff will look at some interim measures to see if there are ways to improve turning movements.

Motion carried 4-0.

**21. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

**CITY MANAGER****22. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.****PETITIONS AND COMMUNICATIONS****23. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Stebbins opened the meeting to Petitions and Communications.

**ECP, State Statutes.**

**23A. Ed McKnight**, 906 3<sup>rd</sup> Avenue North, thanked Commissioner Beecher for requesting the report of ECP's financial condition at the last meeting. Mr. McKnight stated the report is a road map that proves what he has said was correct. Mr. McKnight discussed the contents of the report, state law, oaths of office and code of ethics. Mr. McKnight requested the City Attorney report whether the statute quoted by Commissioner Beecher prohibit questions from being asked here.

**Support for on-line organization.**

**23B. Mike Zaruta**, Wilkes-Barre, Pennsylvania, reported that his on-line organization, bluestarwildanime.org, is to help kids in hospitals, and is about arts, community services and green energy. He hopes to pull something together within the community so that he can move here soon to make this dream happen.

**Parliamentary procedure.**

**23C. Aart Dolman**, 3016 Central Avenue, 3016 Central Avenue, stated that Commissioner Beecher's statements regarding public behavior at the end of the last meeting offended him. He continued that he witnessed the Mayor attempt to cut Mr. Rezentos' speech short tonight and believed it to be poor parliamentary procedure. Mr. Dolman concluded by reading the leadership philosophy statement of the City.

**SME.**

**23D. Richard Liebert**, 289 Boston Coulee Road, thanked the City Commission for allowing citizens to participate in Petitions and Communications as it goes to the fundamentals of the First Amendment. He also applauded having a uniformed police officer in the room to set the tone of respect for both parties. Mr. Liebert asked if the agenda reports for Items 5 and 6 were reviewed by legal counsel and was informed no. Mr. Liebert stated that the proper applicant regarding Item 6 should be SME, not Southern. He suggested that the four cooperatives also be studied by the ECP consultant. Mr. Liebert asked the City Commissioners if they would look in the "secret box." Mr. Liebert read a definition of communications. Mr. Liebert inquired if the City billed for October and November fire service support when SME commenced construction and, if so, did SME pay in a timely manner.

**Campaign for Mayor.**

**23E. John Hubbard**, 615 7<sup>th</sup> Avenue South, physically threw his helmet towards the City Commissioners stating he threw his hat in the ring to be mayor of the fair City of Great Falls. He discussed statute of limitations, his

lawsuit, and loss of his livelihood. Mr. Hubbard further discussed how full of hate and rage he was.

**Privileged documents,  
water consultant.**

**23F. Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, asked how the City Manager knew there wasn't anything in the box that would have a bearing on the consultant's job. Mr. Doyon responded that he would ask Southern to cooperate with the review. He has not reviewed the documents. Mr. Gessaman expressed his opposition to the hiring of PBS&J to evaluate proposals for the City's purchase of water rights due to conflicts of interest.

**Old Business.**

**23G. Mike Witsoe**, 510 11<sup>th</sup> Street South, asked that the clock be shut off so that he could discuss Old Business. Mayor Stebbins explained that it would be inappropriate to bring up Old Business since there was no Old Business listed on the agenda.

**CITY COMMISSION**

**24. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

In response to Mr. Witsoe, Commissioner Rosenbaum explained that the agenda is published prior to the meeting. Only items on the agenda are discussed at the meeting. There was no "Old Business" listed on this agenda.

With regard to the "black box," Commissioner Rosenbaum stated that when it became necessary he would look in the box. Right now, there is nothing that could be affected by what is in there.

Commissioner Rosenbaum responded to Mr. McKnight that if he would have reviewed the tape, he would find that he made an attempt to answer the question.

Commissioner Jolley commented that the term "black box" was not a bad term for the "secret box," as compared to the black box in a plane crash.

Mayor Stebbins thanked the Police and Fire Departments for the extra work on the Fourth of July holiday. She also extended gratitude to Ed Brown and his parade committee for putting together a wonderful parade. Mr. Brown estimated there were 120 entries, and there was a great representation from everyone.

Commissioner Rosenbaum thanked the Bennett family for the fireworks display and Vinney Purpura for the ballpark presentation.

**ADJOURNMENT**

**Adjourn.**

There being no further business to come before the Commission,

**Commissioner Rosenbaum moved, seconded by Commissioner Jolley, that the regular meeting of July 7, 2009, be adjourned at 9:12 p.m.**

Motion carried 4-0.

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Mayor Stebbins

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Acting City Clerk

Minutes Approved: July 21, 2009



Agenda # 10  
 Commission Meeting Date: July 21, 2009

**CITY OF GREAT FALLS  
 COMMISSION AGENDA REPORT**

**ITEM:** \$5,000 Report  
 Invoices and Claims in Excess of \$5,000

**PRESENTED BY:** Fiscal Services Director

**ACTION REQUESTED:** Approval with Consent Agenda

**ITEMIZED LISTING OF ALL TRANSACTIONS GREATER THAN \$5000:**

MASTER ACCOUNT CHECK RUN FOR JULY 1 TO JULY 8, 2009	430,536.80
MASTER ACCOUNT CHECK RUN FOR JULY 9 TO JULY 15, 2009	398,729.25
MUNICIPAL COURT ACCOUNT CHECK RUN FOR JUNE 24 TO JUNE 30, 2009	68,129.00
WIRE TRANSFERS FROM JULY 1 TO JULY 9, 2009	102,707.27
WIRE TRANSFERS FROM JULY 10 TO JULY 15, 2009	<u>1,512,183.03</u>
TOTAL: \$	<u><u>2,512,285.35</u></u>

**GENERAL FUND**

**CITY COMMISSION**

MONTANA LEAGUE OF CITIES & TOWNS	MLCT 2009/2010 ANNUAL MEMBERSHIP DUES	17,007.00
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**SPECIAL REVENUE FUND**

**HISTORIC BRIDGE FUND**

DICK ANDERSON CONSTRUCTION	PMT #1 10TH STREET BRIDGE NORTH RAILINGS	32,670.00
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**SUPPORT & INNOVATION**

GREAT FALLS BUSINESS IMPROVEMENT DISTRICT	BID TAX DISTRIBUTION FOR MAY 2009	55,912.76
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**STREET DISTRICT**

GREAT FALLS SAND & GRAVEL	1 1/2" ROAD MATERIAL	6,200.43
UNITED MATERIALS	ASPHALT	31,258.59

**PARK & RECREATION SPECIAL REVENUE**

ANIMAL FOUNDATION OF GREAT FALLS	PARK TRUST MATCHING GRANT FOR DOG PARK PAVILION CONSTRUCTION	10,000.00
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**FEDERAL BLOCK GRANTS**

TC GLASS DISTRIBUTOR INC	LABOR & MATERIALS FOR ALUMINUM STOREFRONT FOR ADA ENTRANCE	11,035.00
BOYS AND GIRLS CLUB	SCHOLARSHIPS FOR JUNE 2009	6,750.00
UNITED ELECTRIC LLC	EXTERIOR ELECTRICAL WORK	15,122.25
	COMMUNITY REC CENTER	

**ENTERPRISE FUNDS**

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**WATER**

DPC INDUSTRIES INC	LIQUID CHLORINE	5,688.00
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**SEWER**

NCI ENGINEERING	PMT #14 LIFT STATION & WTP REHAB PROJECT	35,687.76
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DICK ANDERSON CONSTRUCTION	FINAL PMT NORTH PARK SEWER LIFT STATION #27 REPLACEMENT	10,865.25
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**ELECTRIC**

SOUTHERN	PMT OF ENERGY SUPPLY EXPENSE MAY 09 WIRE 6/10/09	650,000.00
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SOUTHERN	PMT OF ENERGY SUPPLY EXPENSE JUNE09 WIRE 7/10/09	650,000.00
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**PARKING**

APCOA/STANDARD PARKING	JULY 2009 COMPENSATION	23,152.17
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**CIVIC CENTER EVENTS**

LARRY SHAEFFER PRESENTS	GEORGE JONES CONCERT PAYOUT	57,596.53
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**INTERNAL SERVICES FUND**

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**HEALTH & BENEFITS**

BLUE CROSS/BLUE SHIELD	HEALTH INS CLAIMS JUNE 23-29, 2009	62,628.27
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BLUE CROSS/BLUE SHIELD	HEALTH INS CLAIMS JULY 1-6, 2009	40,079.00
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BLUE CROSS/BLUE SHIELD	HEALTH INS CLAIMS JULY 7-13, 2009	151,355.00
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**INFORMATION TECHNOLOGY**

NEW WORLD SYSTEMS INC	MUNICIPAL COURT MGMT SOFTWARE REPAIR & MAINTENANCE AGREEMENTS	5,705.00
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NEW WORLD SYSTEMS INC	ANNUAL SOFTWARE MAINTENANCE	128,856.00
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VERMONT SYSTEMS INC	WEB TRAC MAINTENANCE AGREEMENTS	7,116.00
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**CENTRAL GARAGE**

BISON MOTOR CO	2-2009 3/4 TONS W/UTILITY BODIES	53,759.62
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MOUNTAIN VIEW CO-OP	DIESEL FUEL	13,761.30
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MOUNTAIN VIEW CO-OP	UNLEADED & DIESEL FUEL	20,052.15
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TERRITORIAL SUPPLIES	NEW CAGES & WEAPON MOUNTS FOR VEHICLES	5,632.75
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**TRUST AND AGENCY**

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**COURT TRUST MUNICIPAL COURT**

CITY OF GREAT FALLS	FINES & FORFEITURES COLLECTIONS	45,575.00
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CASCADE COUNTY TREASURER	FINES & FORFEITURES COLLECTIONS	10,640.00
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VICTIM WITNESS ASSISTANCE SERV	FINES & FORFEITURES SURCHARGES	5,842.00
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**UTILITY BILLS**

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ENERGY WEST	JUNE 2009 CHARGES	19,453.76
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MONTANA WASTE SYSTEMS	JUNE 2009 CHARGES	95,450.11
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**CLAIMS OVER \$5000 TOTAL:****\$ 2,284,851.70**

CITY OF GREAT FALLS, MONTANA

AGENDA: 11

COMMUNICATION TO THE CITY COMMISSION

DATE: July 21, 2009

**ITEM:** CONTRACT LIST  
Itemizing contracts not otherwise approved or ratified by City Commission Action  
(Listed contracts are available for inspection in the City Clerk's Office.)

**PRESENTED BY:** Lisa Kunz, City Clerk

**ACTION REQUESTED:** Ratification of Contracts through the Consent Agenda

**MAYOR'S SIGNATURE:** \_\_\_\_\_

**CONTRACT LIST**

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	FUND	AMOUNT	PURPOSE
A	Fiscal Services	Junkermier, Clark, Campanella & Stevens, P.C.	July, 2009	511	\$2,000-\$3,000	Certify the conditions of issuing \$333,700 in Water System Revenue Bonds of the City of Great Falls as of June 30, 2009



**Item:** Tourism Business Improvement District (T.B.I.D.) 2009/2010 Budget and Work Plan

**From:** Lisa Kunz, City Clerk

**Initiated By:** Tourism Business Improvement District

**Presented By:** Robert Dompier and Sandra Johnson-Thares

**Action Requested:** Set Public Hearing for August 4, 2009

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission set the public hearing for the 2009/2010 Tourism Business Improvement District Budget and Work Plan for August 4, 2009.

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

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**Recommendation:** The T.B.I.D recommends that the City Commission set the public hearing for the 2009/2010 T.B.I.D. budget and work plan for August 4, 2009.

**Background:**

The Tourism Business Improvement District was established by Resolution 9792 on December 2, 2008. Its overall purpose is to utilize tax dollars through the T.B.I.D. assessment and direct those monies to be used for the purpose of promoting tourism, conventions, trade shows, and travel to the City of Great Falls.

According to State statute, the City Commission must hold a public hearing to hear any objections to the budget and work plan. Following the public hearing, the City Commission may approve the plan or request that amendments be made to it prior to levying an assessment on all properties within the district to defray the costs. The assessment will be as approved with the creation of the District.

**Fiscal Impact:**

The T.B.I.D. is projecting annual revenue for Fiscal Year 2009-2010 of approximately \$156,000 in tax assessment dollars.



**Alternatives:**

The City Commission could request the T.B.I.D. Board for changes to either the Work Plan or the Budget.

**Attachments/Exhibits:**

2009/2010 Work Plan

Budget

(Attachments not available online; on file in City Clerk's Office.)



**Item:** Set Public Hearing for Resolution 9848 to Levy and Assess Special Improvement Portage Meadows Maintenance District No. 1195

**From:** Martha Capps, Operations Supervisor

**Initiated By:** Annual Assessment Process

**Presented By:** Coleen Balzarini, Fiscal Services Director

**Action Requested:** City Commission Set Public Hearing Date for Resolution 9848 to Levy and Assess Special Improvement Portage Meadows Maintenance District No. 1195

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission set a Public Hearing date on Resolution 9848 for August 4, 2009 at 7:00 p.m. to levy and assess Special Improvement Portage Meadows Maintenance District No. 1195.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

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**Staff Recommendation:** Staff recommends the City Commission set a public hearing date for August 4, 2009.

**Background:** The Portage Meadows Fund is administered by the Park and Recreation Department. The purpose of the fund is to maintain the turf, trees, irrigation system and provide snow removal in the green belt park of the Portage Meadows Addition. The budget development process begins in January of each year when the Park and Recreation Department receives its midyear financial reports. The midyear reports are used to determine the current financial position of the Portage Meadows Fund and as a basis for projecting future earnings and expenditures. Information is gathered regarding the actual and anticipated expenses, future projects, goals and objectives of the Fund. After calculating all factors pertinent to the operation of maintaining the green belt park area, an assessment amount for the next fiscal year is calculated, budgeted and presented to the City Commissioners for approval.

In order to legally provide for the necessary assessment support, State laws require City Commission hearings and passage of authorizing resolutions. Sections 7-12-4102, 7-12-4176

and 7-12-4179 MCA authorize the City Commission to create and asses the costs of work, improvements, and maintenance to the owners of property within the boundaries of such district.

As part of the annual budget development and adoption procedures the Special Improvement Portage Meadows Maintenance Assessment Resolution must be submitted for City Commission action. A public notice and hearing is required prior to final passage of the assessment resolution.

The anticipated assessment amount for Portage Meadows for the next fiscal year is the amount projected through the Budget Development Process. The Portage Meadows Area assessment, which has not been increased since FY 02/03, will increase 10% over Fiscal Year 08/09. This equates to an assessment of \$0.025857 per square foot, for a total of \$21,765. This will result in an approximate assessment of \$193.93 for an average lot of 7,500 square feet (7,500 sq ft x 0.025857 factor = \$193.93.)

**Concurrences:** Representatives from the City's Public Works, Community Development, Park and Recreation, Fiscal Services, Administration, Police and Fire Department, City Commissioners have all been involved throughout the review and approval process for the Budget.

**Fiscal Impact:** Adoption of Resolution 9848 will allow the City to finance the cost of work, improvements, and maintenance required to be made each year in the special improvement Portage Meadows Boulevard Maintenance District.

**Alternatives:** The City Commission could choose to not set the public hearing and thereby deny the adoption of Resolution 9848 to Levy and Assess Portage Meadows Boulevard Maintenance; however, the services provided are the services the City agreed to provide when the land area was donated to the City.

**Attachments/Exhibits:** Resolution 9848

Cc: Giles Salyer, Park Maintenance Supervisor

## **RESOLUTION 9848**

A RESOLUTION LEVYING AND ASSESSING THE COST OF MAINTAINING THE GREEN BELT PARK OF PORTAGE MEADOWS ADDITION IN THE CITY OF GREAT FALLS ON ALL REAL ESTATE IN SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 1195 FOR THE FISCAL YEAR BEGINNING JULY 1, 2009 AND ENDING JUNE 30, 2010.

WHEREAS the City Commission did create and amend Special Improvement Maintenance District No. 1195 by Resolutions 6913, 6980, and 8426 on February 15 and July 17, 1977, and July 16, 1991 respectively; and,

WHEREAS the City Commission intends to continue maintaining the Green Belt Park of Portage Meadows addition within said district; and,

WHEREAS on July 21, 2009, the Commission of the City of Great Falls adopted its annual budget resolution, in which the estimated cost of such maintenance within said district at a total of TWENTY-ONE THOUSAND SEVEN HUNDRED SIXTY-FIVE DOLLARS (\$21,765).

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

### Section 1 – Continuance

The City of Great Falls continues to care for and maintain the Green Belt Park in Special Improvement Maintenance District No. 1195.

### Section 2 – Costs Assessed

The costs of said care and maintenance in the district, totaling \$21,765 are hereby assessed upon the properties in said district.

The costs per property and the property list for Special Improvement District No. 1195 are set

forth in the records of the City Clerk of the City of Great Falls. Said property is generally identified as each lot or parcel of land within Portage Meadows Additions #1, #2, and #3, excluding Blocks 4, 5, and 6 of Portage Meadows #1 Addition.

Assessments for each year may be reviewed on an annual basis and may be revised in amount according to the following formula: cost plus ten percent (10%) divided by the total square feet of all of the lots within said district times the square feet of each lot. Costs shall be for expendable material costs, snow removal labor, water, mowing labor, fertilizer costs and labor, aerification labor, and tree pruning costs.

Section 3 – Assessments Due Date

These assessments are payable in two payments and will become delinquent at 5:00 o'clock p.m. on November 30, 2009 and May 31, 2010.

Section 4 – Assessment Hearing

On August 4, 2009 at 7:00 p.m., in the Commission Chambers of the Civic Center Building, Great Falls, Montana, the Commission did meet and hear all objections to the final adoption of this resolution.

Section 5 – Notice of Hearing

The City Clerk authorized and directed to provide for two publications of the Notice of Resolution for Assessment in accordance with Section 7-1-4127, MCA, preceding the assessment hearing.

PASSED by the Commission of the City of Great Falls, Montana, on this 4<sup>th</sup> day of August, 2009.

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Dona R. Stebbins, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(SEAL OF CITY)

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Approved for Legal Content: City Attorney

State of Montana                    )  
County of Cascade                : ss  
City of Great Falls                )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9848 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 4<sup>th</sup> day of August, 2009, and approved by the Mayor of said City on the 4<sup>th</sup> day of August, 2009.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 4<sup>th</sup> day of August, 2009.

\_\_\_\_\_  
Lisa Kunz, City Clerk

(SEAL OF CITY)



**Item:** Set Public Hearing for Resolution 9847 to Levy and Assess Special Improvement General Boulevard Maintenance District No. 3570

**From:** Martha Capps, Operations Supervisor

**Initiated By:** Annual Assessment Process

**Presented By:** Coleen Balzarini, Fiscal Services Director

**Action Requested:** City Commission Set Public Hearing Date for Resolution 9847 to Levy and Assess Special Improvement General Boulevard Maintenance District No. 3750

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission set a Public Hearing date on Resolution 9847 for August 4, 2009 at 7:00 p.m. to levy and assess Special Improvement General Boulevard Maintenance District No. 3570.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

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**Staff Recommendation:** Staff recommends the City Commission set a public hearing date for August 4, 2009

**Background:** The Park and Recreation Department, Natural Resources – Boulevard Division is responsible for the care and maintenance of over 15,000 street trees located within the General Boulevard District. Services provided within the District are pruning, removal, planting, leaf pickup and streetscape design. The budget development process begins in January of each year when the Natural Resources – Boulevard Division receives its midyear financial reports. The midyear reports are used to determine the current financial position of the department and as the basis for projecting future earnings and expenditures. Information is gathered regarding the actual and anticipated expenses, future projects, goals and objectives of the department. After calculating all factors pertinent to the operation of the Natural Resources – Boulevard Division, an assessment amount for the next fiscal year is calculated, proposed and presented to the City Commissioners for approval.

In order to legally provide for the necessary assessment support, State laws require City Commission hearings and passage of authorizing resolutions. Sections 7-12-4102, 7-12-4176

and 7-12-4179 MCA authorize the City Commission to create and assess the costs of work, improvements, and maintenance to the owners of property within the boundaries of such district.

As part of the annual budget development and adoption procedures, the Special Improvement General Boulevard Maintenance District Assessment Resolution must be submitted for City Commission action. A public notice and hearing is required prior to final passage of the assessment resolution.

**Concurrences:** Parks and Recreation Staff are responsible for the operation expenses of the Boulevard District Fund. Fiscal Services Staff are responsible for assessing and collecting the Revenues necessary to carry out the operations. The City Commissioners have received information regarding the condition of the District and the Boulevard District Fund operations during the annual Budget Process.

**Fiscal Impact:** Adoption of Resolution 9847 will allow the City to finance the costs of work, improvements, and maintenance conducted each year in the special improvement boulevard maintenance district.

The anticipated assessment amount used to assess General Boulevard Maintenance for the next fiscal year is the amount projected through the Budget Development Process. For Fiscal Year 09/10 the General Boulevard Area assessment will remain at \$0.008168 per square foot, the same amount assessed in Fiscal Year 08/09, for a total of \$289,811. This will result in an approximate assessment of \$61.26 for an average lot of 7,500 square feet (7,500 sq ft x 0.008168 factor = \$61.26.)

**Alternatives:** The City Commission could choose to not set the public hearing and thereby deny the adoption of Resolution 9847 to Levy and Assess General Boulevard Maintenance; however, the reduction in services to trim, prune, spray, and maintain the trees within the district would be harmful and devastating to the overall shelter and beauty provided by the street trees to the community.

**Attachments/Exhibits:** Resolution 9847

Cc: Todd Semanski, City Forrester



## **RESOLUTION 9847**

A RESOLUTION LEVYING AND ASSESSING THE COST OF MAINTAINING BOULEVARDS IN THE GENERAL BOULEVARD DISTRICT NO. 3570 OF THE CITY OF GREAT FALLS, MONTANA FOR THE FISCAL YEAR BEGINNING JULY 1, 2009 AND ENDING JUNE 30, 2010.

WHEREAS the City Commission did create a General Boulevard Maintenance District No. 3570 by Resolution 3570 on January 2, 1946; and,

WHEREAS, the City Commission did amend and excluded Lots 8-14, Block 34 of Boston and Great Falls Addition from the boundaries of the General Boulevard District by Resolution 8132 on September 1, 1987 in accordance with MCA 7-12-4335; and,

WHEREAS, the City Commission intends to continue trimming, pruning, spraying, and otherwise maintaining the trees within said district; and,

WHEREAS, on July 21, 2009, the Commission of the City of Great Falls adopted its annual budget resolution in which the estimated costs of such maintenance within the General Boulevard Maintenance District No. 3570 at a total of TWO HUNDRED EIGHTY NINE THOUSAND EIGHT HUNDRED ELEVEN DOLLARS (\$289,811).

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

### Section 1 – Continuance

The City of Great Falls continues to trim, prune, spray and otherwise care for and maintains the trees in the General Boulevard Maintenance District.

### Section 2 – Costs Assessed

The costs of said care and maintenance in the Boulevard Maintenance District No. 3570, totaling \$289,811 are hereby assessed upon the properties in said district. Each lot and parcel within the district is hereby assessed in proportion to its square footage and that the procedure for

determining the square footage to be assessed is the total square footage as set forth in Exhibit "A" of Resolution 6202 passed by the Great Falls City Commission on July 22, 1968, and presently on file in the office of the City Clerk.

Section 3 – Assessments Due Date

These assessments are payable in two payments and will become delinquent at 5:00 o'clock p.m. on November 30, 2009 and May 31, 2010.

Section 4 – Assessment Hearing

On August 4, 2009 at 7:00 p.m., in the Commission Chambers of the Civic Center Building, Great Falls, Montana, the Commission did meet and hear all objections to the final adoption of this resolution.

Section 5 – Notice of Hearing

The City Clerk authorized and directed to provide for two publications of the Notice of Resolution for Assessment in accordance with Section 7-1-4127, MCA, preceding the assessment hearing.

PASSED by the Commission of the City of Great Falls, Montana, on this 4<sup>th</sup> day of August, 2009.

\_\_\_\_\_  
Dona R. Stebbins, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Kunz, City Clerk

(SEAL OF CITY)

\_\_\_\_\_  
Approved for Legal Content: City Attorney

State of Montana                    )  
County of Cascade                : ss  
City of Great Falls                )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the

foregoing Resolution 9847 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 4<sup>th</sup> day of August, 2009, and approved by the Mayor of said City on the 4<sup>th</sup> day of August, 2009.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 4<sup>th</sup> day of August, 2009.

---

Lisa Kunz, City Clerk

(SEAL OF CITY)



**Item:** Set Public Hearing for Resolution 9846 to Levy and Assess Street Maintenance District

**From:** Martha Capps, Operations Supervisor

**Initiated By:** Annual Assessment Process

**Presented By:** Coleen Balzarini, Fiscal Services Director

**Action Requested:** City Commission Set Public Hearing Date for Resolution 9846 to Levy and Assess the Street Maintenance District

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission set a Public Hearing date on Resolution 9846 for August 4, 2009 at 7:00 p.m. to levy and assess the Street Maintenance District.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

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**Staff Recommendation:** Staff recommends the City Commission set a public hearing date for August 4, 2009.

**Background:** The Street Department maintains approximately 372 miles of streets and alleys within the city limits. Maintenance consists of pavement rehabilitation and restoration, street cleaning, snow and ice removal, alley maintenance, nuisance weed program and the Traffic Division which is responsible for the maintenance of all roadway signs and signals. The budget development process begins in January of each year when the Street Department receives their midyear financial reports. The midyear report is used to determine the current financial position of the Street Fund which is the basis for projecting future earnings and expenditures. Information is gathered regarding the actual and anticipated expenses, future projects, goals and objectives of the department. Street Maintenance contracts with other local governmental agencies are reviewed and/or updated. After determining financial factors pertinent to the operation of the Street Department, an assessment amount for the next fiscal year is calculated, budgeted and presented to the City Commissioners for approval.

The annual assessment resolution provides for the authorization of assessments, authorization to contract for maintenance of sections of City streets adjacent to land owned by other governments

or their agencies, assessment option specification, total assessment amount and listing of assessed property.

As part of the annual budget development and adoption procedures the Street Maintenance Assessment Resolution must be submitted for City Commission action. A public notice and hearing is required prior to final passage of the assessment resolution.

#### ASSESSMENT ANTICIPATED

The anticipated assessment amount for Street Maintenance funds for the next fiscal year is the amount projected through the Budget Development Process. For Fiscal Year 09/10 the assessment will increase by 5%, which is being recommended to finance increased costs related to street maintenance activities; anticipated collections will total \$3,403,422. This will result in an assessment of \$85.24 for an average size lot of 7,500 square feet, an increase of \$4.06 OR 5% from Fiscal Year 08/09. (7,500 sq ft x 0.011365 factor = \$85.24.)

#### ASSESSMENT OPTION

Section 7-12-4425, MCA states: "...The council shall pass and finally adopt a resolution specifying the district assessment option and levying and assessing all the property within the several districts..." Section 7-12-4422, MCA provides for "assessable area" to be one of the options.

The Assessable Area method, defining assessable area by square footage caps, has proven to be the most equitable method of assessment. Assessment parameters are:

- a. Square footage caps per parcel of 12,000 square feet for residential property and properties categorized as non-profit/cemetery organizations 501(c) (13) as defined by the Internal Revenue Code.
- b. A 'mixed use' category which consists of property equal to or greater than 112,000 square feet but less than 50% commercially developed. For the 'mixed use' category, the Planning Department shall annually identify all property equal to or greater than 112,000 square feet which are 50% or less commercially developed. Those properties shall be assessed 50% commercial and 50% at capped residential.
- c. 1 million square foot cap for all other property. The 1 million square foot cap for all other property encourages large green areas on some private properties within the City.
- d. An 'interlocal contracted maintenance' category that designates properties owned by other governments or their agencies adjacent to City streets that are maintained by the other government or their agencies. This category's assessments include a 7.5% administrative fee as well as the annual contracted cost of maintenance. The maintenance cost portion is to be agreed upon by the City and the contracting entity.

**Concurrences:** Public Works Staff is responsible for the operation expenses of the Street Department. Fiscal Services Staff are responsible for assessing and collecting the Revenues

necessary to carry out the operations. The City Commissioners have received information regarding the condition of the streets and the Street Fund operations during the annual Budget Process.

**Fiscal Impact:** Adoption of Resolution 9846 will allow the City to fund the cost of work, improvements, and maintenance each year in the street maintenance district. The current proposed budget will allow the City to continue its current maintenance and replacement activities, which are lower than the recommended level in terms of years between major updates. If more money were available, additional street work could be accomplished that would be more in line with recommended maintenance and replacement

**Alternatives:** The City Commission could choose to not set the public hearing and thereby deny the adoption of Resolution 9846 to Levy and Assess Street Maintenance; however, the reduction in services to the community could be hazardous to the safety and welfare of the general public.

**Attachments/Exhibits:** Resolution 9846

Cc: Jim Turnbow, Street Supervisor

## **RESOLUTION 9846**

A RESOLUTION LEVYING AND ASSESSING THE COST OF STREET MAINTENANCE FOR STREETS AND ALLEYS IN THE CITY OF GREAT FALLS, MONTANA FOR THE FISCAL YEAR BEGINNING JULY 1, 2009 AND ENDING JUNE 30, 2010

WHEREAS, the Commission of the City of Great Falls did provide for street maintenance by Ordinance 1687 (12.16.010, et seq., OCCGF) on September 7, 1971 in accordance with Sections 11-2263 through 11-2268, RCM, 1947 (now Section 7-12-4401 through 7-12-4427, MCA, 1989); and,

WHEREAS, the Commission of the City of Great Falls did amend and expand the scope of Street Maintenance services authorized by final passage and adoption of Ordinance 2584 on February 5, 1991, in accordance with Sections 7-12-4401 through 7-12-4427, MCA, 1989; and,

WHEREAS, the Commission of the City of Great Falls hereby finds, fixes and determines that each and every lot or parcel within said district has been or will be specially benefited by said maintenance; and,

WHEREAS, on July 21, 2009, the Commission of the City of Great Falls adopted its annual budget resolution in which the estimated costs of maintenance not offset by other revenues, in the Street Maintenance District at a total of THREE MILLION FOUR HUNDRED THREE THOUSAND FOUR HUNDRED TWENTY-TWO DOLLARS (\$3,403,422).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

### Section 1 – Continuance

The City of Great Falls continues to maintain streets in the Street Maintenance Districts.

### Section 2 – Assessment Authorization

Section 7-12-4428, M.C.A., authorizes the City Commission to assess the cost of the work,

improvements, and maintenance authorized by 7-12-4405 against the property in maintenance districts in the manner and as provided in 7-12-4421 and 7-12-4422 to meet the payments required to be made each year.

