



# City Commission Agenda

for

## May 6, 2008

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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**

**PROCLAMATION**

National Police Week

**NEIGHBORHOOD COUNCILS**

1. Swearing In Ceremony. Al Smith, Council 3 and Joe Leggett, Council 9.
2. Miscellaneous reports and announcements.

**PUBLIC HEARINGS**

3. Res. 9742, Vacation of Cul-de-sac in 15<sup>th</sup> Street Bridge Addition. Action: Conduct public hearing and adopt or deny Res. 9742. **(Presented by: Jim Rearden)**

**OLD BUSINESS**

4. Agreement, Water Right Solutions, Inc. and First Amendment to the Agreement. Action: Approve or deny agreement. **(Presented by: Coleen Balzarini)**
5. Annual Action Plan Including Use of 2008/2009 CDBG and HOME Funds. Action: Adopt or deny Action Plan and recommended use of CDBG and HOME funds. **(Presented by: Chris Imhoff)**
6. Land Purchase. Approve purchase of land from Duane and Darin Vick for the use of a new Solid Waste Transfer Station and Compost site. Action: Approve or deny purchase. **(Presented by: Jim Rearden)**

**NEW BUSINESS**

**ORDINANCES/RESOLUTIONS**

7. Ord. 3003, Assign City Zoning to Lots 34 and 35A, Beebe Tracts. Assigns zoning classification of C-2 General Commercial District upon annexation. Action: Accept Ord. 3003 on first reading and set public hearing for June 3, 2008. **(Presented by: Ben Rangel)**
8. Ord. 3004, Assign City Zoning to Bootlegger Addition Phase I. Assigns zoning classification of R-3 Single-family high density district upon annexation. Action: Accept Ord. 3004 on first reading and set public hearing for June 3, 2008. **(Presented by: Ben Rangel)**

9. Ord. 3006, Assign City Zoning to Castle Pines Addition Phase VI. Assigns zoning classification of R-3 Single-family high density district upon annexation. Action: Accept Ord. 3006 on first reading and set public hearing for June 3, 2008. **(Presented by: Ben Rangel)**
10. Res. 9743, Remodel Tax Benefits, 1720 10<sup>th</sup> Avenue South. Approves a remodeling tax benefit for McDonald's. Action: Adopt or deny Res. 9743. **(Presented by: Mike Rattray)**
11. Res. 9745, Authorizing the receipt of the letter of approval from Montana Department of Natural Resources and Conservation and authorize the sale and delivery of the City's \$4,010,000 Water Revenue Bonds. Action Requested: Adopt or deny Res. 9745. **(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.*

12. Minutes, April 15, 2008, Commission meeting.
13. Total Expenditures of \$2,460,747 for the period of April 16-30, 2008, to include claims over \$5000, in the amount of \$2,156,966.
14. Contracts list.
15. Approve Final Payment to Dick Anderson Construction, Inc., and the State Miscellaneous Tax Division in the amount of \$6,266.04 for the Giant Springs Storm Drain Outfall Rehabilitation.

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

#### **BOARDS & COMMISSIONS**

16. Preliminary Plat, Eagle's Crossing Addition Phase IV. Action: Approve the Preliminary Plat and Accompanying Findings of Fact, subject to fulfillment of stipulated conditions. **(Presented by: Ben Rangel)**
17. Appointments, Design Review Board. Appoint two members to the Design Review Board for three-year terms through March 31, 2011.
18. Appointments, Housing Authority Board. Appoint one new member for a five-year term through June 30, 2013, and reappoint Grace McLean as a tenant member for a two-year term through June 30, 2010.
19. Appointments, Advisory Commission on International Relationships. Appoint two new members to the Advisory Commission on International Relationships for three-year terms