Section 7-12-4404, M.C.A., authorizes the City Commission to provide maintenance by contract in such manner as the commission may elect. Accordingly, the City may opt to enter into an interlocal agreement for maintenance of sections of City streets adjacent to land owned by other governments or their agencies. Assessments in such areas include a 7.5% administrative fee as well as the annual contracted cost of maintenance. The maintenance cost portion is to be agreed upon by the City and the contracting entity.

### Section 3 – Assessment Option

In accordance with Sections 7-12-4422 and 7-12-4425, M.C.A., each lot or parcel of land within the Street Maintenance District shall be assessed according to its Assessable Area. Assessable area shall be set with a square footage cap of 12,000 square feet for residential property and properties categorized as non-profit/cemetery organizations 501(c) (13) as defined by the Internal Revenue Code, and a 1 million square feet cap for all other property. The Planning Department shall annually identify all mixed-use property equal to or greater than 112,000 square feet, which are 50% or less commercially developed. Those mixed-use properties shall be assessed 50% commercial and 50% at capped residential.

### Section 4 – Costs Assessed

The costs of said maintenance, not offset by other revenues, in the street maintenance district, totaling THREE MILLION FOUR HUNDRED THREE THOUSAND FOUR HUNDRED TWENTY-TWO DOLLARS (\$3,403,422) are hereby levied and assessed upon the property in said district for the fiscal year ending June 30, 2010. The description of each lot or parcel of land within the street maintenance district and the respective assessments are set forth in the records of the Fiscal Services Department of the City of Great Falls, Montana and by this reference incorporated herein as if set forth in full.

### Section 5 – Assessment Method

The Street Maintenance District shall be assessed according to factors based on the property classification and square footage with caps. No proration of the street maintenance assessment shall be made for any reason, including the fact that a particular property did not have paved streets for the entire taxable year.

### Section 6 – Assessments Due Date

These assessments are payable in two payments and will become delinquent at 5:00 o'clock p.m. on November 30, 2009 and May 31, 2010.

### Section 7 – Assessment Hearing

On August 4, 2009 at 7:00 p.m., in the Commission Chambers of the Civic Center Building, Great Falls, Montana, the Commission did meet and hear all objections to the final adoption of this resolution.

### Section 8 – Notice of Hearing



In accordance with Section 7-1-4127, the City Clerk authorized and directed to provide for two publications of the Notice of Resolution for Assessment with at least six days separating each publication.

PASSED by the Commission of the City of Great Falls, Montana, on this 4<sup>th</sup> day of August 2009.

\_\_\_\_\_  
Dona R. Stebbins, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Kunz, City Clerk

(SEAL OF CITY)

\_\_\_\_\_  
Approved for Legal Content: City Attorney

State of Montana                    )  
County of Cascade                : ss  
City of Great Falls                )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9846 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 4<sup>th</sup> day of August 2009, and approved by the Mayor of said City on the 4<sup>th</sup> day of August 2009.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 4<sup>th</sup> day of August 2009.

\_\_\_\_\_  
Lisa Kunz, City Clerk

(SEAL OF CITY)



**Item:** 2009 Justice Assistance Grant  
**From:** Great falls Police Department  
**Initiated By:** Cloyd A. Grove, Chief of Police  
**Presented By:** Cloyd A. Grove

**Action Requested:** Set a date for public comment on the recommended use of the Justice Assistance Grant (JAG) for 2009. Review the Memorandum of Understanding for action at the conclusion of the public hearing.

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission approve the request to set a public hearing for August 4, 2009 to take public comment.

2. Mayor calls for a second, discussion, inquiries from the public, and calls for a vote.

---

**Staff Recommendation:** It is recommended the City Commission accept staff’s recommendation to set a public hearing to receive public comment on staff’s recommendation to expend the funds to purchase air card services from a local mobile communications carrier in support of the police department’s mobile data program.

**Background:** Congress allocated funds to be dispersed under the Justice Assistance Grant Program, established within the Bureau of Justice Assistance (BJA), US Department of Justice.

The 2009 Justice Assistance Formula Grant has been announced and an application for funding has been entered into the grant system. This grant requires that we share the proceeds with the Cascade County Sheriff’s based upon a mutually agreed upon Memorandum of Understanding. Staff from the Sheriff’s Office and the Police Department has agreed that the funds this year should be used to provide mobile video equipment that is compatible with each Department’s current equipment.

Significant Impacts:

This grant will provide air card funding for both agencies in support of each agencies mobile data system. The current mobile data system is old and will eventually be out of support. When this happens both agencies and the City Fire Department will no longer have a mobile data system. The Police Department and the Cascade County Sheriff's Office have been testing a different system that uses a local provider as the main communication method.

Citizen Participation:

Not Applicable

Workload Impacts:

The air cards and service will provide an avenue for both agencies to keep some type of mobile data communication system until an alternative system is decided upon.

**Concurrences:** The Cascade County Sheriff's staff concurs with this Memorandum of Understanding. They will submit the original Memorandum to the Cascade county Commissioners.

**Fiscal Impact:** The fiscal impact will be positive because it will provide unmatched funding to purchase services for both agencies. The City of Great Falls is the receiving entity and agrees to perform all required reports and the police department staff agrees to purchase all the agreed upon equipment and distribute it.

**Attachments/Exhibits:** MOU (Not available online; on file in City Clerk's Office.)



**Item:** Sale of City Property, Parcel A, NE¼, Sec 14, T20N, R3E, PMM, Great Falls, MT

**From:** Mike Rattray, Community Development Director

**Initiated By:** Community Development Department

**Presented By:** Mike Rattray, Community Development Director

**Action Requested:** Set Public Hearing Date for August 4, 2009

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission set August 4, 2009, as the date for a public hearing to consider the sale of Parcel A, NE¼, Sec 14, T20N, R3E, PMM, Great Falls, MT .”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

---

**Staff Recommendation:** Staff recommends the City Commission set the public hearing date for August 4, 2009.

**Background:** Staff was recently contacted by Northern Vending Inc. who is interested in this site for expansion of their business and has requested that staff offer Parcel A, NE¼, Sec 14, T20N, R3E, PMM, for sale. A public notice for a bid opening was placed in the newspaper on July 5, 2009, for a bid opening to be conducted on July 15, 2009. The minimum bid price was established at \$1.00 per square foot.

Significant Impacts: Sale of the parcel and construction of an addition to their building will expand the tax base.

Citizen Participation: In addition to the public notice for the bid opening, a public notice of the public hearing to be conducted by the City Commission was placed in the newspaper on July 19, 2009.

Workload Impacts N/A

Purpose N/A

Project Work Scope N/A

Evaluation and Selection Process N/A

Conclusion: City staff has determined this parcel to be excess land and has retained a small portion of the original parcel for snow storage.

Proceeds of the sale will be available for whatever use management desires.

**Concurrences:** N/A

**Fiscal Impact:** At the minimum bid price of \$1.00 per square foot, the lot sale will result in a sale price of at least \$93,524.

**Alternatives:** The City Commission can approve or deny the sale of the land.

**Attachments/Exhibits:** Notice To All Bidders  
Public Notice

**NOTICE TO ALL BIDDERS**  
**SALE OF CITY-OWNED PROPERTY**

NOTICE IS HEREBY GIVEN that the City of Great Falls, Montana, will receive sealed bids at the City Clerk's Office, Room 202, Civic Center Building, #2 Park Drive, Great Falls, Montana, until 3:00 p.m., July 15, 2009, at which place and time they will be publicly opened, read and considered, together with all bidding for the sale and development of the City-owned land more particularly described as follows:

Parcel A containing 2.147 acres, located in the NE<sup>1</sup>/<sub>4</sub>, Section 14, Township 20 North, Range 3 East, PMM, Great Falls, MT

Each and every bid shall be accompanied by a cashier's check, drawn on a responsible bank, payable to the City of Great Falls, for an amount which will be not less than ten percent (10%) of the aggregate of the enclosed bid. Minimum bid for the land shall not be less than the appraised value as indicated below:

The minimum bid price shall be \$1.00 per square foot or \$93,524.

The bids shall be marked on the outside: "Bid on City-owned land to be opened July 15, 2009.

Map exhibits of the land to be sold are on file in the Community Development Department of the City of Great Falls. Potential bidders are encouraged to contact Mike Rattray, Community Development Director, for additional information prior to submitting a bid.

The City Commission of the City of Great Falls reserves the right to reject any or all bids and accept any bid should it be deemed in the public interest to do so.

BY ORDER OF THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA.

Lisa Kunz, City Clerk

PUBLICATION DATE: July 5, 2009

## **PUBLIC NOTICE**

NOTICE IS HEREBY GIVEN that the City Commission of the City of Great Falls, Montana, will conduct a public hearing in the Commission Chambers, Civic Center Building, at 7:00 p.m. on August 4, 2009, for the purpose of considering the sale of a parcel of City-owned land described below.

Parcel A, containing 2.147 acres, located in the NE¼, Section 14, Township 20 North, Range 3 East, PMM, Great Falls, MT

Map exhibits delineating the parcel for sale are available for review in the Community Development Department at the Civic Center. Any person who wants to provide comment may do so at the public hearing or may provide written comment by mailing said comments to: City Clerk, City of Great Falls, P.O. Box 5021, Great Falls, MT 59403.

Lisa Kunz  
City Clerk

PUBLICATION DATE: July 19, 2009



**Item:** Cancellation of Outstanding and Unpaid Checks over a year old  
**From:** Fiscal Services Department  
**Initiated By:** Generally Accepted Accounting Principles  
**Presented By:** Coleen Balzarini, Fiscal Services Director  
**Action Requested:** Approve cancellation of outstanding and unpaid checks over a year old

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission approve the cancellation of City of Great Falls checks that remain outstanding and unpaid for a period of one (1) year or longer as authorized by section 7-6-4303 MCA.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

---

**Staff Recommendation:** Staff recommends that the City Commission approve the cancellation of checks that remain outstanding and unpaid for the period of one (1) year or longer.

**Background:** Section 7-6-4303, MCA, authorizes the City Commission to cancel municipal checks that have remained outstanding and unpaid for a period of one (1) year or longer. Attached is the required list of the instruments to be canceled including the check number, date, amount, and payee. A minimum of two (2) letters and affidavit forms for replacement checks have been mailed to the address on record and no response has been received to date. All affidavits for replacement checks that have been returned to the City have had checks re-issued.

The list must be entered into the minutes of the City Commission proceedings.

**Concurrences:** Not Applicable

**Fiscal Impact:** The total amount of the checks that are written off (\$425.22) is placed in the General Fund miscellaneous revenue.

**Attachments/Exhibits:** List of Checks to be cancelled is available in the City Clerk’s Office.





**Item:** Great Falls Police Department / Great Falls Housing Authority Contract

**From:** Great Falls Police Department

**Initiated By:** Captain Tim Shanks, Support Services Bureau

**Presented By:** Chief Cloyd Grove

**Action Requested:** City Commission authorizes the City Manager to sign the contract with the Great Falls Housing Authority.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission allow the City Manager to (approve /disapprove) the Community Based Policing Agreement / Contract “

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

---

**Staff Recommendation:** It is recommended the City Commission authorizes the City Manager to approve and sign the agreement/contract.

**Background:**

The Great Falls Police Department and the Great Falls Housing Authority have had an annual Community Based Policing Agreement in place since the late 1980's. The Great Falls Housing Authority funds one dedicated officer for the purpose of enforcement and investigations in the Great Falls Housing Authority projects. This officer also facilitates the Parkdale Youth Activity Center (PYAC) at the main housing complex.

This officer handles calls during his designated shift. Before or after shift calls are still answered by the Patrol Officers. With the Housing Authority officer on site(s), it does alleviate a substantial number of calls that patrol would have to respond to and resolve. Historically, call loads were high until the Housing Authority officer was established. At times the Housing Authority had funded two officers.

The Great Falls Housing Authority provides office space at the main complex for the officer.

**Concurrences:**

The Community Based Policing Agreement has to be approved by the Housing Authority Board as well as City Commission authorization to sign the agreement.

**Fiscal Impact:**

The GFHA pays the salary and benefits for the housing officer. The police department provides a marked patrol vehicle for the officer. The police department compensates the officer for over time when necessary.

**Alternatives:**

Discontinue the officer's presence in the Housing Authority projects and reassign.

**Attachments/Exhibits:**

1. Copy of the Community Based Policing Agreement / Contract

**GREAT FALLS POLICE DEPARTMENT  
AND  
GREAT FALLS HOUSING AUTHORITY  
COMMUNITY BASED POLICING AGREEMENT**

This contract is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the City of Great Falls, State of Montana, herein after referred to as "City" and the Great Falls Housing Authority.

In receipt of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The City shall provide personnel and other resources in a Community Policing role at the Great Falls Housing Authority projects. One dedicated officer, excluding contractual time/training time off, shall be provided for the purpose of enforcement and investigations in the Great Falls Housing Authority projects. If the assigned officer or a temporary replacement is not available to the GFHA for longer than two weeks the GFHA payment will be waived for the period of time that an officer was not available. Payment will resume when an officer becomes available to the GFHA.
2. The Great Falls Housing Authority shall pay the City \$70,208.52 which would include the Officers salary and insurance. Payment shall be made on a monthly basis in the amount of \$ 5,850.71
3. The City shall keep detailed records regarding the date and time of contacts exclusive of investigating records. The Great Falls Housing Authority may inspect these records at all reasonable times and these records shall be available for photocopying at no additional fee.
4. Indemnification – The City assumes full responsibility for the officer's performance. The City shall indemnify the Great Falls Housing Authority against, and hold the Housing Authority harmless from, any liability costs, damages, claims or causes of action which may arise as a result of performance by the City of its responsibilities under the terms of this agreement; provided, however, that the City, its Officers and employees shall not assume any liability for acts of the Great Falls Housing Authority, or any of its Officers or agents.
5. **This Agreement shall commence July 1, 2009 and end June 30, 2010 with an automatic six month renewal based on the GFPPA negotiated contract wage with the City of Great Falls.**

In Witness Whereof, the parties hereto have caused this agreement to be executed the day and year first herein above written.

City of Great Falls, Montana – "City"

Great Falls Housing Authority

\_\_\_\_\_  
Greg Doyon, City Manager

\_\_\_\_\_  
Cheryl Patton

\_\_\_\_\_  
Lisa Kunz, City Clerk

\_\_\_\_\_  
Cloyd Grove, Chief of Police

Prepared by:  
Captain Tim Shanks, Support Services Bureau  
June 29, 2009



**Item:** Approving and Adopting the Interlocal Cooperation Agreement between the City of Great Falls and the City of Billings.

**From:** Fiscal Services Department

**Initiated By:** Jon Legan, IT Operations Manager

**Presented By:** Coleen Balzarini, Fiscal Services Director

**Action Requested:** Adopt Interlocal Cooperation Agreement

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission adopt (deny) the Interlocal Cooperation Agreement and authorize the City Manager to execute the agreement.

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

---

**Staff Recommendation:**

Adoption of the Interlocal Cooperation Agreement between the cities of Great Falls and Billings.

**Purpose:**

This agreement will enable both municipalities to benefit from the research and bidding outcomes of the other entity, resulting in time and cost savings in regards to mutually agreed upon purchases. Great Falls and Billings are very similar in terms of hardware and software needs. This agreement allows each municipality to utilize the other’s existing and future contracts in their purchasing processes.

**Background:**

The City of Great Falls currently has several agreements in place that give local Montana governments greater purchasing power. A couple of these include: WSCA (Western States Contract Alliance) and the State of Montana Software procurement contract (SPB07-1408F). Great Falls and Billings have such similar Information Technology needs that it seems fitting to implement an interlocal agreement between the two cities as well. 7-11-101, MCA thru 7-11-107, MCA provide the authority and the procedures necessary to execute Interlocal Cooperation Agreements between cities

**Fiscal Impact:**

This agreement should produce an immediate cost savings to Great Falls in terms of hardware, software and services.

**Concurrences:**

The City Attorney has reviewed and concurs with the form of the agreement.

**Alternatives:**

The alternative would be to deny adoption of the Interlocal Cooperation Agreement.

**Attachments/Exhibits:**

Interlocal Cooperation Agreement

## INTERLOCAL COOPERATION AGREEMENT

This Agreement is made and entered into this 10th day of July, 2009, by and between the City of Great Falls, Montana (hereinafter called "GREAT FALLS") and the City of Billings, Montana (hereinafter called "BILLINGS"), each acting by and through its duly authorized officials:

WHEREAS, GREAT FALLS and BILLINGS wish to engage in an Interlocal Cooperation Agreement which includes the sharing of public records and the purchase of goods and services relating to computer software, service agreements, and/or equipment;

WHEREAS, participation in an Agreement will be beneficial to the taxpayers of GREAT FALLS and BILLINGS through anticipated time and cost savings; and

WHEREAS, 7-11-101, MCA thru 7-11-107, MCA provide authority and the procedures necessary to execute Interlocal Cooperation Agreements between cities;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants and obligations as set forth herein, GREAT FALLS and BILLINGS agree as follows:

1. Each party shall share public records information including Requests for Proposals and Proposals for products and services that are commonly utilized, where available and applicable.
2. Each party may hereinafter be permitted to purchase supplies and services from vendors at the prices, terms and conditions contained in existing and future contracts between each party and its vendors.
3. No party shall include the other in any existing or future contracts.
4. It is understood and agreed that this Agreement is entered into pursuant to the provisions of 7-11-101, MCA and 7-11-102, MCA and that no legal entity is hereby created.
5. Each party has sole discretion to which public records information may be relevant to purchases of goods and services from vendors under present and future contracts.

6. Each party agrees that it will be responsible for all disputes which may arise between it and a vendor. Each party shall indemnify, defend and hold the other party harmless from any liability, claim, cost, judgment, litigation expense, including reasonable attorneys fees which may arise from its negligent acts or omissions while participating in this Interlocal Cooperation Agreement.
7. Each party shall have no obligation to enter into any agreements, to expend any funds, to make any purchase or payment to any vendor or any other party as a result of the Interlocal Agreement. Each party shall be individually responsible for payments directly to the vendor and for the vendor's compliance with all conditions of delivery and quality of purchased items under any contracts.
8. Jon Legan, IT Operations Manager of the City of Great Falls, shall be the primary contact representing GREAT FALLS in regards to this Agreement. Liz Kampa, of the City of Billings, shall be the primary contact representing BILLINGS in regards to this Agreement.
9. This agreement shall in no manner circumvent the purchasing policies of either of the cities or the statutory purchasing requirements of the State which are applicable to self-governing cities in Montana.
10. This Agreement will take effect upon execution by both parties and shall continue until it is terminated by giving 30 days written notice to the other party.
11. Pursuant to 7-11-107 MCA, this agreement will be filed with the County Clerk and Recorder's of Cascade County and Yellowstone County and the Secretary of State.

**CITY OF GREAT FALLS**

REVIEWED FOR LEGAL CONTENT

Party of the First Part

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Gregory T. Doyon, City Manager

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David V. Gliko, City Attorney

ATTEST:

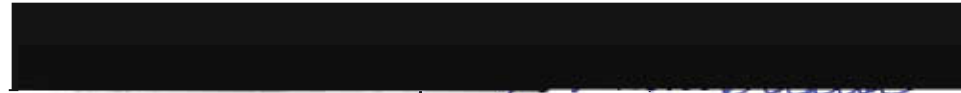
(Seal of the City)

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Lisa Kunz, City Clerk

**(CITY OF BILLINGS)**

Party of the Second Part

A large black rectangular redaction box covers the signature area of the second party.

(Name) (Authorized Signature)



STATE OF MONTANA )

County of Cascade : ss.

City of Great Falls )

On this \_\_\_\_ day of \_\_\_\_\_, 2009, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she/they executed the same.

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

\_\_\_\_\_

Notary Public for the State of Montana

{NOTARIAL SEAL}

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

Residing at Great Falls, Montana

My Commission Expires: \_\_\_\_\_



**Item:** Innoprise Software, Inc. Contract Award  
**From:** Information Technology Division  
**Initiated By:** Fiscal Services Department  
**Presented By:** Coleen Balzarini, Fiscal Services Director  
**Action Requested:** Award Business Software Contract

---

**Suggested Motion:**

1. Commissioner moves:

“I move the City Commission award a multiple year contract in the amount of \$45,000 year 1 and \$90,000 annually in years 2-6 to Innoprise Software, Inc. for maintenance and support of the City’s Business and Financial software, and authorize the City Manager to execute the agreements.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Approve Business Software Contract Award.

**Background:**

Significant Impacts

This project involves maintaining the City’s current business software (Sungard) applications and transitioning to new business software.

Workload Impacts

City I.T. staff will spend a great deal of time planning and working towards implementation of the new software. Other City staff will spend much time looking at current business policies and practices within their departments and streamlining and modifying those practices to enhance full utilization of the updated software. Training on the new software will also require significant time for I.T. staff and departmental users of the software.

Purpose

The City will be forced to a Windows-based platform in the next 5-10 years as vendors continue to move away from I-Series applications. Innoprise software will give the City a software package that is less proprietary and more user-friendly than the current software. The City will see a software savings of at least \$390,000 in six years. These

savings may lower departmental service charges and/or be re-directed for other Information Technology needs.

#### Project Work Scope

Innoprise will provide maintenance on existing business software (Sungard) throughout the term of the contract. They will convert the City's Online Bill Pay immediately. After January 1, 2010, Innoprise can begin moving Financials to the new system. A more detailed scope of work will follow after contracts are signed.

#### Evaluation and Selection Process

The City of Great Falls is exercising the Interlocal Agreement between Great Falls and Billings for this purchase. Staff members have also sat through multiple software demos and conducted site visits to existing Innoprise Customers. There has been a 100% buy-in from City Employees who have seen the product.

#### Conclusion

City staff recommends awarding the Business Software contract to Innoprise Software, Inc. in the amount of \$45,000 in year 1 and \$90,000 per year in years 2-6. When presented at the worksession there were two questions posed that could not be answered:

- 1) How many customers does Innoprise have? Innoprise currently has (65) customers.
- 2) Does Innoprise have any pending Non-compete lawsuits against them? Per Dennis Harward (CEO), Innoprise has no litigation against them.

#### **Fiscal Impact**

I.T. Staff foresees no negative fiscal impact. On the contrary, this move should provide a cost savings.

#### **Alternatives:**

The City Commission could vote to deny award of the Business Software contract.

#### **Attachments/Exhibits:**

1. Master Agreement
2. License Agreement
3. Support Services Agreement



## MASTER AGREEMENT

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

**CUSTOMER NAME AND ADDRESS:**

City of Great Falls ("Customer")  
#2 Park Drive South  
P.O. Box 5021  
Great Falls, MT 59403

THIS INNOPRISE SOFTWARE, INC. Master Agreement (the "Agreement"), is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between INNOPRISE SOFTWARE, INC. ("INNOPRISE") of 555 Eldorado Blvd., Broomfield, CO 80021-3470 and City of Great Falls ("Customer").

INNOPRISE and Customer agree that all products and services to be provided by INNOPRISE to Customer hereunder shall be furnished only under the terms and conditions of this Agreement, its Schedule(s), and any License Agreement or Support Services Agreement entered into by the parties. INNOPRISE and Customer will execute a Schedule for all products and services to be provided to Customer by INNOPRISE hereunder.

INNOPRISE is a technology product and service firm specializing in providing certain technology software products and services that INNOPRISE has developed and owns.

Customer desires to purchase products or services from INNOPRISE.

INNOPRISE desires to supply Customer pursuant to the terms and conditions contained in this Agreement, the applicable Schedule, and any License Agreement or Support Services Agreement entered into by the parties.

NOW THEREFORE, in consideration of the mutual promises contained herein, it is agreed to as follows:

**1. Definition of Terms.** As used herein:

- 1.1 "Project" – the products and services provided by INNOPRISE for Customer.
- 1.2 "Schedule(s)" – an attachment(s) to this Agreement, which is a part of this Agreement for all purposes.
- 1.3 "Innoprise Custom Software" – Software developed by Innoprise specifically for Customer or Innoprise Core Software customized by Innoprise specifically for Customer.
- 1.4 "Innoprise Core Software" – Software developed or customized by Innoprise but not specifically for Customer.
- 1.5 "Innoprise Software" – Innoprise Custom Software and Innoprise Core Software in machine-readable form. Innoprise Software does not include the Source Code.
- 1.6 "Third-Party Software" – software in machine readable form provided by INNOPRISE to Customer that is not developed or customized by Innoprise. Third-Party Software does not include the Source Code.
- 1.7 "Software" – Innoprise Software and Third-Party Software.
- 1.8 "Source Code" – a copy of the computer programming code in human-readable form.
- 1.9 "License Agreement" – the non-exclusive License Agreement that the parties will execute for all Innoprise Software provided to Customer by INNOPRISE. The form of the License Agreement is attached as Exhibit A.
- 1.10 "Support Services Agreement" – the Support Services Agreement that the parties will execute for all Innoprise Software provided to Customer by INNOPRISE. The form of the Support Services Agreement is attached as Exhibit B.

2. **Term of Agreement.** This Agreement shall be effective upon execution by both parties and shall continue in force through completion of services described in the "Schedule(s)" unless earlier terminated in accordance with the terms set forth herein.
3. **Compensation.** The amount of compensation Customer shall pay INNOPRISE for the products and services provided by INNOPRISE hereunder shall be provided in the Schedule(s). All compensation shall be payable by Customer upon receipt of an invoice from INNOPRISE. All amounts due and payable to INNOPRISE shall be exclusive of all applicable taxes based or measured thereon excluding taxes based on the income of INNOPRISE, and Customer shall be responsible for the payment of all such taxes to INNOPRISE or shall provide INNOPRISE with an appropriate certificate of exemption. Customer shall pay INNOPRISE a late payment charge of 1.5% per month or the maximum amount permitted by applicable law, whichever is less, on all amounts remaining unpaid when due.
4. **Warranty.** Innoprise warrants that for a period of ninety (90) days after acceptance (30 day test period to determine whether the Licensed Program(s) functions operate together and whether the Licensed Program(s) meet the Customer's specifications and/or requirements.) the Innoprise Licensed Program(s) listed in the Supplement(s) will perform in substantial compliance with the reference documentation supplied by Innoprise, provided the Licensed Program(s) are used in the proper operating environment. Innoprise does not warrant that the functions contained in the Licensed Program(s) will meet the Customer's requirement or will operate in the combinations which may be selected for use by the Customer after the ninety (90) day period after the completion of the Licensed Program testing. Innoprise shall be responsible only for the Licensed Program(s) and products as originally supplied and accepted by Customer, and for changes made to the Licensed Program(s) by Innoprise's authorized representatives. Innoprise will not be responsible for the consequences of attempts at changes or modifications to the products and Licensed Program(s) made by the Customer or any other unauthorized party.

Innoprise warrants that it has the right to license the Innoprise Licensed Program(s) listed in the Supplement(s) and that the Innoprise Licensed Program(s) does not infringe any intellectual property of any third party. Innoprise agrees to indemnify Customer against expenses, including reasonable attorneys' fees, and liability arising from any claim of infringement related to Innoprise Licensed Program(s) provided Innoprise shall have the right to control the defense or settlement of any such claim. If the use of the Innoprise Licensed Program(s) by the Customer is enjoined by any infringement proceeding, Innoprise shall, if possible, obtain without unreasonable expense the right of License for the Customer to use the Innoprise Licensed Program(s) or if that is not possible, Innoprise shall refund to the Customer the license fee(s) paid under this Agreement for the particular Licensed Program(s) that is determined to be infringing.

INNOPRISE MAKES NO WARRANTIES, OTHER THAN AS STATED HEREIN, WITH RESPECT TO THE PARTICULAR LICENSED PROGRAM(S), EITHER EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

5. **Confidentiality of Customer's Information.**
  - 5.1. INNOPRISE acknowledges that Customer regards as confidential and as a proprietary asset any information or materials that come to the attention of INNOPRISE by reason of (a) the presence of INNOPRISE's agents, employees, or representatives at Customer's site, or (b) INNOPRISE furnishing services to Customer in connection with this Agreement (such information, materials, and records collectively being referred to as "Customer's Confidential or Proprietary Information").
  - 5.2. INNOPRISE agrees to safeguard Customer's Confidential or Proprietary Information by holding it in strict confidence, disclosing it only to those employees, agents or contractors who have a need to know in order to provide services as agreed upon. In the event that a subpoena or other legal process that in any way concerns Customer's Confidential or Proprietary Information is served upon INNOPRISE, then INNOPRISE agrees to notify Customer in a reasonable manner following receipt of such subpoena or other legal process, and INNOPRISE will reasonably cooperate with

Customer, as requested by Customer, to contest the subpoena or other legal process (provided that Customer agrees to pay any expense INNORRISE incurs in so doing).

- 5.3. INNORRISE agrees to take all reasonable steps to prevent the disclosure, publication or dissemination of Customer's Confidential or Proprietary Information to any other person or entity, except where and to the extent specifically required by law.
- 5.4. Notwithstanding anything herein to the contrary, Customer's Confidential or Proprietary Information shall not include: (a) information that comes into the public domain except as a result of a breach of this confidentiality provision; (b) information received by INNORRISE from a third party not under any obligation of confidentiality with respect thereto; (c) information that is independently developed by Innoprise personnel that have not had access to Customer's Confidential or Proprietary Information; (d) information required to be disclosed under operation of law; or (e) information approved in advance in writing for disclosure by Customer.

6. **Intellectual Property.** All computer programs, including the Innoprise Software, related documentation, written procedures, copies of transcripts, Source Codes, and similar items are proprietary to and shall be considered trade secrets and confidential information remaining the property of INNORRISE. Customer agrees that, other than those disclosures and records required to be made or maintained pursuant to Colorado Law, it will not disclose to any third party at any time (either during or after termination of this Agreement) any Innoprise trade secrets or any other Innoprise secrets or confidential information, learned by Customer in connection with this Agreement. All documentation shall be returned to INNORRISE upon termination of this Agreement. All original input data items shall remain the property of Customer and will be returned pursuant to Customer's instructions, so long as Customer is not in breach of this Agreement. Customer shall retain or destroy all original input documentation and other documentation in accordance with its own procedures.

7. **Termination.**

- 8.1 Either party may terminate this Agreement or any Schedule(s) within the first thirty (30) days after execution by giving the other party not less than five (5) days prior written notice.
- 8.2 Either party may terminate this Agreement or any Schedule(s) at any time by giving the other party not less than sixty (60) days prior written notice.
- 8.3 In the Event of Default, as defined in Section 9 below, the non-defaulting party may terminate this Agreement or any Schedule(s).
- 8.4 In the event of termination for any reason, Customer will pay all amounts due and payable under this Agreement up to the effective date of termination, and Customer may retain any products or services delivered to Customer prior to the date of termination.

8. **Events of Default.**

- 9.1 Customer's failure to make payments as provided herein.
- 9.2 A party's failure to perform any material covenant, agreement, obligation, term or condition contained herein; provided, however, the party's failure to perform as provided in this Section 9.2 shall not be an Event of Default if the defaulting party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party or if the default cannot be cured within thirty (30) days, if the defaulting party commences cure within thirty (30) days of receipt of written notice and proceeds to cure such default within a reasonable period of time.
- 9.3 A party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy (except in connection with a reorganization under which the business of such party is continued and performance of all of its obligations under this Agreement shall continue) or appoints a receiver, acquiesces in the appointment of a receiver or trustee, or liquidator for it or any substantial part of its assets or properties.

9. **Remedies on Default.** In addition to the right of termination provided in Section 8.3 above, the non-defaulting party shall have all of the rights and remedies available in law and in equity.

10. **Hold Harmless and Indemnification.**

- 11.1 **By INNOPRISE.** INNOPRISE shall indemnify, defend and hold harmless Customer against any loss, damage or expense incurred by Customer as a result of claims, actions or proceedings brought by any third party arising out of INNOPRISE's performance of this Agreement including Customer's reasonable attorney's fees and any money damages or costs awarded in respect of any such claim(s) and any suit raising any such claim(s); provided, however, that (a) Customer shall have given INNOPRISE prompt written notice of any such claim, demand, suit or action; (b) Customer shall cooperate with said defense by complying with INNOPRISE's reasonable instructions and requests to Customer in connection with said defense; and (c) INNOPRISE shall have control of the defense of such claim, suit, demand, or action and the settlement or compromise thereof.
- 11.2 **By Customer.** Customer shall indemnify, defend and hold harmless INNOPRISE against any loss, damages or expense incurred by INNOPRISE as a result of claims, actions or proceedings brought by any third party arising out of Customer's performance of this Agreement including INNOPRISE's reasonable attorney's fees and any money damages or costs awarded in respect of any such claim(s) and any suit raising any such claim(s); provided, however, that (a) INNOPRISE shall have given Customer prompt written notice of any such claim, demand, suit or action; (b) INNOPRISE shall cooperate with said defense by complying with Customer's reasonable instructions and requests to INNOPRISE in connection with said defense; and (c) Customer shall have control of the defense of such claim, suit, demand, or action and the settlement or compromise thereof.

11. **Notices.** All notices and other communications under this Agreement must be in writing and shall be deemed to have been given if delivered personally, sent by facsimile (with confirmation), mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties at the following addresses or facsimile numbers (or at such other address or facsimile number as a party may designate by like notice to the other parties):

To Innoprise:

Innoprise Software, Inc.  
Attention: Contract Administrator  
555 Eldorado Blvd., Suite 100  
Broomfield, CO 80021-3470  
Facsimile No.: (303) 339-0413

To Customer:

Gayle Ness, Systems Administrator  
City of Great Falls  
2 Park Drive South  
Great Falls, MT 59401  
Facsimile No.: (406) 452-0504

Any notice or other communication shall be deemed to be given (a) on the date of personal delivery, (b) at the expiration of the third (3<sup>rd</sup>) day after the date of receipt in the United States Mail, or (c) on the date of confirmed delivery by facsimile or overnight delivery service.

12. **Governing Law/Dispute Resolution.** This agreement shall be governed by, construed, and enforced under and in accordance with the Laws of the State of Montana. In the event of any litigation arising under or construing this Agreement, venue shall lie only in Cascade County, Montana. Prior to either party commencing any legal action under this Agreement, the parties agree to try in good faith, to settle any dispute amicably between them. If any dispute arises between the parties either relating to this Agreement or in any way arising out of this Agreement then the complaining party shall provide a notice of such dispute, in writing, to the other party. Such notice shall include both a specific description of the disputed issues and suggested action(s) to remedy such dispute. The Parties shall thereafter attempt, in good faith, to settle such dispute. If no resolution of the dispute is reached within

forty-five (45) days of the notice of dispute, then either party may pursue any legal remedy it may have available including instituting suit in a court of competent jurisdiction.

13. **Binding Nature and Assignment.** This Agreement shall bind the parties and their successors and permitted assigns. Customer may not assign this Agreement without the prior written consent of INNOPRISE, except that the term "Assignment" shall not include any transfer by merger, acquisition, stock transfer or other consolidation with another entity. Notwithstanding the foregoing, Customer shall effect no assignment or transfer by merger, acquisition, stock transfer, sale of substantially all of the assets or consolidation to or with any entity engaged substantially in the business of providing software and/or related services that are similar to the software and services provided by INNOPRISE.
14. **No Third Party Beneficiaries.** This Agreement gives no rights or benefits to anyone other than INNOPRISE and Customer.
15. **Force Majeure.** Neither party shall be in default by reason of any failure in the performance of this Agreement (except failure to pay) if such failure arises out of causes beyond its reasonable control. Such causes may include, but are not limited to, acts of God, acts of the public enemy, acts of government in either its sovereign or contractual capacity, acts of the party whose performance is not sought to be excused, fires, flood, weather, epidemics, quarantine restrictions, strikes, freight embargoes, failure of transmission or power supply, mechanical difficulties with equipment which could not have been reasonably forecasted or provided for, or other causes beyond its sole control. The party so affected will resume performance as soon as practicable after the force majeure event terminates.
16. **Entire Agreement.** This Agreement and any Schedule(s), License Agreement, and Support Services Agreement contain the entire understanding of the parties with respect to its subject matter, and supersedes and extinguishes all prior oral and written communications between the parties relative to its subject matter. No amendment to, or change, waiver or discharge of any provision of this Agreement shall be valid unless in writing and signed by any authorized representative of the party against which such amendment, change, waiver or discharge is sought to be enforced.
17. **Signature Authority.** Each party represents and warrants to the other that the signatory of that party is authorized to enter into this Agreement for and on behalf of that party.
18. **Relationship of the Parties.** The relationship of the parties established by this Agreement is solely that of independent contractors, and nothing contained in this Agreement shall be construed to (a) give any party the power to direct and control the day-to-day activities of the other; or (b) constitute such parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking; or (c) make either party an agent of the other for any purpose whatsoever. Neither party nor its agents or employees is the representative of the other for any purpose, and neither has power or authority to act as agent, employee to represent, to act for, bind, or otherwise create or assume any obligation on behalf of the other.
19. **Approvals and Similar Actions.** Where agreement, approval, acceptance, consent or similar action by either party is required by any provision of this Agreement, such action shall not be unreasonably delayed or withheld, unless specifically permitted by this Agreement.
20. **Publicity.** Either party hereto may prepare press releases concerning the existence of this Agreement and may reference the other party and this Agreement in its advertising, sales promotions, trade shows, or other marketing material, subject to review, comment, revision and prior written approval of the other party which approval shall not be unreasonably delayed or withheld.
21. **Severability.** If any provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent or, if that is not possible, by



# Innoprise software

substituting another provision that is enforceable and achieves the same objective and economic result. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH PROVISION OF THIS AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, INDEMNIFICATION OR EXCLUSION OF DAMAGES OR OTHER REMEDIES IS INTENDED TO BE ENFORCED AS SUCH. FURTHER, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT IN THE EVENT ANY REMEDY UNDER THIS AGREEMENT IS DETERMINED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE, ALL LIMITATIONS OF LIABILITY AND EXCLUSIONS OF DAMAGES OR OTHER REMEDIES SHALL REMAIN IN EFFECT.

22. **Waiver.** No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach shall not be construed to be a waiver of any succeeding breach or of any other covenant. All waivers must be in writing and signed by the party waiving its rights.
24. **Attorneys' Fees.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.
25. **Compliance with Laws.** Each party shall comply with all governmental, including federal, state, and local laws, statutes, rules and regulations applicable to this Agreement.
26. **Survival of Provisions.** Sections 4, 5, 6, 7, 8.4, 10, 11, 13, 24 and 26 and all accrued and unpaid obligations arising hereunder shall survive the termination hereof.

Accepted by:

LICENSEE: City of Great Falls

By: \_\_\_\_\_

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

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

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

LICENSOR: Innoprise Software, Inc.

By: 

Printed Name: Dennis J. Harward

Title: President and CEO

Date: June 9, 2009



LEASE SCHEDULE NO. 1

**Parties:** Innoprise Software, Inc. ("INNOPRISE")  
555 Eldorado Blvd., Suite 100  
Broomfield, CO 80021-8021

City of Great Falls ("Customer")  
2 Park Drive South  
Great Falls, MT 59401

This Schedule is part of the **Master Agreement** between INNOPRISE and Customer dated the \_\_\_\_ day of \_\_\_\_\_, 2009.

NOW, THEREFORE, the parties agree as follows:

**1. Software.**

- 1.1 INNOPRISE will provide Customer with the following Software: Financial Suite: including Accounting, Budgeting, Accounts Receivable, Asset Management, Cash Receipts, General Ledger, Purchasing/Inventory, Payroll/Personnel and Human Resources; Community Development Suite: including Building Permits, Code Enforcements and Business Licenses; CIS/Utility Billing, Work Orders/Facilities Management, Tax Billing and Collection, Fleet Management and Special Assessments.
- 1.2 Acceptance. Customer shall have sixty (60) days after delivery of any Innoprise Software to either accept or reject such Innoprise Software. Customer may only reject Innoprise Software if the Innoprise Software does not substantially conform to the Specifications. Any rejection of Innoprise Software by Customer must be in writing and must contain sufficient information to allow INNOPRISE to duplicate the problems. If Innoprise is unable to correct the errors, malfunctions, or defects in the Innoprise Software that cause the Innoprise Software to not substantially conform to the Specifications within sixty (60) days of the date Innoprise receives notice of rejection, Customer may return such defective Innoprise Software to Innoprise and Innoprise's sole liability to Customer shall be to refund the License Fee attributable to the defective Innoprise Software. If Customer does not reject Innoprise Software within sixty (60) days from the date of delivery, the Innoprise Software shall be deemed to be accepted by Customer.

**2. Services.** INNOPRISE will provide Customer with the following services: Year 1 – 45 ISU's (Implementation Service Unites) to be used for Bill Pay. Years 2 thru 6 – 90 ISU's (Implementation Service Units) to be used for Project Management, Training, Installation Assistance, Data Interfaces and Data Conversion annually.

**3. Specifications.** INNOPRISE will produce a process flowchart to determine the required functionality and processes of the Software and/or Services. After preparing such analysis, INNOPRISE shall prepare specifications for the Software and/or Services ("Specifications"). Customer shall have thirty (30) days after receipt of the Specifications to approve or disapprove the Specifications. If the Specifications are approved by Customer, they shall become the Specifications for the Software and/or Services. If the Specifications are not approved by Customer, INNOPRISE may either make the changes to the Specifications requested by Customer or terminate this Schedule.

**4. Customer's Obligation.** Customer shall:

- 4.1 Designate a primary and a secondary project manager, including telephone numbers and e-mail addresses, within ten (10) days following the execution of this Schedule.

- 4.2 Perform all of its obligations hereunder in a time frame that permits INNOPRISE to meet the Delivery Schedule.
- 4.3 Provide accurate information and the necessary resources required for INNOPRISE to meet the Delivery Schedule.
- 4.4 Participate in all required reviews, testing, training, and perform all Customer testing as deemed necessary by Innoprise to ensure the compliance and adherence to all required functionality and processes as defined and documented throughout the Project.
- 4.5 Provide all necessary infrastructure to operate the Software.
- 4.6 Provide INNOPRISE access to Customer network, servers and infrastructure resources for remote technical assistance by INNOPRISE.

5. **No Warranty.** There are no warranties, express or implied, with regard to the Software and Services provided in this Schedule including, but not limited to, any warranties of merchantability or fitness for a particular purpose.

6. **Limitation of Liability.** INNOPRISE'S LIABILITY ON ANY CLAIM OF DAMAGES ARISING OUT OF THIS SCHEDULE SHALL BE LIMITED TO DIRECT DAMAGES AND SHALL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER TO INNOPRISE UNDER THIS SCHEDULE. IN NO EVENT SHALL INNOPRISE BE LIABLE TO CUSTOMER FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, OR ECONOMIC DAMAGES ARISING OUT OF OR RELATED TO THIS SCHEDULE OR THE PERFORMANCE OR BREACH THEREOF.

7. **Compensation.**

7.1 Products

**Financial Suite:** including Accounting, Budgeting, Accounts Receivable, Asset Management, Cash Receipts, General Ledger, Purchasing/Inventory, Payroll/Personnel and Human Resources  
**Community Development Suite:** including Building Permits, Code Enforcements and Business Licenses  
**CIS/Utility Billing**  
**Work Orders/Facilities Management**  
**Tax Billing and Collection**  
**Fleet Management**  
**Special Assessments**

7.2. Services

45 ISU's Year 1 (Implementation Service Units may be used for the installation of Innoprise Bill Pay. Customer may also begin the installation of Financials after January 1, 2010.  
 90 ISU's Years 2 thru 6 (Implementation Service Units may be used for Project Management, Training, Installation Assistance, Data Interfaces and Data Conversion.  
 Interface to Rec Trac  
 Support of existing applications until Innoprise applications can be fully installed and the support of the Innoprise applications.

6 Year Total License, Services and Maintenance Cost \$ 495,000.00

# Innoprise software

## 7.3 Payment Plan

Year 1 (07/01/2009 – 06/30/2010) *Install Bill Pay only	\$ 45,000.00
Year 2 (07/01/2010 – 06/30/2011)	\$ 90,000.00
Year 3 (07/01/2011 – 06/30/2012)	\$ 90,000.00
Year 4 (07/01/2012 – 06/30/2013)	\$ 90,000.00
Year 5 (07/01/2013 – 06/30/2014)	\$ 90,000.00
Year 6 (07/01/2014 – 06/30/2015)	\$ 90,000.00

Total Cost \$ 495,000.00

City of Great Falls has the option to return to H.T.E. Maintenance at the end of the first year and Innoprise will assist in this transfer and reimburse any costs associated with this transfer to the City up to a maximum of \$45,000.00.

8. **Payment.** Customer shall pay \$45,000.00 upon execution of Agreement. Payments for Years 2 thru 6 will be made within 30 days of the beginning of the respective maintenance period.
9. **Delivery Schedule.** After the Specifications are approved, the parties shall agree on a delivery schedule for the Software and Services. After agreement, the parties shall execute an amendment to this Schedule setting forth the agreed upon delivery schedule. If the parties are unable to agree on a delivery schedule, this Schedule shall be terminated upon notice by either party.
10. **Travel Expenses.** Customer shall reimburse INNOPRISE for all travel expenses within thirty (30) days from the date Customer receives the invoice. INNOPRISE shall not incur any travel expenses without prior approval from Customer.

Accepted by:

LICENSEE: City of Great Falls

LICENSOR: Innoprise Software, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

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

Printed Name: Dennis J. Harward

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

Title: President and CEO

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

Date: June 22, 2009

Innoprise Software, Inc. Agrees to indemnify the City of Great Falls  
against any and all claims arising from this agreement

The prices and terms quoted in the contract will be honored thru July 31, 2009.



## LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2009, ("Effective Date") by and between INNOPRISE SOFTWARE, INC ("Licensor"), and City of Great Falls (Licensee).

### AGREEMENT

**1. DEFINITIONS.** Unless otherwise defined herein, the following terms shall have the meanings set forth below:

1.1. "Innoprise Custom Software" – means Software developed by Licensor specifically for Licensee or Innoprise Core Software customized by Innoprise specifically for Licensee.

1.2 "Innoprise Core Software" means Software developed or customized by Licensor but not specifically for Licensee.

1.3 "Innoprise Software" - means the Innoprise Custom Software and Innoprise Core Software in machine readable form covered by this Agreement. The Innoprise Software covered by this Agreement will be listed on Schedule(s). Innoprise Software does not include the Source Code.

1.4. "Affiliate" - means with respect to either party, any entity which, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or common control with such party.

1.5. "Defect" - means a material failure of the Innoprise Software to substantially conform to the functional specifications set forth in the current published Documentation.

1.6. "Derivative Works" - means works of authorship based on one or more pre-existing works of Licensor, including Documentation, Innoprise Software, Enhancements, or Updates, in whatever form the work may be recast, transformed or adapted, including translations, ports and screen reformatting.

1.7. "Designated Location" - means the physical location identified in Schedule(s) A at which Licensee may use the Software.

1.8. "Designated Operating Environment" - means the computer hardware and software identified in the Documentation with which Licensee may use the Innoprise Software.

1.9. "Documentation" - means the written, electronic, or recorded work generally released by Licensor in connection with the Innoprise Software that describes the functions and features, of the Innoprise Software, including end user manuals.

1.10. "Enhancements" - means any software program, any part thereof, or any improvement or addition thereto, or any materials not included in the Innoprise Software at the time of execution of this License, or that are subsequently developed by Licensor, or on behalf of Licensor, which modify the Innoprise Software to provide a function or feature not originally offered or an improvement in function and which relate to the Innoprise Software.

1.11. "Executable Code" - means the compiled, interpreted machine readable program, code executed by a computer to perform the functions of the Software.

1.12. "License Fee" - means fees, if any, charged for the License.

1.13. "Licensed Materials" - means the Innoprise Software and Documentation covered by this Agreement.

1.14. "Permitted Users" - means those employees and agents of Licensee who have been authorized by Licensee to use the Licensed Materials.

1.15 "Third-Party Software" - means any third party software products provided to Licensee by Licensor, if any.

1.16 "Schedule(s)" – means an attachment(s) to this Agreement which is part of this Agreement for all purposes. Schedule(s) may be added or removed from time to time to add or delete Innoprise Software from the License Agreement.

1.17. "Source Code" – means a copy of the computer programming code in human, readable form.

1.18. "Software" – means the Innoprise Software and Third-Party Software.

1.19. "Updates" - means program logic changes made by Licensor to correct Defects in the Innoprise Software delivered hereunder.

### 2. LICENSE GRANT.

**2.1. License to Innoprise Software.** Except as otherwise provided herein, Licensor hereby grants to Licensee a perpetual, non-exclusive, non-transferable license to use a single incidence of the Innoprise Software and Documentation at the Designated Location for its internal use within a single operating environment and not for the processing of any data except Licensee's. Licensee may transfer Licensed Materials to back-up computer hardware to be used when the Designated Operating Environment is temporarily inoperable.

**2.2. License to Third-Party Software.** Any Third Party Software is licensed pursuant to a license agreement with the applicable third-party vendor.

**2.3. Use and Prohibitions on Use.** Licensee shall have the right to use the Innoprise Software and Documentation only as set forth in this Agreement or in the Documentation. Any other use of the Innoprise Software shall constitute an Event of Default under this Agreement. The right to use the Innoprise Software does not include use by Licensee's Affiliates. Unless otherwise agreed by the parties hereto in writing, Licensee shall not use the Innoprise Software in the operation of a service bureau or time sharing arrangement or provide same to a disaster recovery provider; nor shall Licensee assign, sublicense, sell or rent the Innoprise Software. Any rights not expressly granted herein are hereby expressly reserved to Licensor. Licensee will not create a derivative work of the Innoprise Software or reverse engineer, decompile, disassemble or otherwise attempt to reconstruct any Source Code or algorithms of the Innoprise Software or remove any product identification, copyright or other notices from the Innoprise Software or Documentation. Licensee shall not modify any Source Code.

**2.4. Access.** Access to the Licensed Materials shall be granted only to Permitted Users.

**2.5. Single Point of Contact.** Licensee shall designate a single point of contact to communicate with Licensor in all matters relating to this Agreement, including notifications of changes to Permitted Users at Designated Location(s) or the Designated Operating Environment. The identity of the contact may be changed upon written notice to Licensor.

**2.6. Changes.** No changes with regard to the Designated Locations or Permitted Users shall be made without the written consent of Licensor.

**2.7. Copies.** For each paid license of the Licensed Materials, Licensor shall deliver one (1) copy of the Innoprise Software, in Executable Code form, and one (1) copy of the accompanying Documentation to Licensee. Licensee shall make no copies of the Documentation and Innoprise Software except one (1) copy of the Innoprise Software may be made for backup or archival purposes. Any such copy shall be clearly marked as proprietary to Licensor and contain Licensor's proprietary notices.

**2.8. Transfer.** Licensee may transfer the Innoprise Software and Documentation to a different Designated Location within the United States upon written notice to Licensor. Upon transfer, the new physical location shall become Designated Location for the purposes of this Agreement. Notwithstanding the foregoing, Licensee understands and agrees that Third Party Software, if any, may not be transferred without the consent of the applicable third party vendors.

### 3. DELIVERY AND ENHANCEMENT OF SOFTWARE

**3.1. Delivery.** Licensor shall deliver or transmit the Software and Documentation to Licensee at the Designated Location.

**3.2. Enhancements and Updates.** Enhancements and Updates shall be provided to Licensee only as provided in the Support Services Agreement between Licensor and Licensee. If Licensor does provide Enhancements and Updates to Licensee pursuant to the Support Services Agreement, such Enhancements and Updates shall be subject to the terms of this License Agreement.

**4. OWNERSHIP AND DISCLOSURE.** All computer programs, including the Innoprise Software, Documentation, Derivative Works, Enhancements, Source Codes, and similar items are proprietary to and shall be considered trade secrets and confidential information remaining the property of Licensor. Licensee agrees that, other than those disclosures and records required to be made or maintained pursuant to Colorado law, it will not disclose to any third party at any time (either during or after the termination of this Agreement) any trade secrets or other secrets or proprietary or confidential information of Licensor.

## 5. PAYMENTS.

5.1. **License Fees.** In consideration of the license granted under this Agreement, Licensee shall pay a License Fee as determined pursuant to the Master Agreement between Licensor and Licensee dated \_\_\_\_\_. Unless otherwise provided in the applicable Schedule, License Fees charged hereunder shall be due and payable in advance of shipment of the Licensed Materials to Licensee. Amounts unpaid when due shall be subject to a late charge of one and one half percent (1.5%) per month or the maximum rate allowed by law, whichever is less.

5.2. **Taxes.** All amounts due and payable to Licensor shall be exclusive of all applicable taxes based or measured thereon excluding taxes based on the income of Licensor, and Licensee shall be responsible for the payment of all such taxes to Licensor or shall provide Licensor with an appropriate Certificate of Exemption.

## 6. TERMINATION.

6.1. **Termination by Licensee.** By giving not less than sixty (60) days' prior written notice, Licensee may terminate this Agreement or any Schedule(s) at any time.

6.2. **Termination for Default.** Subject to the right to cure in Section 6.3, by giving written notice, the non-defaulting party may terminate this Agreement or any Schedule(s) upon the occurrence of one or more of the following events, which shall constitute an Event of Default under this Agreement:

6.2.1. A party fails to perform any material covenant, agreement, obligation, term or condition contained herein;

6.2.2. A party attempts to assign, terminate or cancel this Agreement or any Schedule(s) contrary to the terms thereof;

6.2.3. Licensee fails to make payment as provided herein;

6.2.4. A party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue) or appoints a receiver, acquiesces in the appointment of a receiver or trustee, or liquidator for it or any substantial part of its assets or properties.

6.3. **Cure of Event of Default.** Events of Default by a party shall not be cause for termination if the defaulting party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party or if the default cannot be cured within thirty (30) days if the defaulting party commences cure within thirty (30) days of receipt of written notice and proceeds to cure such default within a reasonable period of time.

6.4. **Rights Upon Default.** Upon an uncured Event of Default, the non-defaulting party may, except as limited by this Agreement, seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised by the non-defaulting party, successively or concurrently, in addition to any other remedies available to it. Upon termination by Licensor for Licensee's default, any and all unpaid amounts under this Agreement shall become immediately due and payable.

6.5. **Duties Upon Termination.** Upon termination of this Agreement or any Schedule(s), each party shall return to the other any confidential information (including the Innoprise Software and Documentation) in its possession belonging to such other party except for any confidential information that is subject to a continuing License Agreement between Licensee and Licensor.

7. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties established by this Agreement is solely that of independent contractors, and nothing contained in this Agreement shall be construed to (a) give any party the power to direct and control the day-to-day activities of the other; or (b) constitute such parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking; or (c) make either party an agent of the other for any purpose whatsoever. Neither party nor its agents or employees is the representative of the other for any purpose, and neither has power or authority to act as agent, employee to represent, to act for, bind, or otherwise create or assume any obligation on behalf of the other.

8. **WARRANTY.** Please see Warranty in Innoprise Master Agreement.

9. **LIMITATION OF LIABILITIES.** Deleted.

## 10. INDEMNIFICATION.

10.1. By Licensor. Licensor shall indemnify, defend and hold harmless Licensee against any loss, damage or expense incurred by Licensee as a result of claims, actions, or proceedings brought by any third party alleging infringement by the Innoprise Software, Documentation, Updates, and Enhancements of copyright, trademark, patent, or other proprietary rights, and against its reasonable attorneys' fees and any money damages or costs awarded in respect of any such claim(s) and any suit raising any such claim(s); provided, however, that (a) Licensee shall have given Licensor prompt written notice of any such claim, demand, suit or action; (b) Licensee shall cooperate with said defense by complying with Licensor's reasonable instructions and requests to Licensee in connection with said defense; and (c) Licensor shall have control of the defense of such claim, suit, demand, or action and the settlement or compromise thereof, however any settlement or compromise thereof in any matter relating in any way to an intellectual property right of Licensee must be consented to by both Licensor and Licensee. Further, Licensor shall have no liability for any infringement action or claim that is based upon or arising from the matters described in Section 10.2. If a temporary or permanent injunction is obtained against Licensee's use of the Innoprise Software as a result of the matters described in this section, Licensor shall, at its option and expense, either procure for Licensee the right to continue using the Innoprise Software or replace or modify the Innoprise Software or infringing portion thereof so that it no longer infringes the alleged proprietary right. This Section 10.1 sets forth the exclusive remedy of Licensee against Licensor with respect to any action or claim described herein. Licensor shall not indemnify Licensee for uses, damages or expenses incurred by Licensee as a result of claims, actions or proceedings brought by any third party based on code or design specifications provided to Licensor by Licensee.

10.2. By Licensee. Licensee shall indemnify, defend and hold harmless Licensor against any loss, damage or expense incurred by Licensor as a result of claims, actions, or proceedings brought by any third party arising from (a) Licensee's use of the Software other than with the Designated Operating Environment or in a manner not permitted by this Agreement, (b) Licensee's unauthorized use of the Software in conjunction with third party software not expressly approved by Licensor or (c) code or design specifications provided by Licensee to Licensor; provided, however, that (a) Licensor shall have given Licensee prompt written notice of any such claim, demand, suit or action; (b) Licensor shall cooperate with said defense by complying with Licensee's reasonable instructions and requests to Licensee in connection with said defense; and (c) Licensee shall have control of the defense of such claim, suit, demand, or action and the settlement or compromise thereof, however any settlement or compromise thereof in any matter relating in any way to an intellectual property right of Licensor must be consented to by both Licensor and Licensee. Licensee will indemnify Licensor against its reasonable attorneys' fees and any money damages or costs awarded in respect of any such claim(s) and any suit raising any such claim(s).

11. **GOVERNING LAW.** This agreement shall be governed by, construed, and enforced under and in accordance with the Laws of the State of Montana. In the event of any litigation arising under or construing this Agreement, venue shall lie only in Cascade County, Montana. Prior to either party commencing any legal action under this Agreement, the parties agree to try in good faith, to settle any dispute amicably between them. If any dispute arises between the parties either relating to this Agreement or in any way arising out of this Agreement then the complaining party shall provide a notice of such dispute, in writing, to the other party. Such notice shall include both a specific description of the disputed issues and suggested action(s) to remedy such dispute. The Parties shall thereafter attempt, in good faith, to settle such dispute. If no resolution of the dispute is reached within forty-five (45) days of the notice of dispute, then either party may pursue any legal remedy it may have available including instituting suit in a court of competent jurisdiction.

## 12. MISCELLANEOUS.

12.1. **Binding Nature and Assignment.** This Agreement shall bind the parties and their successors and permitted assigns. Licensee may not assign this Agreement without the prior written consent of Licensor, except that the term "assignment" shall not include any transfer by merger, acquisition, stock transfer or other consolidation with another entity. Notwithstanding the foregoing, Licensee shall effect no assignment or transfer by merger, acquisition, stock transfer, sale of substantially all assets or consolidation to or with any entity engaged substantially in the business of providing software and/or related



services that are similar to the services provided by Licensor. Any other assignment attempted by Licensee without the written consent of the Licensor shall be void.

12.2. **Notices.** All notices and other communications under this Agreement must be in writing and shall be deemed to have been given if delivered personally, sent by facsimile (with confirmation), mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties at the following addresses or facsimile numbers (or at such other address or facsimile number as a party may designate by like notice to the other parties):

To Licensor:

Innoprise Software, Inc.  
Attention: Contract Administrator  
555 Eldorado Blvd., Suite 100  
Broomfield, CO 80021-3470  
Facsimile No.: (303) 339-0413

To Licensee:

Gayle Ness, Systems Administrator  
City of Great Falls  
2 Park Drive South  
Great Falls, MT 59401  
Facsimile No.: (406) 455-0504

Any notice or other communication shall be deemed to be given (a) on the date of personal delivery, (b) at the expiration of the third (3<sup>rd</sup>) day after the date of receipt in the United States Mail, or (c) on the date of confirmed delivery by facsimile or overnight delivery service.

12.3. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one single agreement between the parties.

12.4. **Headings.** The section headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement.

12.5. **Approvals and Similar Actions.** Where agreement, approval, acceptance, consent or similar action by either party is required by any provision of this Agreement, such action shall not be unreasonably delayed or withheld, unless specifically permitted by this Agreement.

12.6. **Publicity.** Either party hereto may prepare press releases concerning the existence of this Agreement and may reference the other party and this Agreement in its advertising, sales promotions, trade shows, or other marketing material, subject to review, comment, revision and prior written approval of the other party which approval shall not be unreasonably delayed or withheld.

12.7. **Force Majeure.** Neither party shall be in default by reason of any failure in the performance of this Agreement (except failure to pay) if such failure arises out of causes beyond its reasonable control. Such causes may include, but are not limited to, acts of God, acts of the public enemy, acts of government in either its sovereign or contractual capacity, acts of the party whose performance is not sought to be excused, fires, flood, weather, epidemics, quarantine restrictions, strikes, freight embargoes, failure of transmission or power supply, mechanical difficulties with equipment which could not have been reasonably forecasted or provided for, or other causes beyond its sole control. The party so affected will resume performance as soon as practicable after the force majeure event terminates

12.8. **Severability.** If any provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent or, if that is not possible, by substituting another provision that is enforceable and achieves the same objective and economic result. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH PROVISION OF THIS AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, INDEMNIFICATION OR EXCLUSION OF DAMAGES OR OTHER REMEDIES IS INTENDED TO BE ENFORCED AS SUCH. FURTHER, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT IN THE EVENT ANY REMEDY UNDER THIS AGREEMENT IS DETERMINED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE, ALL LIMITATIONS OF LIABILITY AND EXCLUSIONS OF DAMAGES OR OTHER REMEDIES SHALL REMAIN IN EFFECT.

12.9. **Waiver.** No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach shall not be construed to be a waiver of any succeeding breach or of any other covenant. All waivers must be in writing and signed by the party waiving its rights.

12.10. **Attorneys' Fees.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

12.11. **No Third Party Beneficiaries.** The parties agree that this Agreement is for the benefit of the parties hereto and is not intended to confer any legal rights or benefits on any third party and that there are no third party beneficiaries to this Agreement or any part or specific provision of this Agreement.

12.12. **Compliance with Laws.** Each party shall comply with all governmental, including federal, state, and local laws, statutes, rules and regulations applicable to this Agreement.

12.13. **Entire Agreement.** This Agreement contains the entire understanding of the parties with respect to the Licensee's use of the Software, and supersedes and extinguishes all prior oral and written communications between the parties relative to its subject matter. No amendment to, or change, waiver or discharge of any provision of this Agreement shall be valid unless in writing and signed by any authorized representative of the party against which such amendment, change, waiver or discharge is sought to be enforced.

12.14. **Survival of Sections.** Sections 4, 6.4, 6.5, 8, 9, 10, 11, 12.10, and 12.14 and all accrued and unpaid obligations arising hereunder shall survive the termination hereof.

ACKNOWLEDGED AND AGREED TO, as of the day end year first written above.

LICENSOR Innoprise Software, Inc.

By:	[Redacted]
Printed Name:	Dennis J. Harward
Title:	President and CEO
Date:	June 22, 2009

LICENSEE City of Great Falls

By:	
Printed Name:	
Title:	
Date:	



**SCHEDULE "A"**  
Software Application Components  
License Fee(s)

**INNOPRISE SOFTWARE APPLICATIONS:**

Financial Suite including: Accounting, Budgeting, Accounts Receivable, Asset Management, Cash Receipts, General Ledger,  
Purchasing/Inventory, Payroll/Personnel and Human Resources  
Community Development Suite: Building Permits, Code Enforcements and Business Licenses  
CIS/Utility Billing  
Work Orders/Facilities Management  
Tax Billing and Collection  
Fleet Management  
Special Assessments

<b>LICENSOR</b>		<b>Innoprise Software, Inc.</b>
By:		
Printed Name:	Dennis J. Harward	
Title:	President and CEO	
Date:	June 22, 2009	

<b>LICENSEE</b>		<b>City of Great Falls</b>
By:		
Printed Name:		
Title:		
Date:		





## SUPPORT SERVICES AGREEMENT

THIS SUPPORT SERVICES AGREEMENT ("Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, ("Effective Date") by and between INNOPRISE SOFTWARE, INC. ("Licensor"), and City of Great Falls ("Licensee").

### RECITALS

WHEREAS, Licensor has granted a license to Licensee to use certain computer software programs pursuant to the License Agreement, as defined below; and

WHEREAS, Licensee desires that Licensor provide support services to Licensee for the Licensed Materials (defined below), and Licensor desires to provide the support services.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the covenants and representations contained herein, the parties agree as follows:

### AGREEMENT

1. **DEFINITIONS.** The definitions in the License Agreement are incorporated herein. Unless otherwise defined herein or in the License Agreement, the following terms shall have the meanings set forth below:

1.1. "Current Release" – means the latest version of the Innoprise Software offered by Licensor for general commercial distribution, including all Updates to it.

1.2. "License Agreement" - means the License Agreement between Licensor and Licensee executed contemporaneously herewith.

1.3. "License Effective Date" - means the Effective Date as defined in the License Agreement.

1.4. "Schedule(s)" – means an attachment to this Agreement which is a part of this Agreement for all purposes. Schedules may be added and removed from time to time to add or delete Innoprise Software from the Support Services Agreement.

1.5 "Services" - means the support services that Licensor agrees to provide under this Agreement.

1.6. "Telephone or Email Support Call" - means a telephone call or email by Licensee to Licensor for the purpose of obtaining Services under this Agreement.

### 2. STANDARD SUPPORT SERVICES.

Licensor shall provide the Services specified in the following sections of this Agreement and any Services set forth in the Schedule(s) for Innoprise Software listed on the Schedule(s). All services will be planned annually with Licensee and the Schedule(s) will be amended reflecting any changes.

2.1. Error Reporting. Licensee shall report any Defects to Licensor by telephone or e-mail.

2.2. Enhancements. Customization of Enhancements requested by Licensee or customization of Enhancements required to adapt or conform Enhancements to Innoprise Software shall occur under the Schedule(s) and planned annually with Licensee.

2.3. Telephone and e-mail Support. Licensor shall provide telephone and e-mail assistance to Licensee with respect to use of the Innoprise Software and to resolve Defects at telephone numbers designated by Licensor from time-to-time. Support will be available from 9 a.m. to 8 p.m. EST, Monday through Friday, excluding U.S. holidays.

2.4. Severity Levels and Response Times. Licensor shall use reasonable efforts to address the Severity Levels set forth below in the time periods described below:

#### 2.5. Error Severity Levels.

Severity 1: Destroys data or software or causes the application or system to be unavailable for use in a "live" production environment.

Severity 2: Prevents the use of one or more functions or causes the product not to perform as required.

Severity 3: Impedes, but does not prevent, the use of one or more essential functions. May cause the product not to perform in accordance with the product

design or specifications.

Severity 4: Impedes the use of non-essential functions or is a cosmetic-related problem.

#### 2.6. Response Time Goals:

Severity 1: Fix or work-arounds available in 24 hours or daily updates until resolution. Resolution usually in the form of patch for system critical errors or the next Update.

Severity 2: Fix or work-arounds available in 48 hours or as soon as is reasonably possible but no later than next regular Update or as patch in extreme cases.

Severity 3: Response available in 1 week. Fix available in next or future Update as appropriate.

Severity 4: Fix in the future Update or Enhancement if required.

### 3. LIMITATION ON STANDARD SUPPORT SERVICES.

3.1. Licensee Defects. If Licensee notifies Licensor of a problem and Licensor determines that the problem is due to Licensee's incorrect or improper use of the Innoprise Software (as opposed to a Defect in the Innoprise Software), Licensor shall have no obligation to take any action to correct the problem. At Licensee's request and at Licensor's sole discretion, Licensor will make a "best effort" attempt to correct the problem, and Licensee shall pay Licensor the then current time and materials rate for all services provided and all expenses of Licensor associated with performance of those services, whether or not the problem is corrected.

3.2. Current Version. Licensor's obligations under the Agreement shall apply only to the Current Release. However, Licensor shall support the immediately prior release ("Prior Release") for three (3) months following release of the Current Release. During this period, Licensor's sole obligation with respect to the Prior Release shall be to ensure that the Prior Release continues to function in the manner in which it functioned on the date that Licensor made available the Current Release.

3.3. Third Party Software. Maintenance and Support does not cover Third Party Software, nor does it cover Innoprise Software modified by Licensee or Innoprise Software used in any manner in violation of the License Agreement.

3.4. Data. Licensor shall have no responsibility for loss of or damage to Licensee's data. Licensee shall take all necessary steps to backup its data.

### 4. ADDITIONAL SUPPORT.

Additional support services including on-site support which may be requested by Licensee or necessary to maintain the Innoprise Software or Third Party Software and which is agreed to by Licensor shall be provided under a separate Services Agreement at Licensor's then current rates plus expenses.

### 5. OBLIGATIONS OF LICENSEE.

5.1. First Level Support/Single Point of Contact. All communications relating to the Services hereunder shall be supervised, coordinated, and undertaken by no more than one (1) designated contact person per Licensee work-shift who shall act as a single point of contact between Licensee and Licensor. All problems must be researched by said contact person before contacting Licensor.

5.2. Modem, ISDN, or Internet Connection. Licensee shall allow and enable Licensor to perform support services via internet, modem or ISDN connection using commercially available remote control software agreed to by the parties. Licensee agrees to obtain a copy of such software, provide an operational connection, and provide such assistance as reasonably necessary to facilitate such support. Licensee shall be solely responsible for instituting and maintaining security safeguards to protect Licensee's systems and data.

5.3. Training. In consideration of performance of the Services by Licensor, Licensee agrees to purchase the training Services described on the Schedule(s) at the price set forth therein.

**5.4. Additional Training.** In the event that following the first three months of the first year of this Agreement, Licensee's Telephone or Email Support Calls exceed an average of three hours each week during any calendar quarter, Licensee and Licensor shall attempt to determine the reason for the excess calls or emails. If Licensor, in its sole discretion, determines that the excess Telephone or Email Support Calls are a result of inadequate training by Licensee, then Licensee shall correct the inadequacy by providing additional training to its Permitted Users by Licensor at Licensor's then current rates plus expenses.

**5.5. Enhancements.** Licensee acknowledges and agrees that Enhancements provided by Licensor pursuant to this Agreement may, in Licensor's sole discretion, require additional training of Licensee's trainers and Permitted Users. In consideration of Licensor's continued support of Enhancements in accordance with the terms of this Agreement, Licensee agrees to purchase appropriate training with respect to Enhancements at Licensor's then current rates plus expenses.

## 6 SUPPORT SERVICES FEES.

**6.1. Fees.** In consideration of the Services provided under this Agreement, Licensee agrees to pay a Support Service Fee as shown on the Schedule(s). Licensor may change the Support Service Fee for the next calendar year of support and will give Licensee not less than sixty (60) days written notice of the new fee schedule. Immediate "Maintenance" fees may change only if the Licensee adds additional modules. Otherwise, support fees are to be valid for one year from the "Go Live" date. If a module is added after the "Go Live" date, it will be under the overall support calendar date so there is only ONE calendar date to consider.

**6.2. Manner of Payment.** Support Service Fees for the Innoprise Software that are paid as a flat fee are due and payable within thirty (30) days of the Effective Date and on the next anniversary of the Effective Date each year thereafter. All other service fees and expenses shall be invoiced monthly and are due and payable by Licensee within thirty (30) days of the date of invoice.

**6.3. Non-payment.** Notwithstanding anything contained herein to the contrary, Licensor reserves the right to refuse to provide Services when charges to Licensee remain unpaid after thirty (30) days from the due date. Licensor agrees to reinstate Services promptly upon payment of all past due charges. Invoices remaining unpaid following the due date shall be subject to interest at the rate of one and one half percent (1.5%) per month or the maximum rate allowed by law, whichever is less.

**6.4. Taxes.** All amounts due and payable to Licensor shall be exclusive of all applicable taxes based or measured thereon excluding taxes based on the income of Licensor, and Licensee shall be responsible for the payment of all such taxes to Licensor or shall provide Licensor with an appropriate Certificate of Exemption.

## 7. TERM, TERMINATION, AND DEFAULT.

**7.1. Term.** This Agreement shall commence on the Effective Date and shall continue until terminated pursuant to this section.

**7.2. Termination without Cause.** Licensor or Licensee may terminate this Agreement or any Schedule(s) for any reason or no reason by giving sixty (60) days' prior written notice to the other party. Licensee acknowledges and agrees that Licensor has undertaken significant commitment of personnel in the execution of its responsibilities under this Agreement. Therefore, Licensee agrees that upon termination by Licensee pursuant to this section, Licensor shall retain all Support Service Fees paid by Licensee that are applicable to the Schedule(s) being terminated or all of the Support Service Fees if the Agreement is terminated. If Licensor terminates without cause, 100% of any and all unused prepaid maintenance or service fees will be returned to Licensee.

**7.3. Termination of License Agreement.** If the License Agreement is terminated for any reason as to all of the Innoprise Software, this Agreement shall terminate. If the License Agreement is terminated for any reason as to a portion of the Innoprise Software, then this Agreement shall remain in effect for the remaining Innoprise Software. This Agreement shall terminate with respect to all Innoprise Software that is based upon or derived from Innoprise Software as to which this Agreement is terminated.

**7.4. Termination for Default.** Subject to the right to cure in Section 7.5, by giving written notice, the non-defaulting party may terminate this Agreement or any Schedule(s) upon the occurrence of one or more of the following events which shall constitute an Event of Default:

**7.4.1.** Any material representation by a party is discovered to be materially misleading or inaccurate, or a party fails to perform any material covenant, agreement, obligation, term or condition contained herein;

**7.4.2.** A party attempts to assign, terminate or cancel this Agreement contrary to the terms thereof;

**7.4.3.** Licensee fails to make payment as provided herein;

**7.4.4.** A party breaches its obligations under the License Agreement.

**7.4.5.** A party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue) or appoints a receiver, acquiesces in the appointment of a receiver or trustee, or liquidator for it or any substantial party of its assets or properties.

**7.5. Cure of Event of Default.** Except for Licensee's failure to make a payment as provided in Section 7.4.3, Events of Default by a party shall not be cause for termination if the defaulting party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party or if the default cannot be cured within thirty (30) days if the defaulting party commences cure within thirty (30) days of receipt of written notice and proceeds to cure such default within a reasonable period of time. Licensee shall not have any right to cure Licensee's failure to make a payment when due.

**7.6. Rights Upon Default.** Upon an uncured Event of Default, the non-breaching party may, except as limited by this Agreement, seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised by the non-breaching party, successively or concurrently, in addition to any other remedies available to it. Upon termination by Licensor for Licensee's default, all amounts under this Agreement shall become immediately due and payable. If the Agreement is terminated because of the default of Licensor, Licensor shall refund any prepaid Support Service Fee.

## 8. DISCLAIMER; LIMITATION OF LIABILITY; NO RESPONSIBILITY.

**8.1. Limitation of Liability.** Subject to Section 8.2, Licensor's liability on any claim of damages arising out of this Agreement shall be limited to direct damages and shall not exceed the amounts paid by Licensee to Licensor under this Agreement in the two month period preceding Licensee's claim. IN NO EVENT SHALL LICENSOR BE LIABLE FOR INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING FROM THIS AGREEMENT, INCLUDING LOSS OF DATA, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES.

**8.2. No Responsibility.** Licensor shall not be responsible under this Agreement to provide Services, Updates, Enhancements, or any other maintenance and support for Software that Licensee (a) misuses, improperly uses, alters, or damages; (b) uses with any hardware or software not supplied or approved by Licensor; (c) uses in a location other than the Designated Location, or in an operating environment other than the Designated Operating Environment; or (d) otherwise uses in a manner not in accordance with the License Agreement.

**9. GOVERNING LAW.** This agreement shall be governed by, construed, and enforced under and in accordance with the Laws of the State of Montana. In the event of any litigation arising under or construing this Agreement, venue shall lie only in Cascade County, Montana. Prior to either party commencing any legal action under this Agreement, the parties agree to try in good faith, to settle any dispute amicably between them. If any dispute arises between the parties either relating to this Agreement or in any way arising out of this Agreement then the complaining party shall provide a notice of such dispute, in writing, to the other party. Such notice shall include both a specific description of the disputed issues and suggested action(s) to remedy such dispute. The Parties shall thereafter attempt, in good faith, to settle such dispute. If no resolution of the dispute is reached within forty-five (45) days of the notice of dispute, then either party may pursue any legal remedy it may have available including instituting suit in a court of competent jurisdiction.

## 10. SUBCONTRACTING.

Licensor reserves the right to subcontract all or part of the Services, but Licensor shall remain responsible for performance of such Services by its subcontractors.

## 11. RELATIONSHIP OF THE PARTIES.

The relationship of the parties established by this Agreement is solely that of independent contractors, and nothing contained in this Agreement shall be construed to (a) give any party the power to direct and control the day-to-day activities of the other; or (b) constitute such parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking; or (c) make either party an agent of the other for any purpose whatsoever. Neither



party nor its agents and employees is the representative of the other for any purpose, and neither has power or authority to act as agent, employee to represent, to act for, bind, or otherwise create or assume any obligation on behalf of the other.

**12. MISCELLANEOUS.**

**12.1. Binding Nature and Assignment.** This Agreement shall bind the parties and their successors and permitted assigns. Licensee may not assign this Agreement without the prior written consent of Licensor.

**12.2. Notices.** All notices and other communications under this Agreement must be in writing and shall be deemed to have been given if delivered personally, sent by facsimile (with confirmation), mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties at the following addresses or facsimile numbers (or at such other address or facsimile number as a party may designate by like notice to the other parties):

To Licensor:

Innoprise Software, Inc.  
Attention: Contract Administrator  
555 Eldorado Blvd., Suite 100  
Broomfield, CO 80021-8021  
Facsimile No.: (303) 339-0413

To Licensee:

Gayle Ness, Systems Administrator  
City of Great Falls  
2 Park Drive South  
Great Falls, MT 59401  
Facsimile No.: 452-0504

Any notice or other communication shall be deemed to be given (a) on the date of personal delivery, (b) at the expiration of the third (3<sup>rd</sup>) day after the date of receipt in the United States Mail, or (c) on the date of confirmed delivery by facsimile or overnight delivery service.

**12.3. Counterparts.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one single agreement between the parties.

**12.4. Headings.** The section headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement.

**12.5. Approvals and Similar Actions.** Where agreement, approval, acceptance, consent or similar action by either party is required by any provision of this Agreement, such action shall not be unreasonably delayed or withheld, unless specifically permitted by this Agreement.

**12.6. Force Majeure.** Neither party shall be in default by reason of any failure in the performance of this Agreement (except failure to pay) if such failure arises out of causes beyond its reasonable control. Such causes may include, but are not limited to, acts of God, acts of the public enemy, acts of government in either its sovereign or contractual capacity, acts of the party whose performance is not sought to be excused, fires, flood, weather, epidemics, quarantine restrictions, strikes, freight embargoes, failure of transmission or power supply, mechanical difficulties with equipment which could not have been reasonably forecasted or provided for, or other causes beyond its sole control. The party so affected will resume performance as soon as practicable after the force majeure event terminates

**12.7. Severability.** If any provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent or, if that is not possible, by substituting another provision that is enforceable and achieves the same objective and economic result. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH PROVISION OF THIS AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, INDEMNIFICATION OR EXCLUSION OF DAMAGES OR OTHER REMEDIES IS INTENDED TO BE ENFORCED AS SUCH. FURTHER, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT IN THE EVENT ANY REMEDY UNDER THIS AGREEMENT IS DETERMINED TO HAVE FAILED OF

ITS ESSENTIAL PURPOSE, ALL LIMITATIONS OF LIABILITY AND EXCLUSIONS OF DAMAGES OR OTHER REMEDIES SHALL REMAIN IN EFFECT.

**12.8. Waiver.** No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach shall not be construed to be a waiver of any succeeding breach or of any other covenant. All waivers must be in writing and signed by the party waiving its rights.

**12.9. Attorneys' Fees.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

**12.10. No Third Party Beneficiaries.** The parties agree that this Agreement is for the benefit of the parties hereto and is not intended to confer any legal rights or benefits on any third party and that there are no third party beneficiaries to this Agreement or any part or specific provision of this Agreement.

**12.11. Entire Agreement.** This Agreement, including all of its attachments, each of which is incorporated into this Agreement, is the entire agreement between the parties with respect to its subject matter, and there are no other representations, understandings or agreements between the parties relative to such subject matter. No amendment to, or change, waiver or discharge of any provision of this Agreement shall be valid unless in writing and signed by any authorized representative of the party against which such amendment, change, waiver or discharge is sought to be enforced.

**12.12. Publicity.** Licensor may prepare press releases concerning the existence of this Agreement and may reference Licensee and this Agreement in its advertising, sales promotions, trade shows, or other marketing material subject to approval by Licensee which approval shall not be unreasonably delayed or withheld.

**12.13. Compliance with Laws.** Each party shall comply with all governmental, including federal, state, and local laws, statutes, rules and regulations applicable to this Agreement and in the conduct of its business.

**12.14. Non-disclosure.** Each party hereby agrees that it will not disclose the terms of this Agreement to any third party without the express written consent of the other party, other than those disclosures and records required to be made or maintained pursuant to Colorado law.

**12.15. Survival of Provisions.** Provisions 7.6, 8, 9, 12.9 and 12.15 and all accrued and unpaid obligations arising hereunder shall survive the termination hereof.

IN WITNESS WHEREOF, Licensor and Licensee have each caused this Agreement to be signed and delivered by its duly authorized representative, effective as of the date first stated above.

LICENSEE City of Great Falls

By:	
Printed Name:	
Title:	
Date:	

LICENSOR Innoprise Software, Inc.

By:	
Printed Name:	Dennis J. Harward
Title:	President and CEO
Date:	June 22, 2009



SCHEDULE "A"

This attachment is to the INNOPRISE Support Services Agreement dated of even date herewith, between Innoprise Software, Inc. and the City of Great Falls. Unless otherwise stated below, all terms and conditions as stated in the License and Support Services Agreement shall remain in effect.

Software:

The following Innoprise Software is subject to this Schedule: Financial Suite: including Accounting, Budgeting, Accounts Receivable, Asset Management, Cash Receipts, General Ledger, Purchasing/Inventory, Payroll/Personnel and Human Resources; Community Development Suite: including Building Permits, Code Enforcements and Business Licenses; CIS/Utility Billing, Work Orders/Facilities Management, Tax Billing and Collection, Fleet Management and Special Assessments.

Also includes the following GTG maintenance: Looking Glass Viewer (5 Units) and Looking Glass Viewer Web (20 Units) and Looking Glass – Centralized Address Manager (1 Unit)

Support Service Fees are included in the Master Agreement

The following Services will be provided:

- Help Desk
• Software Enhancements

- Year 1 – (07/01/2009 – 06/30/2010) \*Installation of Innoprise Bill Pay application and Support on the above applications
Year 2 – (07/01/2010 – 06/30/2011) \*\*Support on the above applications and 90 ISU's to be used for conversion to Innoprise applications
Year 3 – (07/01/2011 – 06/30/2012) \*\*Support on the above applications and 90 ISU's to be used for conversion to Innoprise applications
Year 4 – (07/01/2012 – 06/30/2013) \*\*Support on the above applications and 90 ISU's to be used for conversion to Innoprise applications
Year 5 – (07/01/2013 – 06/30/2014) \*\*Support on the above applications and 90 ISU's to be used for conversion to Innoprise applications
Year 6 – (07/01/2014 – 06/30/2015) \*\*Support on the above applications and 90 ISU's to be used for conversion to Innoprise applications

Each Implementation Service Unit (ISU) equals 1 day of services. ISU's can be used for data conversion, project management, implamantation assistance, Training, data interfaces or custom programming.

City of Great Falls has the option at the end of the first year to return to H.T.E. maintenance and Innoprise will assist in this transfer. Following payment of Years 1 thru 6, The City will own the software licenses for the applications listed above.

Additional Implementation Service Units (Each Unit equals one day) are available at the following rates:

Table with 2 columns: # of ISU's and Price per Unit. Rows include 1-20, 21-40, 41-60, 61-80, 81-100, and 101+.

Service Definitions:

- Help Desk – means application software support for issues and questions related to the utilization of the Innoprise Software licensed by Licensee.
• Software Enhancements – means any Enhancements licensed by Licensee.
• Training – means any training activity requested by Licensee for training on any Innoprise Software application component licensed by Licensee.
• Technical Services – means any technical service activity requested by Licensee for hardware, operating systems, and network issues.
• Technology Consulting - means any consulting activity requested by Licensee for technology planning, analyses, and software utilization.

LICENSEE City of Great Falls

Form with fields: By, Printed Name, Title, Date

LICENSOR Innoprise Software, Inc.

Form with fields: By, Printed Name: Dennis J. Harvard, Title: President and CEO, Date: June 22, 2009



**Item:** FY 2010 Traffic Signal Maintenance Agreement with the Montana Department of Transportation

**From:** Jerry McKinley, Traffic Supervisor

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Accept Agreement

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (accept/reject) the FY 2010 Traffic Signal Maintenance Agreement with the Montana Department of Transportation and authorize the City Manager to sign the agreement.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Staff recommends that the City Commission approve the attached Traffic Signal Maintenance Agreement with the Montana Department of Transportation (MDT) for FY 2010.

**Background:**

Significant Impacts:

The attached agreement between the City of Great Falls and the Montana Department of Transportation outlines each agencies responsibility and details the States reimbursement to the City for maintaining State Traffic Signals located within the City limits. The City is currently maintaining sixty-six (66) MDT traffic signals in addition to those at twenty-three (23) City signalized intersections. Three (3) flashing signal lights are also maintained for the State.

Workload Impacts:

The City employs two Traffic Signal Technicians to maintain signals on State and City routes, as well as City owned signals. The City provides all maintenance necessary to the operation of the Traffic Control System and is reimbursed by MDT in accordance with Exhibit B for costs of labor, equipment, engineering, and materials required. The technicians also maintain the over-height detection system located on US 87 by Fleet Supply on an on-call basis with reimbursement per event.

Purpose:

The City has an annual agreement with the Montana Department of Transportation for Traffic Signal Maintenance.

**Concurrences:** The State has agreed to this agreement and signed the needed documents.

**Fiscal Impact:** Last years agreement was for a total of \$81,282. This agreement includes a 4.48% cost increase as compared to last years Traffic Signal Maintenance Agreement, bringing the total compensation to \$84,926.45. Tools and test equipment included in this agreement are depreciated over a 7 year period.

**Alternatives:** The City Commission could vote to reject this agreement.

**Attachments/Exhibits:** Traffic Signal Maintenance Agreement Item Justification and Exhibits.

## PARTIES

This contract is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2009. This contract is between the Montana Department of Transportation, hereinafter referred to as MDT, and the City of Great Falls, hereinafter referred to as CITY.

## SCOPE OF WORK

This contract is for traffic signal maintenance. In consideration of the payments made to the CITY by MDT in accordance with this contract, the CITY agrees to provide all of the activities ordinarily associated with traffic signal maintenance for all traffic signals located within or near the CITY limits of Great Falls for which MDT has responsibility and as listed in Exhibit A. The contract covers all of the activities ordinarily associated with traffic signal maintenance including, but not limited to, those which follow:

- a. MDT shall provide electrical power for the sixty-six (66) signals and three (3) flashers covered under this contract.
- b. The CITY will provide all maintenance necessary to the operation of the Traffic Control System and MDT will reimburse the CITY in accordance with Exhibit B for costs of labor, equipment, engineering, and materials required for the maintenance of the Traffic Control System.
- c. Out-of-town traffic signal maintenance as required by MDT may be performed if CITY workload permits. Costs shall be actual cost to the CITY and shall be billed separately at time of performance.
- d. The CITY will maintain the overheight detection system located on U.S. 87 on an on call basis and bill separately at time of performance for actual costs.

## TERM

This contract is effective July 1, 2009 and terminates on June 30, 2010 unless otherwise agreed by the parties in writing.

## PAYMENT

It is agreed that the payments associated with this contract shall be as shown in Exhibit C. This shall be a lump sum cost for the entire agreement, and shall be paid to the CITY on a monthly basis on the schedule in Exhibit C.

## TERMINATION AND DEFAULT

The parties mutually agree the contract may be terminated by either party giving 30 days written notice to the other party. Such notice must be delivered by certified mail. Upon service of such notice, MDT shall be liable only for the work completed as of the date of such notice.

### LEGAL COMPLIANCE

During the performance of this Agreement, the City, for itself, its assignees and successors in interest agrees as follows:

**A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS**

- (1) Compliance with Regulations: The City shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations, Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even though only State funding is here involved.
- (2) Nondiscrimination: The City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5.
- (3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the City for work to be performed under a subcontract, including procurements of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the City of the City's obligations under this Agreement and the Regulations relative to nondiscrimination.
- (4) Information and Reports: City will provide all reports and information required by the Regulations or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Department or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the City's noncompliance with the nondiscrimination provisions of this Agreement, Department may impose sanctions as it or



the FHWA determines appropriate, including, but not limited to,

- (a) withholding payments to the City under the Agreement until the City complies, and/or
  - (b) cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: City will include provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. City will take such action with respect to any subcontract or procurement as the Department or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event City is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the City may request the Department to enter into the litigation to protect the interests of the State, and, in addition, the City or the State may request the United States to enter into such litigation to protect the interests of the United States.

**B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, § 49-3-207, MCA**

In accordance with Section 49-3-207, MCA, City agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

**C) COMPLIANCE WITH AMERICANS WITH DISABILITES ACT (ADA)**

- (1) City will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) City will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offering or other program outputs: **“City will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the City. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the City.”**

LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning the contract must be brought in the First Judicial District, in and for the County of Lewis and Clark, State of Montana.

## AUDIT AND RECORDS

The CITY shall maintain reasonable records of its performance under this contract. The CITY agrees that MDT, the Legislative Auditor, and/or the Legislative Fiscal Analyst may audit all records, reports, and other documents which the CITY maintains under the terms of the contract to ensure contract compliance. Such records, reports, and other documents may be audited at any reasonable time.

## HOLD HARMLESS AND INDEMNITY

MDT agrees to protect the CITY and its employees against and defend any and all suits, action or actions at law, or in equity which may be brought against the CITY or any of its employees, individually or otherwise, to recover damages, for accidents occurring, growing out of, or arising from structural defects in any traffic control signal or device covered in this agreement, or because of the existence or non-existence of any traffic control signal or devices covered in this agreement, and to save them harmless therefrom.

The CITY agrees to protect, save and hold harmless the State (MDT) and its employees or representatives against any and all claims for damages by third persons or employees by way of suit, action or actions at law or equity arising from the alleged negligence, errors, or omissions of the CITY or its employees in performing the obligations and duties, including maintenance of traffic control signals or devices or failure to maintain traffic control signals or devices, required under the terms of the contract.

## TIME OF ESSENCE

The parties to this contract understand and agree time is of the essence in completing the scope of work identified herein in the time set forth.

## MONTANA PRODUCT PREFERENCE

The CITY agrees to provide Montana made goods where those goods are comparable in price and quality to those required by this contract, section 18-1-112(1), MCA.

## MODIFICATION

This contract contains the entire terms of the agreement between the parties and no statements, promises, or inducements made by either party, or its agents which modifies, alters, or changes the scope and purpose of this contract is binding except as provided herein.

Upon written notice by either party that the scope of work or purpose of this contract is to be

expanded or decreased, thereby necessitating an adjustment in payment, the parties agree that any modification will be done by separate written agreement.

COORDINATION MEETINGS

The CITY and MDT agree to meet as needed to discuss the performance of this contract.

COMPENSATED DAMAGES

It is understood that any damages that are caused by third parties will be repaired by the City, and a billing for these repairs shall be sent to MDT along with any documentation which the CITY has available to help MDT in seeking restitution. MDT shall pay the CITY's actual costs. Payment under this provision shall be in addition to the payment detailed in Exhibit C.

PRIORITIES FOR CONSTRUCTION OR RECONSTRUCTION

It is understood that the CITY uses a priority program which ranks all potential improvements. No special or different criteria will be used on the signals covered in this agreement.

IN WITNESS WHEREOF, the Director of the Department of Transportation or his authorized representative has hereunto subscribed his name on behalf of the State of Montana and the City Manager of the City of Great Falls on behalf of said City of Great Falls have subscribed their names and affixed hereto the seal of the City.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF GREAT FALLS

GREGORY T DOYON, City Manager

Approved as to form:

DAVID GLIKO, City Attorney

I, Lisa Kunz, Clerk of the City of Great Falls, do hereby certify that the above-mentioned agreement was regularly adopted by the Commission of Great Falls, at a meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, and that the Commission of Great Falls authorized the City Manager to sign this agreement on behalf of the Commission.

State of Montana  
Department of Transportation

\_\_\_\_\_  
LISA KUNZ, City Clerk

MICHAEL P. JOHNSON, District Administrator  
Great Falls District

Approved as to Form:

TIMOTHY W. REARDON, Chief Legal Counsel

Signed and sworn to before me on \_\_\_\_\_, by

\_\_\_\_\_.

Notary Public for the State of Montana  
My Commission Expires:

Exhibit B

CITY OF GREAT FALLS/MONTANA DEPARTMENT OF TRANSPORTATION

Traffic Signal Maintenance Agreement

July 1, 2002 to June 30, 2003

Monthly & Yearly Maintenance Costs

\* \* \* \* \*

Item	Monthly	Yearly
Opticom	\$594.00	\$7,128
Conflict Monitor	\$297.00	\$3,564
Coordinator	\$705.00	\$8,460
Loops	\$151.00	\$1,812
Tools & Test Equipment	\$169.00	\$2,028
Overtime	\$ 50.00	\$ 600
Travel	\$183.00	\$2,196
Material Control	\$950.00	\$11,400
Liability Insurance	\$203.00	\$2,436
Administration	\$642.00	\$7,704
Pole PM Material	\$371.00	\$4,452
Pole PM Labor	\$231.00	\$2,772
Emergency Repair Parts	\$199.00	\$2,388
Emergency Repair Labor	\$265.00	\$3,180
Large Sign Truck	\$175.00	\$2,100
Solid State Parts	\$ 91.00	\$1,092
Shop Work Solid State	\$742.00	\$8,904
Signal Vehicles	\$268.00	\$3,216
Miscellaneous Hardware	\$ 24.00	\$ 288
Phone	\$ 17.00	\$ 204
Insulated Gloves	\$ 0.00	\$ 0
Coordination & Observation	\$592.00	\$7,104
Time Clocks	\$107.00	\$1,284
Pedestrian	\$ 24.00	\$ 288
	<hr/>	<hr/>
TOTALS	\$7,050.00	\$84,600

Exhibit C

CITY OF GREAT FALLS/MONTANA DEPARTMENT OF TRANSPORTATION

Traffic Signal Maintenance Agreement

July 1, 2005 to June 30, 2006

Monthly Payment Schedule

\* \* \* \* \*

MONTH	Charge
July 2005	\$6,461.56
August 2005	\$6,461.56
September 2005	\$6,461.56
October 2005	\$6,461.56
November 2005	\$6,461.56
December 2005	\$6,461.56
January 2006	\$6,461.56
February 2006	\$6,461.56
March 2006	\$6,461.56
April 2006	\$6,461.56
May 2006	\$6,461.56
June 2006	\$6,461.56
	<hr/>
TOTALS	\$77,538.74

CITY OF GREAT FALLS/MONTANA DEPARTMENT OF TRANSPORTATION

Traffic Signal Maintenance Agreement

July 1, 2002 to June 30, 2003

Monthly & Yearly Maintenance Costs

\* \* \* \* \*

LOCATION	MONTHLY COST	YEARLY COST
10 <sup>th</sup> Ave. S. & Fox Farm	\$105	\$1,263
10 <sup>th</sup> Ave. S. & 2 <sup>nd</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 5 <sup>th</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 7 <sup>th</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 9 <sup>th</sup> St. (coord)	\$156	\$1,867
10 <sup>th</sup> Ave. S. & 11 <sup>th</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 13 <sup>th</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 14 <sup>th</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 15 <sup>th</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 20 <sup>th</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 23 <sup>rd</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 25 <sup>th</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 26 <sup>th</sup> St. (coord)	\$156	\$1,867
10 <sup>th</sup> Ave. S. & 32 <sup>nd</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 38 <sup>th</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 43 <sup>rd</sup> St.	\$116	\$1,392
10 <sup>th</sup> Ave. S. & 49 <sup>th</sup> St.	\$116	\$1,392
2 <sup>nd</sup> Ave. N. & 3 <sup>rd</sup> St.	\$114	\$1,371
2 <sup>nd</sup> Ave. N. & 4 <sup>th</sup> St.	\$114	\$1,371
2 <sup>nd</sup> Ave. N. & 5 <sup>th</sup> St.	\$114	\$1,371
2 <sup>nd</sup> Ave. N. & 6 <sup>th</sup> St.	\$114	\$1,371
2 <sup>nd</sup> Ave. N. & 9 <sup>th</sup> St.	\$114	\$1,371
2 <sup>nd</sup> Ave. N. & 14 <sup>th</sup> St.	\$114	\$1,371
2 <sup>nd</sup> Ave. N. & 15 <sup>th</sup> St.	\$114	\$1,371
2 <sup>nd</sup> Ave. N. & 25 <sup>th</sup> St.	\$114	\$1,371
2 <sup>nd</sup> Ave. N. & 26 <sup>th</sup> St.	\$114	\$1,371
2 <sup>nd</sup> Ave. N. & 38 <sup>th</sup> St.	\$105	\$1,263
2 <sup>nd</sup> Ave. N. & 57 <sup>th</sup> St.	\$103	\$1,231

LOCATION	MONTHLY COST	YEARLY COST
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1 <sup>st</sup> Ave. N. & 2 <sup>nd</sup> St.	\$114	\$1,371
1 <sup>st</sup> Ave. N. & 3 <sup>rd</sup> St.	\$114	\$1,371
1 <sup>st</sup> Ave. N. & 4 <sup>th</sup> St.	\$114	\$1,371
1 <sup>st</sup> Ave. N. & 5 <sup>th</sup> St.	\$114	\$1,371
1 <sup>st</sup> Ave. N. & 6 <sup>th</sup> St.	\$114	\$1,371
1 <sup>st</sup> Ave. N. & 7 <sup>th</sup> St.	\$114	\$1,371
1 <sup>st</sup> Ave. N. & 9 <sup>th</sup> St.	\$119	\$1,424
1 <sup>st</sup> Ave. N. & 14 <sup>th</sup> St.	\$114	\$1,371
1 <sup>st</sup> Ave. N. & 15 <sup>th</sup> St.	\$114	\$1,371
1 <sup>st</sup> Ave. N. & 25 <sup>th</sup> St.	\$114	\$1,371
1 <sup>st</sup> Ave. N. & 26 <sup>th</sup> St.	\$114	\$1,371
1 <sup>st</sup> Ave. N. & Park Dr.	\$119	\$1,424
1 <sup>st</sup> Ave. N. & River Dr.	\$119	\$1,424

NW Bypass & 3 <sup>rd</sup> St.	\$105	\$1,263
NW Bypass & 6 <sup>th</sup> St.	\$119	\$1,424
NW Bypass & 9 <sup>th</sup> St.	\$119	\$1,424

Smelter Ave. & 5 <sup>th</sup> St.	\$119	\$1,424
Smelter Ave. & 8 <sup>th</sup> St.	\$119	\$1,424
Smelter Ave. & 9 <sup>th</sup> St.	\$119	\$1,424

15 <sup>th</sup> St. Bridge N.	\$105	\$1,263
15 <sup>th</sup> St. Bridge S.	\$105	\$1,263

6 <sup>th</sup> Ave. S. & 14 <sup>th</sup> St.	\$105	\$1,263
6 <sup>th</sup> Ave. S. & 15 <sup>th</sup> St.	\$105	\$1,263

8 <sup>th</sup> Ave. N. & 14 <sup>th</sup> St.	\$114	\$1,371
8 <sup>th</sup> Ave. N. & 15 <sup>th</sup> St.	\$114	\$1,371

LOCATION	MONTHLY COST	YEARLY COST
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Central Ave. & 14 <sup>th</sup> St.	\$114	\$1,371
Central Ave. & 15 <sup>th</sup> St.	\$114	\$1,371
Central W. & 3 <sup>rd</sup> St.	\$119	\$1,424
Central W. & 6 <sup>th</sup> St.	\$119	\$1,424
Central W. & 9 <sup>th</sup> St.	\$119	\$1,424
9 <sup>th</sup> St. Bridge/River Dr.	\$105	\$1,263
I-315 & 14 <sup>th</sup> St. S.W.	\$119	\$1,424
16 <sup>th</sup> Ave. S. & 14 <sup>th</sup> St. S.W.	\$119	\$1,424
	<hr/> <hr/>	<hr/> <hr/>
TOTALS	\$7,050	\$84,600



**Item:** FY 2010 Traffic Sign Maintenance Agreement with the Montana Department of Transportation

**From:** Jerry McKinley, Traffic Supervisor

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Accept Agreement

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (accept/reject) the FY 2010 Traffic Sign Maintenance Agreement with the Montana Department of Transportation and authorize the City Manager to sign the agreement.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Staff recommends that the City Commission approve the attached Traffic Sign Maintenance Agreement with the Montana Department of Transportation (MDT) for FY 2010.

**Background:**

Significant Impacts:

The attached agreement between the City of Great Falls and the Montana Department of Transportation outlines each agencies responsibility and details the States reimbursement to the City for maintaining State Traffic Signs located within the City limits. The City is currently maintaining 1,824 standard traffic control signs that are in MDT right-of- ways.

In July of 1993 the City of Great Falls and the Montana Department of Transportation signed an agreement detailing each party’s responsibilities in maintaining traffic control signs within the right-of-ways of State and City maintained routes within the City limits. The purpose of this agreement was to define and clarify each party’s responsibilities. In

general the State would maintain everything in their right-of-way and the City would maintain everything in their right-of-way, with specified exceptions.

Many changes have occurred since 1993 with new federal requirements enacted. This has increased the cost of installing and maintaining signs. These include the larger street name sign requirements (compliance date January 2012), and soon to be enacted reflectivity requirements. Also, the cost of steel posts has doubled over the last three years. The City has been covering the costs of upgrades for signs in State right-of-way for many years.

The City would continue to be responsible for all curb control (parking) signing, as well as non-standard signage installed by the City in MDT right-of-ways as described in the current agreement.

Workload Impacts:

The City employs two Traffic Sign Technicians to maintain signs on State and City routes, as well as City owned signs. The City provides all maintenance necessary for the operation of the Traffic Sign System and is reimbursed by MDT in accordance with Exhibit B for costs of labor, equipment, engineering, and materials required.

Purpose:

The City has an annual agreement with the Montana Department of Transportation for Traffic Signs Maintenance.

**Concurrences:** The State has agreed to this agreement and signed the needed documents.

**Fiscal Impact:** This is a new agreement effective for FY 2010. The agreement cost is a projected cost based on a three year average. It is understood by both parties that in subsequent agreements the cost will be based on actual work performed during the previous agreement year. The total cost for this agreement is \$4,500.

**Alternatives:** The City Commission could vote to reject this agreement.

**Attachments/Exhibits:** Traffic Sign Maintenance Agreement Item Justification and Exhibits.

## Agreement

This contract is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2009. This contract is between the Montana Department of Transportation, hereinafter referred to as MDT, and the City of Great Falls, hereinafter referred to as CITY.

### **Background:**

On July 24, 2008 Jim Rearden and Jerry McKinley, representing the CITY met with Mick Johnson and Dave Hand, representing MDT District 3 and agreed in principle to the idea of an agreement that would compensate the City of Great Falls for its expenses in maintaining certain traffic control signs in MDT right of way. This agreement would eventually be included with the City of Great Falls traffic signal maintenance agreement with MDT. These are signs that traditionally have been maintained by the City of Great Falls at no cost to the State.

### **Scope of Work**

This Contract is for *(physical)* traffic sign maintenance as described in *Sec. 1A.05 of the M.U.T.C.D. (Functional) maintenance responsibility remains with MDT.* In consideration of the payment(s) made to the CITY by MDT in accordance with this contract, the CITY agrees to provide all of the activities ordinarily associated with physical traffic sign maintenance (see **C.**) within the CITY limits of Great Falls for which MDT has ownership as described in **(B.)** A list of traffic control signs covered in this agreement and their locations will be provided to MDT. (See attachment)

### **TERM**

This contract is effective \_\_\_\_\_ and terminates on \_\_\_\_\_ unless otherwise agreed by the parties in writing.

### **Payment**

It is agreed that the payment(s) associated with this contract shall be as shown in **(A.)**  
*The 2009-10 contract cost is a projected cost based on a three year average, it is understood by both parties that in subsequent agreements the cost will be based on actual work performed during the previous contract year.*

The CITY has tracked its costs maintaining these signs for the last three years. These costs include labor, equipment and materials:

Year:

2005 - (Jan-Dec) \$5,248.51

2006 - (Jan-Dec) \$4,442.68

2007 - (Jan-Dec) \$3,170.41

3 year Total - \$12,861.60

3 year average \$4,287.20 + 5% for projected 2009 costs = \$4,500.00

**A. Total cost for this agreement is \$4,500.00**

## **B. Signage on State Right-of-Ways**

The Montana Department of Transportation will maintain all standard traffic control signs within the right-of-ways of State maintained routes as shown on the attached map, inside the Great Falls City limits, with the following exceptions:

- Parking Restriction (time limit zones, end zones) signs in the business district;  
1<sup>st</sup> Ave N, Park Dr to 9<sup>th</sup> Street N  
2<sup>nd</sup> Ave N, Park Dr to 6<sup>th</sup> Street N  
Park Dr N, 1<sup>st</sup> Ave N to 5<sup>th</sup> Avenue N (Residential Zone signs)
- Parking restriction (curb control) signs regulating school area parking along State maintained routes. (Example). Passenger zone and Bus Zone signs
- Pedestrian Crossing signs for Rivers Edge Trail on River Dr
- Pedestrian Crossing signs on Park Dr N

The above signs will be maintained by the CITY at no cost to MDT.

Other standard traffic control signs which are within the city limits and are generally located at intersections of city maintained routes (including alleys) with State maintained routes, and fall within State right-of-way will be maintained by the CITY under a maintenance agreement with MDT that provides monetary compensation to the CITY. This includes standard traffic control signs mounted on MDT owned traffic signals that are part of the State Signal Contract. **These signs may include any standard regulatory, warning or guide sign, but generally include, but are not limited to:**

**R1-1 Stop signs**

**R1-2 Yield signs**

**R6-1 One way signs**

**R5-1 Do Not Enter signs**

**R3-1(2) No Right (Left) Turn signs**

**D3 Street Name signs**

**R3-5 thru R3-8 Lane use signs**

Any signs not defined above and installed by the City of Great Falls in the right-of-way of State maintained routes will be the maintenance responsibility of the City of Great Falls. These type signs include D.A.R.E, Neighborhood Watch, Tree City or other non-standard public service signs that the City of Great Falls may request permission from MDT to install. Maintenance of signs installed by others should be negotiated between MDT and the installer.

*The CITY and MDT mutually agree to contact each other as required to determine responsibility if questions arise with either party concerning a particular sign or signs at any location.*

### **C. Maintenance Duties:**

These signs are included in the City of Great Falls Sign Inventory and have been maintained as part of the City sign maintenance program. This program includes:  
-inventory information (installation dates, replacement dates, maintenance history, support type, sign size, sheeting type, etc.)

-weekly visual (drive-by) inspections

-annual visibility and vegetation trimming inspections

-annual night time visibility/reflectivity inspections

-responding to reported sign knockdowns (24hrs a day / 7days a week)

-Sign replacement schedule

The CITY to the best of its ability will replace signs and their supports in-kind. *The CITY will rely on the Manual on Uniform Traffic Control Devices (M.U.T.C.D.) for guidance in carrying out its responsibilities in accordance with this agreement.* A list of traffic control signs covered in this agreement and their locations will be provided to MDT.

## TERMINATION AND DEFAULT

The parties mutually agree the contract may be terminated by either party giving 30 days written notice to the other party. Such notice must be delivered by certified mail. Upon service of such notice, MDT shall be liable only for the work completed as of the date of such notice.

## LEGAL COMPLIANCE

During the performance of this Agreement, the City, for itself, its assignees and successors in interest agrees as follows:

**A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS**

- (1) Compliance with Regulations: The City shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations, Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even though only State funding is here involved.
- (2) Nondiscrimination: The City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5.
- (3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the City for work to be performed under a subcontract, including procurements of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the City of the City's obligations under this Agreement and the Regulations relative to nondiscrimination.
- (4) Information and Reports: City will provide all reports and information required by the Regulations or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Department or the Federal Highway Administration (FHWA) to be

pertinent to ascertain compliance with Regulations or directives. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.

- (5) Sanctions for Noncompliance: In the event of the City's noncompliance with the nondiscrimination provisions of this Agreement, Department may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,
- (a) withholding payments to the City under the Agreement until the City complies, and/or
  - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: City will include provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. City will take such action with respect to any subcontract or procurement as the Department or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event City is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the City may request the Department to enter into the litigation to protect the interests of the State, and, in addition, the City or the State may request the United States to enter into such litigation to protect the interests of the United States.

**B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, § 49-3-207, MCA**

In accordance with Section 49-3-207, MCA, City agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

**C) COMPLIANCE WITH AMERICANS WITH DISABILITES ACT (ADA)**

- (1) City will comply with all regulations relative to implementation of the



AMERICANS WITH DISABILITIES ACT.

- (2) City will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offering or other program outputs: **“City will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the City. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the City.”**

LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning the contract must be brought in the First Judicial District, in and for the County of Lewis and Clark, State of Montana.

AUDIT AND RECORDS

The CITY shall maintain reasonable records of its performance under this contract. The CITY agrees that MDT, the Legislative Auditor, and/or the Legislative Fiscal Analyst may audit all records, reports, and other documents which the CITY maintains under the terms of the contract to ensure contract compliance. Such records, reports, and other documents may be audited at any reasonable time.

HOLD HARMLESS AND INDEMNITY

MDT agrees to protect the CITY and its employees against and defend any and all suits, action or actions at law, or in equity which may be brought against the CITY or any of its employees, individually or otherwise, to recover damages, for accidents occurring, growing out of, or arising from the performance of work by State Employees or subcontractors of the State (other than the CITY), or the furnishing of materials or equipment for the performance of work by State employees or subcontractors of the State (other than the CITY), or because of the existence or non-existence of any traffic control device covered in this agreement, and to save them harmless there from.

The CITY agrees to protect, save and hold harmless the State (MDT) and its employees or representatives against any and all claims for damages by third persons or employees by way of suit, action or actions at law or in equity arising from the alleged negligence, errors, or omissions of the CITY or its employees in performing the obligations and duties including the maintenance of, or failure to maintain Traffic Control Devices required under the terms of the contract.

TIME OF ESSENCE

The parties to this contract understand and agree time is of the essence in completing the scope of work identified herein in the time set forth.

MONTANA PRODUCT PREFERENCE

The CITY agrees to provide Montana made goods where those goods are comparable in price and quality to those required by this contract, section 18-1-112(1), MCA.

MODIFICATION

This contract contains the entire terms of the agreement between the parties and no statements, promises, or inducements made by either party, or its agents which modifies, alters, or changes the scope and purpose of this contract is binding except as provided herein.

Upon written notice by either party that the scope of work or purpose of this contract is to be expanded or decreased, thereby necessitating an adjustment in payment, the parties agree that any modification will be done by separate written agreement.

COORDINATION MEETINGS

The CITY and MDT agree to meet as needed to discuss the performance of this contract.

COMPENSATED DAMAGES

It is understood that any damages that are caused by third parties will be repaired by the City, and a billing for these repairs shall be sent to MDT along with any documentation which the CITY has available to help MDT in seeking restitution. MDT shall pay the CITY's actual costs.

PRIORITIES FOR CONSTRUCTION OR RECONSTRUCTION

It is understood that the CITY uses a priority program which ranks all potential improvements. No special or different criteria will be used on the signs covered in this agreement.

IN WITNESS WHEREOF, the Director of the Department of Transportation or his authorized representative has hereunto subscribed his name on behalf of the State of Montana and the City Manager of the City of Great Falls on behalf of said City of Great Falls have subscribed their names and affixed hereto the seal of the City.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF GREAT FALLS

\_\_\_\_\_  
GREGORY T. DOYON, City Manager

Approved as to form:

\_\_\_\_\_  
DAVID GLIKO, City Attorney

I, Lisa Kunz, Clerk of the City of Great Falls, do hereby certify that the above-mentioned agreement was regularly adopted by the Commission of Great Falls, at a meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, and that the Commission of Great Falls authorized the City Manager to sign this agreement on behalf of the Commission.

State of Montana  
Department of Transportation

\_\_\_\_\_  
LISA KUNZ, City Clerk

\_\_\_\_\_  
MICHAEL P. JOHNSON, District Administrator  
Great Falls District

Approved as to Form:

\_\_\_\_\_  
TIMOTHY W. REARDON, Chief Legal Counsel

Signed and sworn to before me on \_\_\_\_\_, by

\_\_\_\_\_.

Notary Public for the State of Montana  
My Commission Expires





# Traffic Signal Maintenance Agreement

## Item Justification

Fiscal Year 2009-10

State Owned % of Total
<b>74.20%</b>

State owned signs	<b>1,832</b>
State owned signals	<b>66</b>
Total City & State owned signals	<b>89</b>

W		WAGE COST PER HOUR	
3.25 % increase for 2009-10			
1792 charged hours		Hourly Rate	
Signal Technician		<b>\$38.21</b>	
Sign Specialist		<b>\$29.41</b>	

**ITEM #1 Opticom**

Checked once per year. It requires 1/2 man-hour per year per signal. Equipment is cleaned, inspected and checked for proper range and proper interface/operation with control equipment. Was checked twice per year, decreased since most equipment has been upgraded with more reliable units.

**(Tech Rate) \* .5 hr / 12 months = \$1.59 per signal/mo 66 Signals**

**ITEM #2 Conflict Monitor**

This is a preventive maintenance check that has been initiated to ensure installed conflict monitors are operational. It requires .75 man-hour per year per intersection. Shop tested unit is temporarily installed while original CMU is brought back to shop to be tested by CMU tester, then reinstalled at intersection. Performed once per year all intersections

**(Tech Rate \* .75 hr ) / 12 months / 66 / 12months= \$2.39 per signal/mo 66 Signals**

**ITEM #3 New Tools & Test Equipment (7 year life)**

IDC INDUCTIVE LOOP ANALYZER PURCHASED 2002-03 removed for 2009-10	\$0	new in 2002-03
3M Opticom Emitter-(truck mounted) PURCHASED 2002-03 removed for 2009-10	\$0	new in 2002-03
CARTEGRAPH SOFTWARE UPGRADE PURCHASED FY 03-04	\$820	new in 2003-04
CARTEGRAPH SOFTWARE UPGRADE/MAINTENANCE PURCHASED FY 04-05	\$641	new in 2004-05
CARTEGRAPH SOFTWARE UPGRADE/MAINTENANCE PURCHASED FY 05-06	\$1,400	new in 2005-06
TRAFFIC SIGNAL CONFLICT MONITOR TESTER PURCHASED IN FY 06-07	\$10,000	new in 2006-07
CARTEGRAPH SOFTWARE UPGRADE/MAINTENANCE PURCHASED FY 07-08	\$1,687	new in 2007-08
3M opticom emitter for shop testing cards & heads Purchased FY 2008-09	\$995	new in 2008-09
Reno LF310 with LP300 Loop finder, probe w/ spray wand, Purchased FY2009-10	\$519	new in 2009-10
Reno ST-300 44 Pin card slot tester purchased FY09-10	\$285	new in 2009-10
Shelf & rack detector tester Model 330 Purchased FY 2008-09	\$983	new in 2009-10
Universal Programmer (chip burner) Purchased FY 2008-09	\$404	new in 2009-10
	<u>\$17,733.70</u>	

**((17733.70 / 7 yrs) \* 74.2%) / 66 units / 12 months = \$2.37 per signal/mo 66 Signals**



# Traffic Signal Maintenance Agreement

## Item Justification

<b>ITEM #4</b>	<b>Master Controllers</b>			
	This figure was derived using previous years average maintenance on the master controllers and telemetry systems. We estimate about 2.75 manhours/yr per signal working on master controllers and telemetry equipment.			
	<b>Master Controller = ((180 hrs * Tech Rate) / 12) / 66 signals =</b>	<b>\$8.68</b>	Affected signals	<b>66</b>
			per signal/mo	
<b>ITEM #5</b>	<b>Vehicle Detectors</b>			
	Loop detector replacement has been removed due to the fact that most loop detectors have been or will be upgraded to premanufactured PVC loops which have a very low failure rate. It takes about two signal tech manhours to install a microwave detector.			
	<b>MICROWAVE DETECTORS: average 2 each year</b>		Affected signals	<b>45</b>
	<b>labor:(2 hrs * Tech Rate * 2 detectors) / 45 signals / 12 mos =</b>	\$0.28		
	detector: \$638 each	\$2.36		
	<b>Total</b>	<b>\$2.64</b>	per signal/mo	
<b>ITEM #6</b>	<b>Overtime</b>			
	Overtime is tracked each year and billed accordingly. We averaged 4.75 hours/mth overtime in 2008-09.			
	<b>(C57(57 hrs * Tech Rate * 1.5) / 66 signals / 12 months =</b>	<b>\$4.12</b>	per signal/mo	<b>66 Signals</b>
<b>ITEM #7:</b>	<b>Travel</b>			
	Travel to Helena for annual signal tech meeting per man (2007-08 expenses)	\$241.31		
	<b>((((Tech Rate * 24 hrs)*2 men+(expenses 241.31) * 2 Men) / 66signals / 12</b>	<b>\$2.93</b>	per signal/mo	<b>66 Signals</b>
<b>ITEM #8</b>	<b>Material Control/ Recordkeeping</b>			
	Includes stocking of parts, recordkeeping, coordinators, 18% of work hours for 1 technician.			
	<b>(Tech Rate * Hours/Year * 74.2% * 18%) / 66 signals / 12 months =</b>	<b>\$11.55</b>	per signal/mo	<b>66 Signals</b>
<b>ITEM #9</b>	<b>Liability Insurance</b>			
	City's 2009-10 insurance costs for 2 men are \$4577	<b>\$4,577</b>	<b>Annual Insurance Cost</b>	
	<b>(((\$4577) * 74.2%) / 66 signals / 12 months =</b>	<b>\$4.29</b>	per signal/mo	<b>66 Signals</b>
<b>ITEM #10</b>	<b>Telephone</b>			
	Signal Shop Telephone per year	\$168.60		
	Long Distance Charges in 2008-09	\$122.57		
	Two Cell Phones @ \$100 per month	\$1,200.00		
	Hill 57 Line @ \$52.74per month	\$632.88		
	We figure 25% MDT use for shop, cell phones & long distance. 74.2% use for Hill 57.			
	<b>((((191.40+113.28+930.60) *0.25) + ((627.60*74.2%))) / 66signals / 12 months</b>	<b>\$1.06</b>	per signal/mo	<b>66 Signals</b>



# Traffic Signal Maintenance Agreement

## Item Justification

### ITEM #11 Pole Preventive Maintenance Materials

For this figure we attempt to take an average for the amount of materials consumed per intersection when we perform pole preventive maintenance. We realize some intersections have more light bulbs than others, and some less, these are just averages.

We perform preventive maintenance every other year on each signal. Therefore we use 33.0 intersections instead of 66 to arrive at our average costs.

5.50	GREEN TOUCHUP PAINT - 1 CANS @ \$5.50 (Econolite green)	\$5.50	per signal/yr	<b>33.0 Signals</b>
4.75	1 CAN FLAT BLACK @ \$4.75	\$4.75	per signal/yr	<b>33.0 Signals</b>
10.50	Replace one lense every five years due to deterioration (age, weather)@ \$10.50	\$2.10	per signal/yr	<b>33.0 Signals</b>
12.00	RAGS FOR CLEANING @ \$12.00/MO DIVIDED BY 33.0 UNITS	\$3.24	per signal/yr	<b>33.0 Signals</b>
55.00	GLASS CLEANER @ \$55 PER CASE, 1 CAN PER INTERSECTION	\$4.58	per signal/yr	<b>33.0 Signals</b>
	<b>SUBTOTAL</b>	\$20.17	per signal/yr	<b>33.0 Signals</b>
	State signals will consume 360 - 90 watt and 240 -135 watt bulbs for 2008-09. The 90 watt bulbs cost \$1.65 and the 135 watt bulbs cost \$2.55. This also includes changing "Walk - Don't Walk" every year.	\$36.55	per signal/yr	<b>33.0 Signals</b>

**Total**      **\$2.36**      per signal/mo      **66 Signals**

### ITEM #12 Pole Preventive Maintenance Labor

It takes 2 hours for 1 Tech and 1 Laborer to perform preventive maintenance on an intersection every other year. It takes 1 Laborer .5hrs per intersection to test & visually inspect every ped button and ped display twice a year.

Video camera lens cleaning has been added to preventative maintenance. It is performed every 4 months on 12 cameras at 8 signals.

(.25 * Tech Rate * 12 cameras / 12mth / 8 signals)	\$1.19	per signal/mo	<b>8 signals</b>
.5 hrs * Sign Specialist Rate / 12 months =	\$1.23	per signal/mo	<b>66 Signals</b>
<b>((2 hrs * Tech Rate) + ( 2 hrs * Laborer rate)) / 2 / 12 months + \$1.17 =</b>	<b>\$8.06</b>	per signal/mo	<b>66 Signals</b>

### ITEM #13 Emergency Repair Parts

These include all parts required due to damage from vandalism, unreported vehicle damage, weather related damages, etc. We use a five year average.

**Affected signals**      **66**

1 Pelco Pole Base @ \$155 ea	\$0.20		
1 - 12" Green LED's @ \$95 ea	\$0.12		
1 - 12" Red LED's @ \$55 ea	\$0.07		
1 - 8" Green LED's @ 65 ea	\$0.08		
1 - 8" Red LED's @ 50 ea	\$0.06		
200 FT, 12 conductor AWG14 signal cable @ \$1.58/FT =	\$0.40	per signal/mo	
200 FT, 4 CONDUCTOR OPTICOM LEAD-IN CABLE @ \$0.45/FT =	\$0.11	per signal/mo	
LENSES (5) @ \$12.00 =	\$0.08	per signal/mo	
REFLECTORS (5) @ \$11.00 =	\$0.07	per signal/mo	
HOUSINGS (5) @ \$70 =	\$0.44	per signal/mo	
BACKSHIELDS (10) @ \$40 =	\$0.51	per signal/mo	
VISORS (10) @ \$21.00 =	\$0.21	per signal/mo	
1 OPTICOM DETECTOR HEAD @ \$713 EA	\$0.90	per signal/mo	
<b>Total</b>	<b>\$3.25</b>	per signal/mo	

### ITEM #14 Emergency Repair Labor

The City has averaged 100 manhours per year on emergency maintenance in recent years.

**Affected signals**      **66**

<b>(100 hrs * 74.2% * Tech Rate) / 66 signals / 12 months =</b>	<b>\$3.58</b>	per signal/mo	
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# Traffic Signal Maintenance Agreement

## Item Justification

**ITEM #15: Solid State Repair Parts**

The cost of solid state parts is estimated at \$1,500 per year. All state signals are solid state.

400.00	annual shipping for solid state repairs	\$0.37	
530.00	annual conflict monitor calibration & certification	\$0.50	per signal/mo <b>66 Signals</b>
<b>1500 + 400 + 530 x 74.2% / 66/12</b>		<b>\$2.28</b>	per signal/mo <b>66 Signals</b>





# Traffic Signal Maintenance Agreement

## Item Justification

<b>ITEM #16</b>	<b>Signal On-site Observation</b>							
	SIGNAL OBSERVATION: On site observation by a qualified technician for traffic flow analysis, proper functioning and equipment repair is on average one quarter manhours per signal per month. For state signals:							
	<b>((Tech Rate * 0.25 manhours * 12 months * 66 signals) / 66 units) / 12 mos =</b>	<b>\$9.55</b>	in total for #16 below					
	<b>^USE 0.25 MANHOURS PER MONTH</b>							
		<b>Total</b>	<b>\$9.55</b>	per signal/mo <b>66 Signals</b>				
<b>ITEM #17</b>	<b>Solid State Repair &amp; Maintenance Labor</b>							
	This includes controllers, detectors, coordinators, conflict monitors, switch packs, and flashers. We average 12 hrs/month. (was 24 hrs FY 2007-08)							
	<b>((Tech Rate * 12 hrs * 74.2%) / 66 units =</b>	<b>\$5.15</b>	per signal/mo <b>66 Signals</b>					
<b>ITEM #18</b>	<b>Signal Vehicle )</b>							
	Rather than charge rental fees for the signal vehicle, we estimate actual cost to the City. If we used nationally recognized rental rates, the cost would be much higher.							
	Amortizing the signal truck over 11 years (15% trade-in) at an initial cost of \$70,000, Annual Repairs are est. @ \$2000							
				<table border="1"> <thead> <tr> <th>Initial Cost</th> <th>Avg. Annual Repairs</th> </tr> </thead> <tbody> <tr> <td>\$70,000.00</td> <td>\$2,000.00</td> </tr> </tbody> </table>	Initial Cost	Avg. Annual Repairs	\$70,000.00	\$2,000.00
Initial Cost	Avg. Annual Repairs							
\$70,000.00	\$2,000.00							
	This signal truck was purchased in Jan. 2002. It uses diesel fuel only. We have five years of fuel usage and maintenance repair data.	<b>886</b>	<b>2008 fuel usage/gallons</b>					
	<b>Annual Amortization = (\$ 70,000 * 0.85 * 74.2 %) / 11 years</b>	<b>\$4,014</b>						
	<b>Fuel price per gallon estimate for 2009-10 (\$3.00). Fuel usage in 2008 886 gal/yr</b>	<b>\$3.00</b>						
	<b>(( (\$ 4,014 + \$ 2,000 + (774 gals. * \$ 3.00 )) * 74.2 % / 66 signals ) / 12 months</b>	<b>\$8.12</b>	per signal/mo <b>66 Signals</b>					
<b>ITEM #19</b>	<b>Miscellaneous Hardware</b>							
	This figure includes nuts, bolts, cones, stakon terminals, connectors, solder, gas for blow torch, small indicator bulbs, etc. @ \$600/YEAR.							
	\$600.00 <b>(\$600 * 74.2 % / 66 signals) / 12 months =</b>	<b>\$0.56</b>	per signal/mo <b>66 Signals</b>					
<b>ITEM #20</b>	<b>Pedestrian Signal Maintenance Parts</b>							
	1 LED PED RETRO KIT	\$198.00						
	8-Push Button Housing 5"x7 3/4" Green Pt#DDCDCC57HG @\$28.71 ea	\$229.68						
	8- Bull Dog PPB w/SS cap, momentary LED & beeper - dark green @ \$75.00 ea	\$600.00						
	4-Ped Signal 16" 1 section Aluminum left clamshell green @ \$146.00 ea	\$584.00						
	4-Ped Signal 16" 1 section Aluminum right clamshell green @ \$146.00 ea	\$584.00						
		<u>\$2,195.68</u>						
	<b>Total</b>	<b>\$2.77</b>	per signal/mo <b>66 Signals</b>					
<b>ITEM 21</b>	<b>Time Clocks</b>							
	49 SIGNALS -- NOT 10 AVE S (2nd-49th)	<b>Affected signals</b>	<b>49</b>					
	Real-time clocks are checked and adjusted quarterly, one manhour/signal/year							
	<b>Tech Rate * 1 hr / 12 months no longer necessary</b>	<b>\$0.00</b>	per signal/mo					
<b>ITEM 22</b>	<b>Underground Locates/ Plan Reviews for MDT Signals</b>							
	6.25 Recently locates have averaged 6.25 manhours per month - many consultants, EPA well monitoring. We estimate 12 manhrs/yr on signal plan reviews.	<b>\$4.20</b>	per signal/mo <b>66 Signals</b>					
<b>ITEM 23</b>	<b>Maintenance to State owned Traffic Signs</b>							
	\$ 2,364.00 Average cost of Materials used 2005-2007							
	\$ 2,136.00 Average Labor & equipment costs from 2005-2007							
	\$ 4,500.00 Total average cost of maintenance/repair actions 2005-07	<b>\$0.21</b>	per sign/mo	<b>1832 Signs</b>				



# Traffic Signal Maintenance Agreement

## Item Justification

### SUMMARY

Item	Per Month	
	2008-09	2009-10
Opticom	\$ 103.62	\$ 104.94
Conflict Monitors	\$ 155.10	\$ 157.74
Tools & Test Equip.	\$ 155.10	\$ 156.42
Master Controllers	\$ 564.30	\$ 572.88
Vehicle Detectors	\$ 131.40	\$ 118.80
Overtime	\$ 199.98	\$ 271.92
Travel	\$ 189.42	\$ 193.38
Material Control	\$ 749.76	\$ 762.30
Liability Insurance	\$ 303.60	\$ 283.14
Phone	\$ 64.68	\$ 69.96
Pole PM	\$ 138.60	\$ 155.76
Pole Labor	\$ 439.15	\$ 531.93
Emergency Repair Parts	\$ 512.82	\$ 214.50
Emergency Repair Labor	\$ 232.32	\$ 236.28
Solid State Parts	\$ 151.68	\$ 150.57
Coord. & Observation	\$ 620.40	\$ 630.30
Solid State Repair	\$ 334.62	\$ 339.90
Vehicles	\$ 521.40	\$ 535.92
Large Sign Truck	\$ -	
Misc. Hardware	\$ 36.96	\$ 36.96
Pedestrian Hardware	\$ 170.28	\$ 182.82
Time Clocks	\$ -	\$ -
Underground Locates	\$ 272.58	\$ 277.20
Sign Maintenance	\$ -	\$ 375.56
<b>Sub Total</b>	<b>\$ 6,047.77</b>	<b>\$ 6,359.17</b>
Admin. (12.0% of prev.)	\$ 725.73	\$ 718.03
<b>Total</b>	<b>\$ 6,773.50</b>	<b>\$ 7,077.20</b>
<b>change from last year 4.48%</b>		<b>\$ 81,282.00</b>
		<b>\$ 84,926.45</b>

12.00%



Exhibit A

Itemized Cost Matrix

Fiscal Year 2009-10

Intersection Location	Complexity Factor	Signal Cabinet Type	Controller Type	Opticom	Conflict Monitor	Master Controllers	Vehicle Detectors	Tools & Equip.	Overtime	Travel	Material Control/Record Keeping	Liability Insurance	Pole Pm Labor	Pole Pm Material	Emerg. Repair Parts	Emerg. Labor	UG Locates	Coord. & Observation	Solid State Parts	Solid State Repairs	Signal Vehicles	Misc. Hardware	Time Clocks	Ped. Signal Maint.	Phone Charges	Admin @ 12.0%	Monthly Total	Monthly, Adjusted for Complexity	Yearly Total
10th S. @ Fox Farm	1.30	P	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.98	\$ 102.48	\$ 133.23	\$ 1,598.70
10th S. @ 2nd St.	1.30	P	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 133.23	\$ 1,598.70
10th S. @ 5th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 7th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 9th St.	1.30	P	TMP390/TMM500	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 133.23	\$ 1,598.70
10th S. @ 11th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 13th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 14th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 15th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 20th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 23rd St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 25th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 26th St.	1.30	P	TMP390/TMM500	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 133.23	\$ 1,598.70
10th S. @ 32nd St.	1.30	P	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 133.23	\$ 1,598.70
10th S. @ 38th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 39th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 43rd St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th S. @ 49th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	NA	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
10th N. @ 57th St.	1.30	P	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.98	\$ 102.48	\$ 133.23	\$ 1,598.70
2nd N. @ 3rd St.	1.00	M	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 99.52	\$ 1,194.29
2nd N. @ 4th St.	1.00	M	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 99.52	\$ 1,194.29
2nd N. @ 5th St.	1.00	M	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 99.52	\$ 1,194.29
2nd N. @ 6th St.	1.00	M	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 99.52	\$ 1,194.29
2nd N. @ 9th St.	1.00	M	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 99.52	\$ 1,194.29
2nd N. @ 14th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
2nd N. @ 15th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
2nd N. @ 25th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
2nd N. @ 26th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
2nd N. @ 38th St.	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.98	\$ 102.48	\$ 102.48	\$ 1,229.77
2nd N. @ 57th St.	1.30	P	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.98	\$ 102.48	\$ 133.23	\$ 1,598.70
1st N. @ 2nd St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
1st N. @ 3rd St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
1st N. @ 4th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
1st N. @ 5th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
1st N. @ 6th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
1st N. @ 7th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
1st N. @ 9th St.	0.78	H	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.98	\$ 102.48	\$ 80.17	\$ 962.08
1st N. @ 14th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
1st N. @ 15th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
1st N. @ 25th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
1st N. @ 26th St.	0.78	H	TMP 390	1.59	2.39	8.68	NA	2.37	4.12	2.93	11.55	4.29	8.06	2.36	3.25	3.58	4.20	9.55	2.28	5.15	8.12	0.56	0.00	2.77	1.06	10.66	\$ 99.52	\$ 77.86	\$ 934.32
1st N. @ Park Drive	1.00	M	TMP 390	1.59	2.39	8.68	2.64	2.37	4.12	2.93	11.55	4.29	8.																



## Exhibit B

Fiscal Year 2009-10

Item Description	Fiscal Year Monthly Charges		Change from FY 2008-09
	2008-09	2009-10	
Opticom	\$ 103.62	\$ 104.94	1.27%
Conflict Monitor	\$ 155.10	\$ 157.74	1.70%
Master Controllers	\$ 564.30	\$ 572.88	1.52%
Vehicle Detectors	\$ 131.40	\$ 118.80	-9.59%
Tools & Test Equipment	\$ 155.10	\$ 156.42	0.85%
Overtime	\$ 199.98	\$ 271.92	35.97%
Travel	\$ 189.42	\$ 193.38	2.09%
Material Control\ Recordkeeping	\$ 749.76	\$ 762.30	1.67%
Liability Insurance	\$ 303.60	\$ 283.14	-6.74%
Pole PM Labor	\$ 439.15	\$ 531.93	21.13%
Pole PM Material	\$ 138.60	\$ 155.76	12.38%
Emergency Repair Parts	\$ 512.82	\$ 214.50	-58.17%
Emergency Repair Labor	\$ 232.32	\$ 236.28	1.70%
Underground Locates	\$ 272.58	\$ 277.20	1.69%
Coordination & Observation	\$ 620.40	\$ 630.30	1.60%
Solid State Parts	\$ 151.68	\$ 150.57	-0.74%
Shop Work - Solid State	\$ 334.62	\$ 339.90	1.58%
Signal Vehicles	\$ 521.40	\$ 535.92	2.78%
Miscellaneous Hardware	\$ 36.96	\$ 36.96	-0.00%
Time Clocks	\$ -	\$ -	0.00%
Pedestrian parts	\$ 170.28	\$ 182.82	7.36%
Telephone	\$ 64.68	\$ 69.96	8.16%
Administration	\$ 725.73	\$ 718.03	-1.06%
Sign Maintenance	\$ -	\$ 375.56	0.00%
<b>Monthly Total</b>	<b>\$ 6,773.50</b>	<b>\$ 7,077.20</b>	<b>4.48%</b>
<b>Yearly Total</b>	<b>\$ 81,282.00</b>	<b>\$ 84,926.45</b>	<b>4.48%</b>



## Exhibit C

### Monthly Payment Schedule

Fiscal Year 2009-10

<b>Month</b>	<b>Charge</b> * <i>(rounded to nearest whole dollar)*</i>
July, 2009	\$ 7,077
August, 2009	\$ 7,077
September, 2009	\$ 7,077
October, 2009	\$ 7,077
November, 2009	\$ 7,077
December, 2009	\$ 7,077
January, 2010	\$ 7,077
February, 2010	\$ 7,077
March, 2010	\$ 7,077
April, 2010	\$ 7,077
May, 2010	\$ 7,077
June, 2010	\$ 7,077
<b>Total</b>	<b>\$ 84,924</b>

*(FY total of rounded monthly amount)*



## Exhibit D

### Maintenance Cost Summary (per intersection)

Fiscal Year 2009-10

Intersection Location	Monthly Cost	Yearly Cost	
10th S. @ Fox Farm	\$ 133.23	\$ 1,598.70	
10th S. @ 2nd St.	\$ 133.23	\$ 1,598.70	
10th S. @ 5th St.	\$ 102.48	\$ 1,229.77	
10th S. @ 7th St.	\$ 102.48	\$ 1,229.77	
10th S. @ 9th St.	\$ 133.23	\$ 1,598.70	
10th S. @ 11th St..	\$ 102.48	\$ 1,229.77	
10th S. @ 13th St.	\$ 102.48	\$ 1,229.77	
10th S. @ 14th St.	\$ 102.48	\$ 1,229.77	
10th S. @ 15th St.	\$ 102.48	\$ 1,229.77	
10th S. @ 20th St.	\$ 102.48	\$ 1,229.77	
10th S. @ 23rd St.	\$ 102.48	\$ 1,229.77	
10th S. @ 25th St.	\$ 102.48	\$ 1,229.77	
10th S. @ 26th St.	\$ 133.23	\$ 1,598.70	
10th S. @ 32nd St.	\$ 133.23	\$ 1,598.70	
10th S. @ 38th St.	\$ 102.48	\$ 1,229.77	
10th S. @ 39th St.	\$ 102.48	\$ 1,229.77	
10th S. @ 43rd St.	\$ 102.48	\$ 1,229.77	
10th S. @ 49th St.	\$ 102.48	\$ 1,229.77	
10th N. @ 57th St.	\$ 133.23	\$ 1,598.70	
2nd N. @ 3rd St.	\$ 99.52	\$ 1,194.29	
2nd N. @ 4th St.	\$ 99.52	\$ 1,194.29	
2nd N. @ 5th St.	\$ 99.52	\$ 1,194.29	
2nd N. @ 6th St.	\$ 99.52	\$ 1,194.29	
2nd N. @ 9th St.	\$ 99.52	\$ 1,194.29	
2nd N. @ 14th St.	\$ 77.86	\$ 934.32	
2nd N. @ 15th St.	\$ 77.86	\$ 934.32	
2nd N. @ 25th St.	\$ 77.86	\$ 934.32	
2nd N. @ 26th St.	\$ 77.86	\$ 934.32	
2nd N. @ 38th St.	\$ 102.48	\$ 1,229.77	
2nd N. @ 57th St.	\$ 133.23	\$ 1,598.70	
1st N. @ 2nd St.	\$ 77.86	\$ 934.32	
1st N. @ 3rd St.	\$ 77.86	\$ 934.32	
1st N. @ 4th St.	\$ 77.86	\$ 934.32	
1st N. @ 5th St.	\$ 77.86	\$ 934.32	
1st N. @ 6th St.	\$ 77.86	\$ 934.32	
1st N. @ 7th St.	\$ 77.86	\$ 934.32	
1st N. @ 9th St.	\$ 80.17	\$ 962.08	
1st N. @ 14th St.	\$ 77.86	\$ 934.32	
1st N. @ 15th St.	\$ 77.86	\$ 934.32	
1st N. @ 25th St.	\$ 77.86	\$ 934.32	
1st N. @ 26th St.	\$ 77.86	\$ 934.32	
1st N. @ Park Drive	\$ 102.48	\$ 1,229.77	
1st N. @ River Drive	\$ 133.23	\$ 1,598.70	
NW Bypass @ 3rd St.	\$ 102.48	\$ 1,229.77	
NW Bypass @ 6th St.	\$ 102.48	\$ 1,229.77	
NW Bypass @ 9th St.	\$ 102.48	\$ 1,229.77	
3rd St. NW @ 14th Ave.	\$ 102.48	\$ 1,229.77	
Smelter @ 5th St.	\$ 102.48	\$ 1,229.77	
Smelter @ 6th St.	\$ 133.23	\$ 1,598.70	
Smelter @ 8th St.	\$ 102.48	\$ 1,229.77	
Smelter @ 10th St.	\$ 102.48	\$ 1,229.77	
15th St. Bridge N.	\$ 102.48	\$ 1,229.77	
15th St. Bridge S.	\$ 102.48	\$ 1,229.77	
6th S. @ 14th St.	\$ 102.48	\$ 1,229.77	
6th S. @ 15th St.	\$ 102.48	\$ 1,229.77	
8th N. @ 14th St.	\$ 102.48	\$ 1,229.77	
8th N. @ 15th St.	\$ 102.48	\$ 1,229.77	
Central @ 14th St.	\$ 77.86	\$ 934.32	
Central @ 15th St.	\$ 77.86	\$ 934.32	
Central W. @ 3rd St.	\$ 133.23	\$ 1,598.70	
Central W. @ 6th St.	\$ 133.23	\$ 1,598.70	
Central W. @ 9th St.	\$ 102.48	\$ 1,229.77	
River Drive @ 9th St.	\$ 102.48	\$ 1,229.77	
River Drive @ 38th St.	\$ 102.48	\$ 1,229.77	
14th SW @ I315	\$ 133.23	\$ 1,598.70	
14th SW @ 16th Ave.	\$ 102.48	\$ 1,229.77	
Sign Maintenance for MDT	\$ 375.56	\$ 4,506.72	
<b>Totals</b>	<b>\$ 7,077.20</b>	<b>\$ 84,926.45</b>	<b>% Change</b>
	<b>FY 2008-09</b>	<b>\$ 81,282.00</b>	<b>4.48%</b>



**Item:** Construction Contract Award: Compost Facility Water Main Extension, O.F. 1553

**From:** Engineering Division

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Consider Bids and Award Construction Contract

---

**Suggested Motion:**

1. Commissioner moves:

“I move the City Commission award a contract in the amount of \$199,680.00 to Ed Boland Construction, Inc. for the Compost Facility Water Main Extension, O. F. 1553, and authorize the City Manager to execute the agreements.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Approve construction contract award.

**Background:**

Significant Impacts

This project will extend a water main along 33<sup>rd</sup> Avenue NE east of Highway 87. This main will serve the City’s future Composting Facility. The roadway section of 33<sup>rd</sup> Avenue NE will also be improved with a geotextile fabric and 12-inch gravel roadbase. These road improvements will allow for asphalt paving, if required, in the future

Citizen Participation

Not Applicable

Workload Impacts

City engineering staff designed the project, and will perform construction inspection and contract administration duties.

Purpose

The new 12-inch water main will serve the future City Composting Facility planned for 33<sup>rd</sup> Avenue NE and 19<sup>th</sup> Street NE, and provide for future development and annexation of properties in the area. 33<sup>rd</sup> Avenue will also be improved by removing the existing

substandard gravel roadway and replacing it with a geotextile fabric base along with 12-inches of new gravel roadbase. The new roadway base will allow for future paving in the area if traffic demands require it.

#### Project Work Scope

Approximately 2,400 linear feet of new 12-inch water main, 2 new fire hydrants, 7,300 square yards of geotextile fabric and 7,300 square yards of 12-inch gravel roadbase will be installed on this project.

#### Evaluation and Selection Process

Seven bids were received and opened for this project on July 8, 2009. The bids ranged from \$199,680.00 to \$336,470.00. The engineer's estimate was \$352,400.00. Ed Boland Construction, Inc. submitted the low bid and executed all the necessary bid documents.

#### Conclusion

City staff recommends awarding the construction contract to Ed Boland Construction, Inc. in the amount of \$199,680.00

#### **Concurrences:**

Not Applicable.

#### **Fiscal Impact**

The attached bid tabulation summarizes bids that were received. This project will be funded from the water fund (\$120,300) and the sewer fund (\$79,380).

#### **Alternatives:**

The City Commission could vote to deny award of the construction contract.

#### **Attachments/Exhibits:**

1. Bid tabulation is attached.



CITY OF GREAT FALLS  
 P.O. BOX 5021  
 GREAT FALLS, MT 59403

BID TABULATION SUMMARY  
 Recycling Center Water Main Extension  
 O.F. 1553

Project Number \_\_\_\_\_  
 Bids Taken at Civic Center  
 Date: July 8, 2009  
 Tabulated By: Kari Wambach

	Name & Address of Bidder	Acknowledge Addendum #1	Acknowledge Addendum #2	10% Bid Security	Affidavit of Non-Collusion	Certificate of Non-Segregated Facilities	Certificate of Compliance with Insurance Req.	Total Bid
1	Bozeman Sand & Gravel PO Box 1327 Bozeman, MT 59771			√	√	√	√	\$293,000.00
2	Ed Boland Construction 4601 7th Ave. So. Great Falls, MT 59405			√	√	√	√	\$199,680.00
3	David W. Kuglin Construction P.O. Box 491 Black Eagle, MT 59414			√	√	√	√	\$336,470.00
4	Phillips Construction 795 Ulm-Vaughn Rd. Great Falls, MT 59404			√	√	√	√	\$265,857.00
5	United Materials, Inc. P.O. Box 1690 Great Falls, MT 59403			√	√	√	√	\$260,245.00
6	Central Plumbing & Heating 3701 River Drive North Great Falls, MT 59405			√	√	√	√	\$274,210.00
7	Shumaker Trucking Company P.O. Box 1279 Great Falls, MT 59403-1279			√	√	√	√	\$223,750.00
8								
9								
10	<b>Engineer's Estimate</b>							<b>\$352,400.00</b>



**Item:** Construction Contract Award: 22<sup>nd</sup> Street South Storm Drain Extension, O. F. 1447.1

**From:** Engineering Division

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Consider Bids and Approve Contract

---

**Suggested Motion:**

1. Commissioner moves:

"I move the City Commission award a contract in the amount of \$73,711.00 to Kuglin Construction for the 22<sup>nd</sup> Street South Storm Drain Extension, O. F. 1447.1, and authorize the City Manager to execute the construction contract documents."

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Approve construction contract award.

**Background:**

Significant Impacts

This project will extend storm drain pipe south from an existing storm drain manhole at the intersection of 8th Avenue South and 22<sup>nd</sup> Street to 10<sup>th</sup> Avenue South. The Montana Department of Transportation (MDT) will connect the 10<sup>th</sup> Avenue South storm drain piping to this new pipe when 10<sup>th</sup> Avenue is reconstructed.

Citizen Participation

Not applicable.

Workload Impacts

City engineering designed the project, and will perform construction inspection and contract administration duties.

Purpose

This project will tie into a future storm water system manhole on 10<sup>th</sup> Avenue South. The

manhole will be installed by MDT when 10<sup>th</sup> Avenue South is widened later this year or early next year. The 10<sup>th</sup> Avenue South storm drain system currently dumps storm water onto the gutter of 23<sup>rd</sup> Street between 10<sup>th</sup> and 9<sup>th</sup> Avenue South.

#### Project Work Scope

An agreement was entered into with MDT in June of 2009, to redirect 10<sup>th</sup> Avenue South storm water from discharging onto 23<sup>rd</sup> Street. This project will extend storm drain pipe from 8<sup>th</sup> Avenue South to 10<sup>th</sup> Avenue South along 22<sup>nd</sup> Street. The storm drain extension will tie into a future storm water inlet manhole on 10<sup>th</sup> Avenue South. MDT had designed an outfall structure in the sidewalk on 23<sup>rd</sup> Street South. City engineers and operations personnel did not agree with that design and proposed an alternative to extend the 10<sup>th</sup> Avenue South storm drain to 22<sup>nd</sup> Street. City agreed to design and have the storm drain constructed. MDT will reimburse the city for the construction and other project costs.

#### Evaluation and Selection Process

Six bids were received and opened for this project on July 9, 2009. The bids ranged from \$73,711.00 to \$114,448.00. Kuglin Construction submitted the low bid and has executed all the necessary documents. Kuglin Construction is an established and responsible contractor.

The engineers estimate was \$78,928.00 for the bid.

#### Conclusion

City staff recommends awarding the construction contract to Kuglin Construction in the amount of \$73,711.00.

#### **Concurrences:**

Not applicable.

#### **Fiscal Impact:**

Installation of this storm drain extension will save on maintenance and future road repairs along 23<sup>rd</sup> Street caused by water erosion.

The attached bid tabulation summarizes bids that were received. City will pay the contractor then be reimbursed by MDT for this project.

#### **Alternatives:**

The City Commission could vote to deny award of the construction contract and re-bid the project or do nothing.

#### **Attachments/Exhibits:**

1. Bid tabulation is attached.

CITY OF GREAT FALLS  
 P.O. BOX 5021  
 GREAT FALLS, MT 59403

BID TABULATION SUMMARY  
 22nd Street South Storm Drain Extension  
 O.F. 1447.1

Project Number \_\_\_\_\_  
 Bids Taken at Civic Center  
 Date: July 9, 2009  
 Tabulated By: Kari Wambach

	Name & Address of Bidder	Acknowledge Addendum #1	Acknowledge Addendum #2	10% Bid Security	Affidavit of Non-Collusion	Certificate of Non-Segregated Facilities	Certificate of Compliance with Insurance Req.	Total Bid
1	David W. Kuglin Construction P.O. Box 491 Black Eagle, MT 59414			√	√	√	√	\$73,711.00
2	Ed Boland Construction 4601 7th Ave. So. Great Falls, MT 59405			√	√	√	√	\$114,448.00
3	United Materials, Inc. P.O. Box 1690 Great Falls, MT 59403			√	√	√	√	\$88,694.00
4	Phillips Construction 795 Ulm-Vaughn Rd. Great Falls, MT 59404			√	√	√	√	\$82,698.00
5	Shumaker Excavating PO Box 1279 Great Falls, MT 59403			√	√	√	√	\$111,561.25
6	Central Plumbing 3701 River Drive North Great Falls, MT 59405			√	√	√	√	\$88,870.00
7								
8								
9								
10	<b>Engineer's Estimate</b>							<b>\$78,928.00</b>



**Item:** Construction Contract Award: 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> Avenues North Water Main Replacement, O. F. 1571

**From:** Engineering Division

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Consider Bids and Approve Contract

---

**Suggested Motion:**

1. Commissioner moves:

"I move the City Commission award a contract in the amount of \$878,767.00 to Phillips Construction, LLC for the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Avenues North Water Main Replacement, O. F. 1571, and authorize the City Manager to execute the construction contract documents."

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Approve construction contract award.

**Background:**

Significant Impacts

This project will replace portions of the water system located in 3<sup>rd</sup> Avenue North, 4<sup>th</sup> Avenue North and 5<sup>th</sup> Avenue North. These water mains were installed in the 1890's and 1912.

Citizen Participation

This project is being completed in cooperation with the Department of Environmental Quality (DEQ) and using the Drinking Water State Revolving Fund (DWSRF) for financing.

Workload Impacts

City engineering staff designed the project, will perform construction inspection and contract administration duties.

### Purpose

This project will replace water mains that have been failing and are causing damage to roadways and property, as well as disrupting water service to local residences and businesses.

The breaks are primarily due to corrosive soils, type of pipe material used, and age.

### Project Work Scope

This project will replace approximately 5,520 lineal feet of 6-inch, 8-inch and 12-inch water main, 12 fire hydrants and 158 water service connections; 4,630 square yards of gravel; and 5,570 square yards of four-inch asphalt for road repairs.

The mains are located in 3<sup>rd</sup> Avenue North from 12<sup>th</sup> Street to 14<sup>th</sup> Street; 4<sup>th</sup> Avenue North from 6<sup>th</sup> Street to 14<sup>th</sup> Street and 5<sup>th</sup> Avenue North from 12<sup>th</sup> Street to 14<sup>th</sup> Street.

### Evaluation and Selection Process

Four bids were received and opened for this project on July 8, 2009. The bids ranged from \$878,767.00 to \$1,638,895.00. Phillips Construction, LLC submitted the low bid.

The engineer's estimate is \$981,792.50. Phillips Construction is an established responsible local contractor and has done many projects within the City.

### Conclusion

City staff recommends awarding the contract to Phillips Construction, LLC in the amount of \$878,767.00. Phillips Construction has executed all the necessary documents.

### **Concurrences:**

DEQ has reviewed and approved the plans and specifications for this project, and has given their approval on the selected bidder.

### **Fiscal Impact:**

Replacement of these mains will save on maintenance due to the number of man hours and resources required to make repairs to broken water mains, streets, and surrounding property.

The price for this project, approximately \$157.00 per foot, is quite a bit lower than the engineers estimate of approximately \$176.00 per foot. This appears to be due to the lack of work around the state and interest from bidders from Bozeman and Rexburg Idaho. However, this project is higher than previous projects due to the rock excavation that will be encountered. By comparison, here are prices from some other recently bid projects: 1<sup>st</sup> Avenue North and 5<sup>th</sup> Avenue South awarded on April 7, 2009 for \$736,695.00 which is approximately \$130 per foot; and Sunnyside water main replacement, awarded on April 1, 2008, was \$718,890.00 which is approximately \$143 per foot.

DWSRF loan funds will be used for funding this project.

The attached bid tabulation summarizes bids that were received.

**Alternatives:**

The City Commission could vote to deny award of the construction contract and re-bid the project or do nothing and continue to repair main breaks as they occur.

**Attachments/Exhibits:**

1. Bid tabulation is attached.

CITY OF GREAT FALLS  
 P.O. BOX 5021  
 GREAT FALLS, MT 59403

BID TABULATION SUMMARY

3rd, 4th and 5th Avenues North Water Main Replacement  
 O.F. 1571

Project Number \_\_\_\_\_  
 Bids Taken at Civic Center  
 Date: July 8, 2009  
 Tabulated By: Kari Wambach

	Name & Address of Bidder	Acknowledge Addendum #1	Acknowledge Addendum #2	10% Bid Security	Affidavit of Non-Collusion	Certificate of Non-Segregated Facilities	Certificate of Compliance with Insurance Req.	Total Bid
1	Bozeman Sand & Gravel PO Box 1327 Bozeman, MT 59771	√		√	√	√	√	\$1,638,895.00
2	Ed Boland Construction 4601 7th Ave. So. Great Falls, MT 59405	√		√	√	√	√	\$1,112,745.00
3	Phillips Construction 795 Ulm-Vaughn Rd. Great Falls, MT 59404	√		√	√	√	√	\$878,767.00
4	United Materials, Inc. P.O. Box 1690 Great Falls, MT 59403	√		√	√	√	√	\$940,045.00
5								
6								
7								
8								
9								
10	<b>Engineer's Estimate</b>							<b>\$981,792.50</b>





**Item:** Final Payment – 10<sup>th</sup> Street Bridge Northside Abutment Railings,  
O. F. 979.5

**From:** Engineering Division

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Approve Final Pay Request

---

**Suggested Motion:**

1. Commissioner moves:

"I move the City Commission approve Final Payment for the 10<sup>th</sup> Street Bridge Northside Abutment Railings, O. F. 979.5, in the amount of \$3,202.65 to Dick Anderson Construction, Inc, and \$32.35 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments."

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Approve final payment request.

**Background:**

Significant Impacts

This project installed new railings on the north end of the 10<sup>th</sup> Street Bridge. The original north abutment had solid curvilinear concrete railings that had deteriorated or been removed. This project replaced those railings with new cast-in-place concrete railings. The new railings will edge a future plaza area to be constructed at a later date.

Citizen Participation

This project was completed in cooperation with the State Historic Preservation Office and through the use of a Fish, Wildlife and Parks grant obtained by Preservation Cascade, Inc.

Workload Impacts

Lacy & Ebeling Engineering completed the project design and performed construction inspection and contract administration duties.

### Purpose

This project is a continuation of projects to restore the historic 10<sup>th</sup> Street Bridge.

### Project Work Scope

This project replaced a total of approximately 35 lineal feet of railing on upstream and downstream faces of the north bridge abutment. Also included as alternates were three abutment overhang and wall repairs.

### Evaluation and Selection Process

Three quotes were received for this project. The project was bid in two separate schedules. Schedule I included the railing sections and Schedule II included the alternate repair items. Dick Anderson Construction, Inc. submitted the low bid for both schedules. The contract was awarded to Dick Anderson Construction, Inc by the City Commission April 7, 2009.

### Conclusion

City staff with Lacy & Ebeling Engineering's concurrence has verified that Dick Anderson Construction, Inc has completed all work and punch list items in accordance with the plans and contract. The City can accept the project and execute the Final Payment. The project was completed within the contract time.

### **Concurrences:**

Lacy & Ebeling Engineering recommends approving the final pay.

### **Fiscal Impact:**

The final project cost is \$36,235.00 which is the amount awarded and approved. Funding for this project came from a Fish, Wildlife and Parks Grant in the amount of \$30,150.00 with the remaining match coming from Preservation Cascade, Inc.

### **Alternatives:**

The City Commission could vote to deny final payment.

### **Attachments/Exhibits:**

1. Application for Final Payment is attached. (Not available online; on file in City Clerk's Office.)



**Item:** Construction Contract Award: Coating Improvements at GFWWTP and Lift Station #15, O.F. 1374

**From:** Engineering Division

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Postpone Construction Contract Award

---

**Suggested Motion:**

1. Commissioner moves:

“I move the City Commission postpone the award of the construction contract for the Coating Improvement at GFWWTP and Lift Station #15, O. F. 1374 until the next City Commission meeting on August 4, 2009.

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Postpone construction contract award.

**Background:**

Significant Impacts

Due to the pending approval of American Recovery and Reinvestment Act (ARRA) funds by the Department of Environmental Quality (DEQ), award of the construction contract will need to be postponed until approval is received. This approval is expected before the next City Commission meeting on August 4, 2009

Citizen Participation

Not Applicable

Workload Impacts

NCI Engineering Co. completed the project design and will perform construction inspection and contract administration duties. City engineering staff applied for and were awarded the State Revolving Fund (SRF) Grant and Loan. City Engineering Staff and Veolia staff will assist with project administration duties

Purpose

The City Commission authorized the SRF grant and loan for this project on April 29, 2009, with the grant amount being \$390,700 and the loan amount being \$359,300. The interest rate on the loan will be 1.75%. These funds are part of the American Recovery and Reinvestment Act (ARRA).

Project Work Scope

This project will sandblast and recoat the Primary Clarifier walkways, Secondary Clarifier equipment, and Gravity Thickener equipment plus the wetwell and staircase in the Sun River Lift Station.

Evaluation and Selection Process

Bids were received and opened for this project on July 8, 2009. A recommendation for award will be made for the August 4 meeting.

Conclusion

City staff recommends postponing the award of the construction contract until the next City Commission meeting on August 4, 2009.

**Concurrences:**

Not Applicable.

**Fiscal Impact**

This project will be funded with an SRF grant and loan thru the Montana DEQ. This funding is part of the ARRA stimulus package.

**Alternatives:**

The City Commission could vote to deny the postponement of the award of the construction contract.

**Attachments/Exhibits:**

Not Applicable.



**Item:** Construction Contract Award: 2009 CDBG Sidewalk Replacement, O.F. 1565.2

**From:** Engineering Division

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Postpone Construction Contract Award

---

**Suggested Motion:**

1. Commissioner moves:

“I move the City Commission postpone the award of the construction contract for the 2009 CDBG Sidewalk Replacement, O. F. 1565.2 until the next City Commission meeting on August 4, 2009.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Postpone construction contract award.

**Background:**

Significant Impacts

Due to the pending approval of the CDBG funds on a national level, award of the construction contract will need to be postponed until approval is received. This approval is expected before the next City Commission meeting on August 4, 2009

Citizen Participation

Not Applicable

Workload Impacts

City engineering staff applied for and were awarded the grant and designed the project. The Community Development Department is administering the CDBG program and performing grant and other administrative duties.

Purpose

The City Commission authorized CDBG grant funds for this project April 21, 2009 in the amount of \$75,000. The grant is part of the American Recovery and Reinvestment Act (ARRA). The U.S Department of Housing and Urban Development (HUD) must now approve the allocation of these funds before any costs may be incurred.

Project Work Scope

This project will replace sidewalks at approximately 50 residences which includes over 9,100 square feet of new 4 and 6-inch sidewalk and 3,500 square feet of sodding. These sidewalks will be replaced at various locations throughout the City with the majority being bounded by the area of 8<sup>th</sup> Avenue North to 5<sup>th</sup> Avenue North from 15<sup>th</sup> Street to 26<sup>th</sup> Street.

Evaluation and Selection Process

Bids were received and opened for this project on June 24, 2009. Great Falls Sand and Gravel, Inc. was the low bidder on the project.

Conclusion

City staff recommends postponing the award of the construction contract until the next City Commission meeting on August 4, 2009.

**Concurrences:**

Not Applicable.

**Fiscal Impact**

This project will be funded through the CDBG grant.

**Alternatives:**

The City Commission could vote to deny the postponement of the award of the construction contract.

**Attachments/Exhibits:**

Not Applicable.



**Item:** Construction Contract Award: 2009 CDBG Handicap Ramps,  
O.F. 1565.1

**From:** Engineering Division

**Initiated By:** Public Works Department

**Presented By:** Jim Rearden, Public Works Director

**Action Requested:** Postpone Construction Contract Award

---

**Suggested Motion:**

1. Commissioner moves:

“I move the City Commission postpone the award of the construction contract for the 2009 CDBG Handicap Ramps, O. F. 1565.1 until the next City Commission meeting on August 4, 2009.

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

---

**Staff Recommendation:** Postpone construction contract award.

**Background:**

Significant Impacts

Due to the pending approval of the CDBG funds on a national level, award of the construction contract will need to be postponed until approval is received. This approval is expected before the next City Commission meeting on August 4, 2009

Citizen Participation

Not Applicable

Workload Impacts

City engineering staff applied for and were awarded the grant and designed the project. The Community Development Department is administering the CDBG program and performing grant and other administrative duties.

Purpose

The City Commission authorized CDBG grant funds for this project April 21, 2009 in the amount of \$100,000. The grant is part of the American Recovery and Reinvestment Act (ARRA). The U.S Department of Housing and Urban Development (HUD) must now approve the allocation of these funds before any costs may be incurred.

Project Work Scope

Approximately 600 linear feet of new curb and gutter, 3,650 square feet of new sidewalk for handicap ramps, 272 square feet of truncated domes, and 3,200 square feet of new sod will be installed on this project. Six existing horseshoe style drainage inlets will be replaced with new curb style inlets during this project as well.

Evaluation and Selection Process

Bids were received and opened for this project on June 24, 2009. Kuglin Construction was the low bidder on the project.

Conclusion

City staff recommends postponing the award of the construction contract until the next City Commission meeting on August 4, 2009.

**Concurrences:**

Not Applicable.

**Fiscal Impact**

This project will be funded with the CDBG grant and through Storm Drain Funding.

**Alternatives:**

The City Commission could vote to deny the postponement of the award of the construction contract.

**Attachments/Exhibits:**

Not Applicable.





**Item:** Addendum to Revised Memorandum of Understanding between the Great Falls Development Authority and the City of Great Falls regarding the use of Ag-Tech Industrial Tax Increment District funds for the purpose of paying for Engineering Services for Phase 2 – Industrial Park Access Road Study and Design (OF 1552)

**From:** Coleen Balzarini, Fiscal Services Director

**Initiated By:** Brett Doney, President/CEO Great Falls Development Authority and Industrial Park Steering Committee

**Presented By:** Coleen Balzarini, Fiscal Services Director

**Action Requested:** Approve Addendum to Revised Memorandum of Understanding

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission approve/deny the Addendum to the Revised Memorandum of Understanding between the Great Falls Development Authority and the City of Great Falls regarding the use of Ag-Tech Industrial Tax Increment District Funds for the purpose of paying for Engineering Services for Phase 2 – Industrial Park Access Road Study and Design”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

---

**Staff Recommendation:** Staff recommends that the City Commission approve the Addendum to the Revised Memorandum of Understanding between the Great Falls Development Authority (GFDA) and the City of Great Falls regarding the use of Ag-Tech Industrial Tax Increment District Funds. The cost is expected to be \$9,600 and will be used by the GFDA to fund Phase 2 Design Work, including a traffic study, construction plans for intersection revisions, determine cost estimates for the improvements, and attendance by Thomas, Dean and Hoskins representatives at steering committee meetings. The purpose of the road is for the development of an industrial park east of Black Eagle Road.

**Background:** On May 17, 2005, the City Commission adopted Ordinance 2911, creating the Central Montana Agricultural and Technology Park Tax Increment Industrial Infrastructure District. On November 18, 2008, the City Commission approved a Revised Memorandum of

Understanding between the City and GFDA to complete preliminary engineering and design work. The results of that study have been presented at public meetings in the Spring of 2009.

Section 7-15-4288 (4), MCA provides that the cost of acquiring or installing infrastructure improvements, including, but not limited to streets, roads, water and sewer systems, may be paid by tax increment financing. The Phase 2 design and engineering of the access road is an eligible tax increment project

Phase 2 work related to the proposed road will benefit the existing Ag-Tech Industrial Tax Increment District. Evaluation of expansion of the existing district to include the proposed industrial park is dependent upon specific future development in the area. The funds are available with the current district to pay the costs of the Phase 2 work.

**Concurrences:** City staff participated in the consultant selection process and has reviewed the Phase 2 work scope estimated to cost \$9,600. GFDA agrees to provide project management and submit all payables in accordance with City requirements.

**Fiscal Impact:** The Ag-Tech Tax Increment District Fund will provide up to \$9,600 requested by the GFDA if approved. The funds are currently available for this project.

**Alternatives:** If the Addendum to the Revised Memorandum of Understanding is not approved the GFDA would have to look for an alternative funding source for this project, which would delay improvements proceeding on the access road.

**Attachments/Exhibits:**

1. Addendum to Revised Memorandum of Understanding

ADDENDUM TO REVISED MEMORANDUM OF UNDERSTANDING

This is an addendum to the revised MOU dated November 18, 2008 and is effective this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the City of Great Falls, Montana, a municipal corporation of the State of Montana hereinafter called the City, and the Great Falls Development Authority a registered non-profit development corporation in the State of Montana hereinafter called the GFDA.

The City agrees to use existing eligible tax increment funds to pay costs up to \$9,600 required for GFDA to obtain additional engineering costs and design work for the access road from US 87 east to Black Eagle Road for the purpose of developing an industrial park east of Black Eagle Road.

The City and GFDA approved the original MOU on August 5, 2008, and the revised MOU on November 18, 2008, and participated in the original and updated RFP/RFQ process where T.D. & H Engineering was contracted to complete the original contract. The additional engineering services and Scope of Work are attached. The City agrees to allow GFDA to accept the addition to the contract with T.D. & H. in the amount up to \$9,600 for services as proposed.

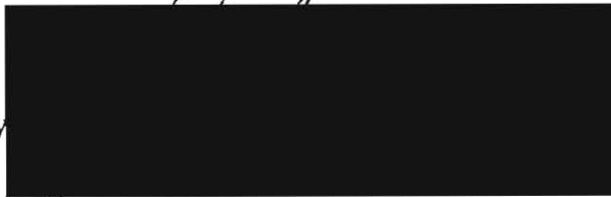
GFDA agrees to provide project management and submit all payables in accordance with City requirements.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2009.

GREAT FALLS DEVELOPMENT AUTHORITY

Brett Doney, President/CEO  
Great Falls Development Authority

By



CITY OF GREAT FALLS  
Greg Doyon, City Manager  
City of Great Falls

By \_\_\_\_\_  
City Manager

ATTEST:

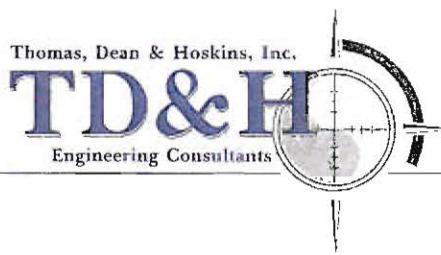
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City Clerk

I, \_\_\_\_\_, Clerk of the City of Great Falls, do hereby certify that the above Memorandum of Understanding was regularly adopted by the City Commission at a meeting thereof held on \_\_\_\_ day of \_\_\_\_\_, 2009 and that the City Commission of Great Falls authorized the City Manager to sign this Memorandum of Understanding on behalf of the Commission.

---

City Clerk



JUL 17 2009

July 7, 2009

Great Falls Development Authority  
300 Central Avenue, US Bank Building, Suite 406  
P.O. Box 949  
Great Falls, MT 59403

Attn: Lillian Sunwall  
Project Manager

Re: Engineering Services Proposal for Phase 2 - Industrial Park Access Road Study and Design

Thank you for the chance to meet with the steering committee for the Access Road. Our recommended Scope of Work and Project Budget for the Phase 2 work that was suggested is detailed below. Note that we would complete this work as a modification to our current Consulting Services Contract.

**Scope of Work**

1. Perform a traffic study and provide recommendations regarding the volume of traffic that the "Figure 3 Intersection Alternative" can safely handle before signalization would be required.
2. Prepare construction plans for the Figure 3 intersection revisions that would be adequate for MDT, the City, and the County to complete the needed improvements. MDT forces would complete any necessary construction staking and traffic control plans.
3. Complete a quantity takeoff and construction cost estimate for the Figure 3 improvements.
4. Attend monthly meetings to provide input to the steering committee, assume 4.

**Budget**

Our estimated cost to complete these services is \$9,600.00. Our services would be billed monthly on the basis of time and materials expended according to our standard rates in effect at the time of service. We should be able to begin work immediately and would aim to have the services completed within one month.

Thank you for allowing us to submit this proposal. Feel free to call if you'd like to discuss it.

Sincerely,

Thomas, Dean & Hoskins, Inc.



Christopher K. Ward, P.E.  
Project Engineer



**Item:** Labor Agreement between the City of Great Falls and the International Brotherhood of Electrical Workers (IBEW), Local Union #233

**From:** City Manager's Office

**Initiated By:** Linda Williams, Human Resources Manager

**Presented By:** Greg Doyon, City Manager

**Action Requested:** Approve Labor Agreement

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (approve/deny) the labor agreement between the City of Great Falls and the International Brotherhood of Electrical Workers, Local Union #233, and authorize the City Manager to execute the agreement”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

---

**Staff Recommendation:** Staff recommends that the City Commission approve the labor agreement between the City of Great Falls and the International Brotherhood of Electrical Workers, Local Union #233.

We are pleased to report that negotiations were respectful, constructive, and completed in only one meeting.

**Background:** The previous eighteen month labor agreement with IBEW expired June 30, 2009. The terms of the proposed agreement extend the agreement for two years, from July 1, 2009 through June 30, 2011.

The major changes from the previous agreement include:

**1. Article 2, Term of the Agreement**

The dates were changed to reflect the terms of the two-year contract, 7/1/09 – 6/30/11.

**2. Article 12, Family and Medical Leave**

Article 12 outlined the Family Medical Leave Act. The detailed language was replaced with reference to the City Policy Manual.

**3. Schedule A, Wages**

The salary schedule was updated to reflect a 3.25% increase effective 7/1/09, and a 1.5% increase 7/1/10.

The hourly rates decrease 21¢/hr. effective 8/1/09 in accordance with Addendum I for a supplemental pension contribution. When the supplemental pension contribution is no longer needed, the 21¢/hr. will go back to the hourly rate of the employees.

The Water Plant Operations Foreman's hourly rate was increased by the same market adjustment amount the Water Plant Operators covered by the Crafts Council labor agreement received 7/1/09, an additional 43¢/hr.

**4. Schedule B, Item 4 (A)(2), Eighth District Electrical Pension Fund**

Language was added referencing the supplemental pension contribution in accordance with Addendum I.

**5. Schedule B, Item 4 (A)(3), Health Insurance**

The contribution rates were changed to reflect City and employee contribution amounts effective 7/1/09, which are the same for all employees. Any health insurance premium increases during the term of the agreement will be shared with the City contributing 90% of the increase and the employees contributing 10% of the increase.

**Concurrences:** The IBEW members voted to ratify the proposed agreement on July 16, 2009.

**Fiscal Impact:** The proposed contract provides for a 3.25% increase in wages effective 7/1/09, and a 1.5% increase in wages effective 7/1/10. The 3.25% effective 7/1/09 is the same as the other bargaining units who have current contracts (MPEA, Fire, Crafts Council and Police).

The City also agreed to contribute 10¢/hr. for the supplemental pension contribution in accordance with Addendum I.

This is the second labor agreement settled for FY '11. Negotiations are scheduled to begin in August for the other contract with a 6/30/09 expiration date (Painter). The Plumbers' contract expires 12/31/09.

Health insurance rates did not increase 7/1/09. If there are increases in health insurance premiums during the term of the agreement, the increase will be shared with the City contributing 90% of the increase and the employees contributing 10% of the increase.

**Attachments/Exhibits:**

1. Proposed labor agreement between the City of Great Falls and the IBEW
2. Addendum I

A G R E E M E N T

BETWEEN

CITY OF GREAT FALLS

AND

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

LOCAL UNION #233

July 1, 2009 – June 30, 2011



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# AGREEMENT

THIS AGREEMENT, made and entered into at Great Falls as of the \_\_\_ day of July, 2009, by and between the CITY OF GREAT FALLS, MONTANA, hereinafter referred to as the "CITY", and LOCAL UNION #233, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, hereinafter referred to as the "UNION", the parties have mutually agreed as follows:

## ARTICLE 1

### RECOGNITION AND PURPOSE

The CITY recognizes the UNION signatory hereto as the exclusive representative of all of its employees who are subject to the terms of this Agreement, for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, working conditions and all other conditions of employment. The CITY recognizes that the employees covered by this Agreement are primarily maintenance and service employees.

The present recognized jurisdiction of the International Brotherhood of Electrical Workers shall be maintained during the term of this Agreement, with the exception of the Water Plant Operator classification. The current employees classified as Water Plant Operators will be grandfathered in under this agreement, but as these positions are vacated, the classification of Water Plant Operator will no longer be under the jurisdiction of the IBEW.

## ARTICLE 2

### TERM OF THE AGREEMENT

- 2.1 This Agreement shall take effect July 1, 2009 and shall remain in effect until June 30, 2011, unless otherwise specifically provided for herein. It shall continue in effect from year to year thereafter, from July 1 through June 30 of each year, unless changed or terminated as provided herein.
- 2.2 Either party desiring to change or terminate this Agreement must notify the other in writing at least 60 days prior to the anniversary date.
- 2.3 Whenever such notice is given for changes, the articles to be changed, added, or deleted must be specified in the notice.
- 2.4 The existing provisions of the Agreement shall remain in full force and effect until a conclusion is reached in the matter of the proposed changes.
- 2.5 The parties shall attempt to reach an agreement with respect to the proposed change or changes; and at least thirty (30) days prior to the expiration date of the Agreement, meetings to consider such changes shall be held by the parties. In the event that an agreement has not been reached by the anniversary date to renew, modify, or extend this Agreement or to submit the unresolved issues to final and binding arbitration, either party may serve the other a ten (10) day written notice terminating this agreement. The terms and conditions of this Agreement shall remain in full force and effect until the expiration of the ten (10) day period.
- 2.6 By mutual agreement only, the parties may jointly submit the unresolved issues to final and binding arbitration for adjudication. The decision shall be final and binding on all parties

hereto

- 2.7 This Agreement shall be subject to change or supplement at any time by mutual consent of the parties hereto. Any such change or supplement agreed upon shall be reduced to writing, signed by the parties hereto, and submitted to the International Office of the I.B.E.W. and the City of Great Falls for approval, the same as this Agreement.

### ARTICLE 3

#### SUCCESSORS:

In order to effectuate the purpose of this Agreement, the parties agree that this Agreement shall be binding upon their successors or assigns.

### ARTICLE 4

#### DEFINITIONS

- A. "Employee" and "employees" shall mean employees of the CITY who are members covered by this Agreement, but excluding supervisory employees and management employees as defined by Montana Law.
- B. "Permanent employee" means an employee who is assigned to a position designated as permanent in the City's budget.
- C. "Temporary employee" means an employee assigned to a position designated as temporary in the City's budget, created for a definite period of time not to exceed nine (9) months.
- D. "Full-time employee" means an employee who normally works forty (40) hours a week.
- E. Base Pay defined as: Employee's hourly pay rate in that category to which an employee is ordinarily assigned exclusive of longevity or any other special allowances.

### ARTICLE 5

#### UNION SECURITY

5.1 Employees who are members of the UNION on the date this Agreement is executed shall, as a condition of continuing employment, maintain their membership in the UNION. All future employees performing work within the jurisdiction of the UNION involved shall, as a condition of continuing employment become members of such UNION within thirty (30) days of the date of their employment and the UNION agrees that such employees shall have thirty-one (31) days from date of employment within which to pay UNION'S initiation fees and dues. If the employees fail to pay initiation fees or dues within thirty-one (31) days or fails to effectuate the provisions of Section 39-31-204 of the Montana Statutes, the UNION may request in writing that the employee be discharged. The CITY agrees to discharge said employee upon written request from the UNION. CITY agrees not to discriminate against any employee for membership in the UNION or for lawful UNION activities, provided such activities do not interfere with the efficient operation of the various departments of the CITY.

Employees qualifying under 39-31-204 shall pay an agency fee, equivalent to the regular initiation fee and UNION dues as provided for in the Local UNION, for the purpose of administering the Agreement.

CITY shall notify UNION in writing of employees hired that may be affected by this Agreement within five (5) days from the date of hire and said employee shall be notified to make contact with the UNION.

5.2 The CITY agrees to deduct the UNION monthly dues and initiation fee from each employee's wages upon written authorization of employee. The deductions shall be made once each month and the total of such deductions made payable to the UNION.

5.3 It is understood the UNION shall have the right to use Business Agents, Shop Committees or Stewards to adjust grievances as they arise. The CITY agrees that local Business Agents for the UNION shall be given access by the CITY to members of the UNION at the places of business of the CITY during hours of operation, for the purpose of ascertaining whether the terms of this Agreement are being observed if the agent does not disrupt the normal CITY operations, except for unsafe conditions.

5.4 The UNION will notify the CITY in writing what representative (Business Agent, Shop Committee or Stewards) it will use in matters relating to grievances, interpretation of the Agreement or in any other matters which affect or may affect the relationship between the CITY and UNION.

5.5 The UNION agrees to indemnify, defend and to hold the CITY harmless against any and all claims, demands, suits, costs or fees, which may be sought or incurred by the CITY as a result of any action taken by the CITY under the provisions of ARTICLE IV.

5.6 In consideration of the "save harmless" clause above, the CITY agrees that the UNION shall

maintain the exclusive right to defend, settle, mitigate damages, litigate and/or take whatever action is necessary or it deems proper with respect to a person who sues the CITY for action taken by the CITY under ARTICLE 4.1. If the CITY unilaterally determines that it desires attorneys to represent it in defense of such actions, it shall do so at its own cost and not at the cost of the UNION. It is further agreed that the CITY shall promptly notify the UNION of any such action when and if filed and the UNION shall, at its own option, defend such actions and/or settle under the circumstances above described.

## ARTICLE 6

### STRIKES AND LOCKOUTS

- 6.1 The parties hereto pledge their efforts to reach agreement on any difficulties that arise during the life of this Agreement.
- 6.2 It is mutually agreed that there will be no strikes, lockouts or cessation of work by either party on account of labor difficulties during the life of this Agreement.
- 6.3 It shall not be a violation of this Agreement to refuse to cross a legal picket line.
- 6.4 The UNION and the CITY agree that "strikes" or "lockouts" will not prevent the UNION or the CITY from providing emergency operation of the water, wastewater and sanitation systems that are essential to the health, welfare, and safety of the public.
- 6.5 The UNION may "strike" the CITY on any issue that the CITY does not agree to settle by binding arbitration. The CITY may "lockout" the UNION on any issue that the UNION does not agree to settle by binding arbitration.

## ARTICLE 7

### MANAGEMENT RIGHTS:

The CITY shall have the right to operate and manage its affairs in such areas as but not limited to:

- a. direct employees;

- b. hire, promote, transfer, assign and retain employees;
- c. relieve employees from duties because of the lack of work or funds or under conditions where continuation of such work is inefficient and nonproductive;
- d. maintain the efficiency of CITY operations;
- e. determine the methods, means, job classifications, and personnel by which the CITY operations are to be conducted;
- f. take whatever actions may be necessary to carry out the missions of the CITY in situations of emergency;
- g. establish the methods and processes by which work is performed, including the utilization of advancements of technology.

The foregoing enumeration of CITY management's rights shall not be deemed to exclude other functions not specifically set forth. The CITY, therefore, retains all rights not otherwise specifically covered by this Agreement.

## ARTICLE 8

### EMPLOYEE RIGHTS/GRIEVANCE

8.1 Grievances or disputes which may arise, including the interpretation of this Agreement, shall be settled in the following manner:

- STEP 1           The Division Supervisor will attempt to resolve any grievances that arise in his Division.
- STEP 2           A.     If the employee is not satisfied with the Division Supervisor's decision, he may reduce the grievance to writing and submit to the UNION for evaluation. The written grievance shall contain the following information:
- 1.     The nature of the grievance and the facts on which it is based.
  - 2.     The provisions of the agreement allegedly violated, if applicable.
  - 3.     The remedy requested.
- B.     No grievance shall be considered or processed unless it is submitted within fifteen (15) days of the first knowledge.
- STEP 3           If in the UNION'S opinion a grievance exists, the UNION (with or without the presence of the aggrieved employee) may present the written grievance to the Department Director.
- STEP 4           If within ten (10) working days the grievance has not been settled, it may be submitted to the City Manager or his designee for adjustment.

STEP 5 If within ten (10) calendar days the grievance has not been settled, it may be submitted to arbitration for adjustment by either party.

- A. Each party shall alternately strike one (1) name from a list of five (5) names submitted to them by the American Arbitration Association. By mutual consent another process can be utilized. The arbitrator shall have thirty (30) days in which to render a decision.
- B. Any grievance involving a monetary issue, including those related to hours and working conditions which could have an apparent economic effect or impact less than five hundred dollars (\$500) shall be subject to final and binding arbitration. Any monetary issue, as defined in the last sentence, in excess of five hundred dollars (\$500) may be subject to final and binding arbitration only if mutually agreed upon.
- C. If the CITY and UNION cannot agree whether a grievance is monetary or the dollar amount thereof, either party may seek judicial determination.
- D. CITY shall present claims or grievances in writing to the UNION.
- E. Arbitrator's Authority: In any case where final and binding arbitration is utilized, the arbitrator shall have no right to amend, modify, nullify, ignore, add to or subtract from the terms and conditions of this Agreement. The arbitrator shall consider and decide only the specific issue(s) submitted in writing by the CITY and the UNION and shall have no authority to make a decision on any other issue not so submitted. The Arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modify or vary in any way the application of rules, laws, regulations having the force and effect of law. The expenses of arbitration shall be borne by the two parties equally, however, each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of proceedings, it may cause such a record to be made, provided, however, it pays for the record. If both parties desire a verbatim record of the proceedings, the costs shall be shared equally.

8.2 WAIVER: If a grievance is not presented within the time limits set forth above, it shall be considered "waived". If a grievance is not appealed to the next step in the specific time limit, or any agreed extension thereof, it shall be considered settled on the basis of the CITY's or UNION's last answer. If the CITY or UNION does not answer a grievance or an appeal thereof within the specified time limits, the UNION or CITY may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the CITY and the UNION.

#### ARTICLE 9



WAGES AND PAY PERIODS:

Attached hereto and made a part hereof by reference as Schedule A is a list of the agreed wage schedule, classifications and rates of jobs of employees covered by and for the duration of this Agreement. Exclusive of unforeseen emergencies, all employees covered by this Agreement shall be paid at least two times each month. The CITY will make every effort to have paychecks by 4:00 p.m. on pay day.

ARTICLE 10

HOURS OF WORK AND OVERTIME:

- 10.1 Subject to the special work schedules set forth herein the normal work week shall consist of five (5) days, of eight (8) continuous hours each, except for a normal lunch period. Any schedule other than Monday through Friday will be worked out with the employees and the UNION will be notified.
- 10.2 One and one-half times (1½) the regular straight time rate of pay will be paid for all hours worked in excess of eight (8) hours in one day or forty (40) in any one week. In no case shall overtime pay be paid twice for the same hours worked.
- 10.3 CITY agrees that each permanent full-time employee will be given the opportunity of working at least forty (40) hours of each work week except those in which any of the holidays provided for herein occur; during work weeks in which any said holidays fall upon any work day, CITY agrees that each permanent full-time employee will be given the opportunity of working thirty-two (32) hours of work week specified herein. Holidays shall be counted as days worked in computing the initial forty (40) hours for overtime purposes. Nothing in this section shall be interpreted as a limitation on the right of the CITY to lay off employees as otherwise provided in this Agreement. The CITY and the UNION will mutually agree on any modification of hours of the work week prior to a reduction in manpower.

ARTICLE 11

CALL BACK:

- 11.1 An employee called in for work at a time other than his (her) normal scheduled shift (off duty) will be compensated for a minimum of two (2) hours overtime from two (2) hours before the start of their scheduled shift and four (4) hours from the end of the scheduled shift on a normal work day.

At all other times, including holidays and vacations, the employee will be compensated for four (4) hours minimum paid at one and one half (1½) times the employee's regular pay rate.

An extension or earlier report to a regularly scheduled shift on duty does not qualify the employee for the two (2) hour minimum; however, the employee must be notified by 10:00 p.m. in order to qualify for an early report.

- 11.2 Standby Time: An employee placed on standby will wear a pager, which is provided by the

CITY, and remain within the range of the pager during the time on standby. The standby period is defined as any consecutive 24-hour period. The employee must be notified at least 24 hours preceding the beginning of any standby period, and no later than 10:00 p.m. on a normal work day. The employee will be compensated for two (2) hours of overtime pay for the standby period in addition to any call back compensation.

- 11.3 Bargaining unit members who are required to make calls after regular working hours to cover any call out to work, or troubleshoot a problem on the phone, shall be paid a minimum of one-half (½) hour at one and one-half times their regular rate of pay, regardless of the number of calls it takes to resolve the problem. If actual time worked exceeds one-half (½) hour, the employee will be paid for the actual time worked at one and one-half times their regular rate of pay.

## ARTICLE 12

### SENIORITY

Seniority means the rights secured by permanent full-time employees by length of continuous service with the City. Seniority rights shall apply to layoff, scheduling of vacations and transfers of employees, that is, the last employee hired shall be the first laid off. Seniority shall not be effective until a six (6) month probationary period has been completed, after which seniority shall date back to the date of last hiring. Seniority shall be determined by craft and division. Recall rights are not earned until after six (6) months continuous service.

Seniority shall be broken by (a) quit; (b) retirement; (c) discharge; (d) failure to report after layoff within fourteen (14) calendar days following written notification to employee and UNION to return to work sent to the last known address to the City; (e) absence from CITY employment for layoff or illness for twelve (12) or more months. No new permanent employees shall be hired in a craft or division until all laid off employees who shall retain seniority in that classification who are qualified to fill the open job have been given an opportunity to return to work.

## ARTICLE 13

### PROBATIONARY PERIODS (FOR WORK EVALUATIONS ONLY):

- 13.1 All newly hired or rehired (after twelve (12) months absence) employees will serve satisfactorily a six (6) month probationary period.
- 13.2 All employees will serve a six (6) month probationary period in any dissimilar job in which the employee has not served a probationary period.
- 13.3 At any time during the probationary period, a newly hired or rehired (after twelve (12) months absence) employee may be terminated at the sole discretion of the CITY.
- 13.4 If an employee is determined to be unqualified during a probationary period following a promotion or reassignment, said employee shall revert to his previous position or one of comparable pay and responsibility.

## ARTICLE 14

### HOLIDAYS:

- 14.1 Full-time employees shall be granted the following holidays each calendar year:
- a. New Year's Day, January 1
  - b. Martin Luther King Day, third Monday in January
  - c. Lincoln's and Washington's Birthday, third Monday in February
  - d. Memorial Day, Last Monday in May
  - e. Independence Day, July 4
  - f. Labor Day, first Monday in September
  - g. Veterans Day, November 11
  - h. Thanksgiving, fourth Thursday and Friday in November
  - i. Christmas, December 25
  - j. Every day in which a general election is held throughout the State (General Election Day)
- 14.2 Designated holidays falling on an employee's regularly scheduled day off, as provided in 2-18-603, MCA, shall be entitled to receive a day off with pay on the day preceding the holiday or on another day following the holiday in the same pay period. If a day off cannot be provided, the employee will receive eight (8) hours of pay at the regular rate of pay.
- 14.3 If the employee is required to work on the designated holiday and is not given a day off in lieu of the holiday, he/she will be paid at one and one-half (1 1/2) times the regular hourly rate plus holiday pay.
- 14.4 An employee must be in a pay status either the last regularly scheduled working day before or the first regularly scheduled working day after a holiday is observed to be eligible to receive holiday benefits.

## ARTICLE 15

### VACATION:

Vacation shall be earned and accumulated as provided in the Montana Codes Annotated.

Vacation time earned but not used at the time of termination shall be paid the employee at his base pay. Vacation time shall be granted at the time requested insofar as possible, subject to the requirement of service. Vacations shall be bulletined and the most senior employee shall have the first choice as to his vacation time; also he shall be given a choice of a split vacation if he so desires.

Vacations shall be bulletined so as to start on January 1 and end on December 31 of each year. If an employee desires to take his vacation other than the period requested he must contact his immediate supervisor and arrange for same. All vacations are to be based on each employee's

anniversary day of hire.

All vacations will be bulletined between November 1 through December 31. Any protest over vacation dates must be submitted, in writing, to the division head before January 1 or no adjustments will be made.

In the case of vacation schedules, seniority shall govern by division with the most senior employee given first (1st) choice of when he shall take his vacation. Employee may split vacation provided that in no event may less than one week be taken at any time nor may more than two vacation periods be scheduled in any one calendar year, except that, with the approval of the division head, an employee may schedule as many as five (5) of his days to be taken one day at a time as long as all other vacation time is taken in at least one-week segments, and no more than two periods throughout the year. Seniority shall apply on first split only.

## ARTICLE 16

### SICK LEAVE:

- 16.1 Sick leave shall be earned and accumulated as provided in the Montana Codes Annotated.
- 16.2 Employee may take sick leave for the following reasons:
1. Personal illness, including doctor and dentist appointments. Employees are requested to give twenty-four (24) hours prior notice of doctor and dentist appointments, except in cases of emergencies or unforeseen circumstances.
  2. When urgently need to care for an employee's spouse, children, mother, father, or any other member of the household who is ill; this leave may not exceed more than three (3) days at any one time.
  3. When there is a death in the immediate family, five (5) days sick leave may be granted. The "immediate family" shall mean: spouse, children, mother, father, sisters, brothers, grandparents and corresponding in-laws.
- 16.3 A doctor's report may be required for any paid sick leave in excess of one (1) working day, or at any time where a pattern of excessive sick leave is identified by the CITY.
- 16.4 Employees are required to follow the following two steps in order to be eligible for payment of sick leave pay.
1. Report as soon as reasonable possible prior to the beginning of the shift to his (her) division head the reason for absence.
  2. If the absence is for more than one (1) day in length, the employee must keep his (her) division head informed of his (her) condition, when physically possible.
- 16.5 Worker's compensation benefits, which are received by an employee during sick leave, shall be deducted from compensation due the employee and shall be credited to the employee's

sick leave.

- 16.6 "Leave of Absence" time shall not be deducted from normal sick leave or vacation time and shall be taken without compensation, until the employee's return to his regular job.
- 16.7 Death Benefits. All personnel shall receive Public Employment Retirement System death benefits, which presently are as follows for the beneficiaries of members who die before retirement.
1. Lump sum. All contributions to PERS plus interest and one (1) month's salary for each year of service up to six (6) years.
- 16.8 SICK LEAVE DONATIONS. Sick leave utilized must not exceed the amount accrued by the employee. If an employee is ill and has exhausted his/her sick leave credits, and needs more time away from work, he/she may utilize his/her accrued annual leave. If an employee is ill and has exhausted all his/her sick leave and vacation leave credits, and needs more time away from work, members of the IBEW UNION may donate five (5) days of sick leave to an employee on an individual basis. Requests for donations must be approved by management. Maximum employee can receive or donate is fifteen (15) days in a calendar year.
- 16.9 The City agrees to make application to participate in the State's VEBA (Voluntary Employee Beneficiary Association) program, or a similar Health Reimbursement Account (HRA) program, designed to allow employees to contribute termination sick leave pay outs into an account to pay for eligible health insurance premiums and medical expenses after retirement. The cash out of accrued sick leave will be in accordance with state law, MCA 2-18-618(6), which currently provides lump-sum payment at 25% of an employee's accrued sick leave balance upon termination.

## ARTICLE 17

### FAMILY AND MEDICAL LEAVE:

- 17.1 As referenced in City Policy Manual.

## ARTICLE 18

### TEMPORARY ASSIGNMENTS:

Employees temporarily assigned to a higher rated position, (i.e., Water Plant Operations Foreman performs Electrician work), shall receive the higher rate of pay for all actual hours worked at the higher rated position. If an Electrician is reassigned to the Building Official's division to perform inspections when the Code Inspector is on an extended vacation, he/she shall receive the higher rate of pay for all actual hours worked at the higher rated position.

ARTICLE 19

REST BREAK:

There shall be a fifteen (15) minute break midway in the first (1st) half of a shift and midway in the second (2nd) half of the shift for all employees covered under the terms of this Agreement.

ARTICLE 20

SEVERANCE PAY:

Any employee who has completed his probationary period and who shall be terminated by the CITY, except for just and sufficient cause for firing, shall be given fourteen (14) calendar days notice of said termination or in lieu of said notice ten (10) working days pay computed at the employee's normal base pay rate. Employees quitting the CITY will give a minimum of fourteen (14) calendar days notice or be terminated not in good standing and will not be eligible for rehire.

ARTICLE 21

JURY DUTY:

An employee who is under proper summons as a juror shall collect all fees and allowances payable as a result of the service and forward the fees to the CITY. Juror fees shall be applied against the amount due the employee from the CITY. An employee may elect to charge the juror time off as annual leave and not remit the juror fees to the CITY. The CITY may request the Court to excuse an employee summoned for jury duty if needed for proper operations of the CITY.

An employee dismissed before three (3:00) p.m. will be required to report back to work if not on annual leave.

ARTICLE 22

LEAVE OF ABSENCE:

Employees are eligible to apply for a leave of absence without pay for a period not to exceed six (6) months, unless an extension is mutually agreed to. The granting and extent of a leave of absence without pay is at the discretion of the CITY. During such leave, the employee shall not accrue any benefits, including but not limited to, sick leave and vacation leave. Existing seniority rights will be frozen during the term of the leave. Employees must self-pay health insurance premiums while on an approved leave of absence. No leave of absence will be granted for an employee to accept outside employment.

ARTICLE 23

HOT MEAL:

In the event an employee is required to work more than two (2) hours overtime following a regular shift and for each additional five (5) hours of overtime he shall be provided a hot meal by the CITY and given a reasonable amount of time to eat. Employee will not be paid for any time utilized to eat.

For health purposes, all employees shall be provided clean up facilities prior to meals. Morning meal limited to \$7.50 and evening meal to \$10.00, or an amount equal to other bargaining unit's meal allowance, whichever is greater.

#### ARTICLE 24

##### LONGEVITY:

For purposes of longevity only, time shall be computed and start July 1, 1993 for the first year of the contract. Starting 7/1/04, for purposes of longevity only, time shall be computed and start from the date of hire into the bargaining unit without a break in service, and the following schedule of benefits shall be paid to employees who accrue longevity in the time elements stipulated.

Longevity Plan: Subsequent to the completion of ten (10) full years of employment, employees who otherwise qualify will receive supplemental longevity pay as provided in the following schedule:

<u>YEARS OF TENURE</u>	<u>LONGEVITY PAY ALLOWANCE</u>
After 10.0 years through the end of the 15th year	\$10.00 per month
After 15.0 years through the end of the 20th year	\$20.00 per month
After 20.0 years through the end of the 25th year	\$30.00 per month
After 25.0 years through the end of the 30th year	\$40.00 per month
After 30.0 years or more years	\$50.00 per month

Longevity pay will be paid to the eligible employees in a lump sum amount once each year in December for any longevity pay earned as of the previous June 30th. The maximum payment to be for twelve (12) months. Longevity pay to be in separate check to the employee.

#### ARTICLE 25

##### AFFIRMATIVE ACTION POLICY:

The UNION and the CITY agree to cooperate in an Affirmative Action Program to ensure that no individuals shall be discriminated against with respect to compensation, hours or conditions of employment because of age, race, religion, sex, national origin, marital status, or public assistance status.

#### ARTICLE 26

##### SUPPLEMENTAL AGREEMENT:

26.1 During the term of this Agreement and any extensions hereof, no collective bargaining shall

be had upon any matter covered by this Agreement or upon any matter which has been raised and disposed of during the course of the collective bargaining which resulted in the consummation of this Agreement, unless mutually agreed by both parties.

ARTICLE 27

SAVINGS CLAUSE:

In the event any Federal or State law or final decision of a court of competent jurisdiction ruling conflicts with any provision of the Agreement, the provision or provision so affected shall no longer be operative or binding upon the parties, but the remaining portion of the Agreement shall continue in full force and effect. The CITY and UNION agree to meet as soon as possible for the purpose of negotiation on the provision or provisions so affected.

**SCHEDULE A**

CITY OF GREAT FALLS

AND

LOCAL UNION #233, I.B.E.W.

During the term of this Agreement, the following rates will be paid:

<u>TITLE</u>	<u>EFFECTIVE</u>		
	<u>JULY 1, 2009</u> (3.25% increase)	<u>AUGUST 1, 2009</u> **(21¢ reduction in wages for supplemental pension contribution)	<u>JULY 1, 2010</u> (1.5% increase)
Master Electrician	\$24.31	\$24.10	\$24.49
Electrician	\$22.80	\$22.59	\$22.96
Traffic Signal Technician	\$22.80	\$22.59	\$22.96
Code Inspector	\$24.31	\$24.10	\$22.96
Water Plant Operations Foreman	\$21.49*	\$21.28	\$21.63

\*includes 43¢/hr market adjustment

\*When the Water Plant Operator II's covered by the Crafts Council labor agreement receive a market adjustment, in addition to the cost of living increase negotiated between the City of Great Falls and the Crafts Council, the City agrees to adjust the Water Plant Operations Foreman's rate of pay by the same market adjustment amount.

\*\*Hourly rate decreased 21¢/hr effective 8/1/09 in accordance with Addendum I for a supplemental pension contribution of 25% of the contribution rate (\$1.25). The City will pay 10¢/hr. and the employees pay 21¢/hr. by reducing their hourly pay. When the supplemental pension contribution is no longer needed, the 21¢/hr. will go back to the hourly wage of the employees and the City will no longer contribute the 10¢/hr.

**SCHEDULE B**

CITY OF GREAT FALLS

AND

LOCAL UNION #233, I.B.E.W.

SPECIAL CONDITIONS

In addition to the above wages, the following Special Conditions shall be provided:



1. Special Work Schedules: It is understood and agreed that certain job classifications at the water plant require special work schedules. In those cases, the Supervisor shall designate the work week, and employees so affected who must work Saturday or Sunday will be given two other consecutive days off in lieu of Saturday and Sunday. It is further understood and agreed that in those divisions wherein twenty-four (24) hour work schedules or less are maintained the Supervisor shall establish a shift rotation schedule so that each employee may be rotated on an equal basis with the other employees of the division and craft between the various shifts. This also applies to the rotation of days off where seven (7) day coverage is required.
2. P.E.R.S.: Employees shall be covered by the Montana Public Employees Retirement System, as provided by State law.
3. Special Conditions -- Inspectors:
  - (A) The Union shall have jurisdiction over those employees of the City classified as Electrical Inspectors only.
  - (B) Applicants for the position of Electrical Inspector shall possess at least one of the following qualifications:
    - (1) Master's License in the electrical field;
    - (2) Certification as a degreed, registered engineer with a minimum of one year's work experience in the appropriate discipline at the time of employment;
    - (3) A bachelor's degree in engineering with a minimum of three years' work experience in the appropriate discipline at the time of employment;
    - (4) A minimum of five years' work experience in the appropriate discipline at the time of employment.
  - (C) In the event a vacancy occurs, the City will attempt to hire an individual with the qualifications set forth in Item 3(B)(1) above. Upon approval to recruit for the position, the City will notify the Union and request a list of qualified personnel. Said list of qualified personnel must complete a City application packet and will be considered along with applicants obtained through the City's normal recruitment practices.
  - (D) Any inspector assigned to the Building Inspection Division, who is qualified, whether covered by this Agreement or not, may be required to perform the normal duties of any other inspector assigned to said division when:
    - (1) Said inspector is absent due to illness, vacation or other authorized absence;
    - (2) An emergency situation exists (i.e., flood, fire, earthquake or other

- act of God);  
(3) Necessary for efficiency of operation.

4. Union Pension and Insurance Plans: The City agrees to pay directly to any pension plan designated by the Union, an amount specified by said Union for all hours compensated for by the City. The City further agrees to contribute amounts outlined below into the various pension and insurance plans. Any additional contributions specified by the Union for the duration of this Agreement will be deducted from employee's base pay.

(A) I.B.E.W.:

- (1) It is agreed that in accord with the Employees Benefit Agreement of the National Electrical Benefit Fund ("NEBF"), as entered into between the National Electrical Contractors Association and the International Brotherhood of Electrical Workers on September 3, 1946, as amended, and now delineated as the Restated Employees Benefit Agreement and Trust, that unless authorized otherwise by the NEBF, the individual employer will forward monthly to the NEBF's designated local collection agent an amount equal to 3% of the gross monthly labor payroll paid to, or accrued by, the employees in this bargaining unit, and a completed payroll report prescribed by the NEBF. The payment shall be made by check or draft and shall constitute a debt due and owing to the NEBF on the last day of each calendar month, which may be recovered by suit initiated by the NEBF or its assignee. The payment and the payroll report shall be mailed to reach the office of the appropriate local collection agent not later than fifteen (15) calendar days following the end of each calendar month.

The individual employer hereby accepts, and agrees to be bound by, the Restated Employees Benefit Agreement and Trust.

An individual employer who fails to remit as provided above shall be additionally subject to having this Agreement terminated upon seventy-two (72) hours notice in writing being served by the Union, provided the individual employer fails to show satisfactory proof that the required payments have been paid to the appropriate local collection agent.

The failure of an individual employer to comply with the applicable provisions of the Restated Employees Benefit Agreement and Trust shall also constitute a breach of the labor agreement.

The City is obligated to pay the 3% of gross monthly payroll for the Master Electrician, Electrician, Traffic Signal Technician, Code Inspector and Water Plant Operations Foreman.

- (2) The sum of one dollar and twenty-five cents (\$1.25) per hour per man for all hours paid on Master Electrician, Electrician, Traffic Signal Technician, Code Inspector, and Water Plant Operations Foreman employed under the terms of this Agreement will be forwarded monthly to a depository designated by the Trustees of the Eighth District Electrical Pension Fund. The City shall forward monthly a payroll report on a form prescribed by the Trust Fund Committee. Such payment and payroll report shall be mailed to reach the office of the collecting agency not later than fifteen (15) calendar days following the end of each calendar month. If the City fails to remit, the City shall be additionally subject to having this Agreement terminated upon seventy-two (72) hours notice in writing being served by the Union, provided the City fails to show satisfactory proof that the required payments have been paid to the designated depository.

Effective 8/1/09, in accordance with Addendum I, a supplemental pension contribution in the amount of 31¢/hr. shall be contributed to the Pension Fund. The City will pay 10¢/hr. and the employees will pay 21¢/hr. by reducing their hourly pay 21¢/hr. When the supplemental pension contribution is no longer needed, the 21¢/hr. shall go back to the hourly rate of the employees, and the City will no longer contribute the 10¢/hr.

- (3) The Employer agrees to provide non-occupational health and accident insurance coverage for each insurable regular employee and insurable dependents thereof immediately following the period of exclusion provided by the terms of the master policy.

A City health insurance contribution in the amount listed below will be added to the employee's gross pay. This portion of the employee's gross pay is hereinafter referred to as the "Contribution." As part of this collective bargaining agreement, employees are required to participate in the city's health insurance plan on either a pre-tax or post-tax basis. If an employee elects to participate on a pre-tax basis, the employee shall authorize a payroll deduction from the employee's gross pay equal to the City's contribution. This deduction from the employee's gross pay will be paid into a fund maintained to provide health benefits for eligible employees.

If an employee elects to participate on a post-tax basis, the Contribution shall be taxable income to the employee and the employee shall authorize the payment of the Contribution value, after its deemed receipt, toward the employee's health insurance.

It is hereby acknowledged that both employee and employer retirement contributions will be required on this additional gross income, causing a decrease to the net income of the employee. It is also the intent of the employees and the City that the Contribution be excluded from the determination of the employee's "regular rate" of compensation as that

phrase is defined under 29 U.S.C. § 207(e)(4). In the event that any subsequent law, court, arbitrator, or other lawful authority determines that the inclusion of the City’s health insurance contribution in the employee’s gross pay should be included in overtime compensation calculations, then the parties agree that there will be a corresponding adjustment to the affected hourly rate, pay or benefit to carry out the intent of this provision. The intent of such adjustment will be to result in the least net financial effect on both the employee and the employer.

\*The City’s contribution of the composite rate will increase with future increases to the composite rate.

The CITY agrees to contribute the following amounts, not to exceed ninety (90) percent of the premium for each eligible employee covered by this Agreement into the City’s Health Insurance Plan. Any additional premium charges and all increases in premiums for the duration of this Agreement will be shared to maintain the City’s 90 (ninety) percent contribution of the total premium and the employee’s contribution of 10 (ten) percent.

Type of Coverage	7/1/09	
	City Composite Contribution	Employee
Employee	\$783	\$ 21
Employee & Spouse	\$783	\$ 80
Employee & Child(ren)	\$783	\$ 76
Family	\$783	\$105

- a. The City reserves the right to add to the benefit plan in effect prior to August 1, 1988, with no obligation to negotiate, and retains the right to delete or modify any or all the added benefits with no obligation to negotiate.

Effective 7/1/97, the City reserves the right to add to, delete from, or modify the benefit plan, with no obligation to negotiate, and retains the right to delete or modify any or all of the added benefits with no obligation to negotiate.

- b. The City shall be at liberty to make an independent selection of the insurance carrier, including the option of partially or fully self-funding with no obligation to negotiate.

- (4) In those divisions where shifts are established, there shall be paid in addition to the regular hourly wage, a shift differential of twenty-five (25¢) per hour for the evening shift and thirty-five cents (35¢) per hour for the midnight to morning shift. For shift differential pay calculation, the 25¢ per hour rate will be from 4:00 p.m. to midnight

and the 35¢ per hour rate from midnight to 8:00 a.m. Employees assigned to special work schedules will be paid the shift differential for that shift whether they actually work the shift or not.

- (5) A lead worker, designated by the City, shall be paid sixty cents (60¢) per hour over the regular rate.

AGREED to and dated this \_\_\_\_ day of July, 2009.

FOR THE CITY OF GREAT FALLS

FOR LOCAL UNION #233, I.B.E.W.

\_\_\_\_\_  
Greg Doyon, City Manager

\_\_\_\_\_  
Keith Allen, Business Manager

ATTEST:

\_\_\_\_\_  
Lisa C. Kunz, City Clerk

(SEAL OF CITY)

REVIEWED FOR LEGAL CONTENT:

\_\_\_\_\_  
David V. Gliko, City Attorney

ADDENDUM I  
ADDENDUM TO COLLECTIVE BARGAINING AGREEMENT BETWEEN  
CITY OF GREAT FALLS AND INTERNATIONAL BROTHERHOOD  
OF ELECTRICAL WORKERS, LOCAL 233

The Undersigned parties to the above-referenced Agreement hereby acknowledge and agree that pursuant to the Notice of Critical Status received from the Eighth District Electrical Pension Fund, the parties hereby adopt the following Rehabilitation Plan (Alternative I) as agreed to by the Trustees of the Eighth District Electrical Pension Fund, which provides as follows:

1. Benefit Accrual Rate. The benefit accrual rate is reduced to 1.5% of contributions for hours worked under the Agreement on and after July 1, 2009.

2. Early Retirement Benefit. The Early Benefit provided under the Eighth District Electrical Pension Fund shall be equal to the Regular Pension amount payable at age 65 reduced by one-half of one percent ( $\frac{1}{2}$  of 1%) for each month the Participant is younger than age 65.

3. Service Pension Benefit. The Service Pension Benefit provided under the Eighth District Electrical Pension Fund shall be equal to the Regular Pension amount payable at age 65 reduced by one-half of one percent ( $\frac{1}{2}$  of 1%) for each month the Participant is younger than age 62. There is no reduction in the Regular Pension amount if the Participant is age 62 or older.

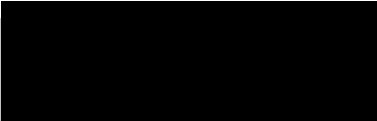
4. Deferred Pension Benefit. Deferred Pension Benefit provided under the Eighth District Electrical Pension Fund shall be equal to the Regular Pension amount payable at age 65 reduced by one-half of one percent ( $\frac{1}{2}$  of 1%) for each month the Participant is younger than age 65.

5. Supplemental Pension Contribution. Effective for hours worked on and after August 1, 2009, the parties agree that a supplemental pension contribution of 25% of the contribution rate in effect on April 1, 2009, payable to the Eighth District Electrical Pension Fund, shall be contributed to the Pension Fund, which amount shall not accrue any benefits. The parties acknowledge and agree that the amount of the Supplemental Pension Contribution is \$.31 with the employer paying \$.10 and the employees paying \$.21 by reducing their hourly pay \$.21.

6. When the supplemental pension contribution is no longer needed, the \$.21 shall go back to the hourly wage of the employees.

The provisions of this Addendum shall remain in full force and effect until such time as the parties are notified by the Board of Trustees of the Eighth District Electrical Pension Fund that the Pension Fund that they may modify or eliminate the provisions of this Addendum.

The parties have caused this Addendum to be executed by their duly authorized representatives this 21<sup>st</sup> day of July, 2009.

  
Keith Allen  
IBEW 233  
Business Manager

By: \_\_\_\_\_  
Greg Doyon  
City of Great Falls  
City Manager



**Item:** Appointments to the Advisory Commission on International Relationships  
**From:** City Manager's Office  
**Initiated By:** City Commission  
**Presented By:** City Commission  
**Action Requested:** Appoint two members to the Advisory Commission on International Relationships.

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission appoint \_\_\_\_\_ and \_\_\_\_\_ for three-year terms through March 31, 2012, to the Advisory Commission on International Relationships.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

---

**Staff Recommendation:** It is recommended that the City Commission appoint two members for three-year terms through March 31, 2012, to the Advisory Commission on International Relationships.

**Background:** The ACIR currently has two vacancies. Two applications have been received.

Purpose

International programs are growing for many reasons. Rapid changes in communications technology, globalization of the marketplace, and political changes in the last decade have all contributed to an increasing awareness these trends will accelerate in the future. Communities, as well as individuals, businesses, and institutions will need to learn to participate in the “global village,” or be left behind economically or in other ways. In order for the City to take a leadership role in nurturing and coordinating some of the international efforts, the Advisory Commission on International Relationships was created by Ordinance 2788 on November 8, 2000, and amended by Ordinance 2863 on October 21, 2003. The Commission provides support, coordination, and exchange of information for international programs in the community. The Commission consists of nine to eleven members.

Evaluation and Selection Process

Announcements regarding the openings were placed in the *Great Falls Tribune* and on the City's Website. Two applications were received.

Continuing members of this board are:

Robin Baker  
Christina Barksy  
Jay Buckley  
Carol Lindseth  
Matthew Murray  
Heather Palermo  
Sandra Erickson

Citizens interested in serving on this Board:

Howard Hahn  
Anders Blewett

**Concurrences:** The Advisory Commission on International Relationships recommends appointment of both applicants.

**Fiscal Impact:** Not applicable.

**Alternatives:** Continue advertising to seek further citizen interest.

**Attachments/Exhibits:**

Board Applications (Not available online; on file in City Clerk's Office.)





**Item:** Appointment to the Electric City Power Board of Directors

**From:** City Manager's Office

**Initiated By:** City Commission

**Presented By:** City Commission

**Action Requested:** Appoint one member to the Electric City Power Board of Directors.

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission appoint \_\_\_\_\_ to fill the remainder of a term through December 31, 2011, to the Electric City Power Board of Directors.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

---

**Staff Recommendation:** It is recommended that the City Commission appoint one member to the Electric City Power Board of Directors to fill the remainder of term through December 31, 2011.

**Background:** John Gilbert was appointed to the Electric City Power Board on September 16, 2008. Mr. Gilbert has resigned from the Board due to health issues; therefore, it is necessary to appoint one member to fill the remainder of his term.

Purpose

On November 1, 2005, the City Commission adopted Ordinance 2925 which restructured Electric City Power as a non-profit organization. Resolution 9529 adopted the Articles of Incorporation and Resolution 9530 adopted the Bylaws on November 15, 2005. Bylaws state that the Board of Directors shall consist of five directors to be appointed by the City Commission. The term of office is six years, with initial appointments staggered terms.

Evaluation and Selection Process

Announcements regarding the opening were placed in the *Great Falls Tribune* and on the City's Website. Two applications were received for consideration by the Commission in making this appointment.

Continuing members of this board are:

Lee Ebeling  
George Golie  
Robert Pancich  
William Ryan

Citizens interested in serving on this Board:

Robert Hoppe  
Olaf M. Stimac, Jr.

**Fiscal Impact:** Not applicable.

**Alternatives:** Continue advertising to seek further citizen interest.

**Attachments/Exhibits:**

Board Applications (Not available online; on file in City Clerk's Office.)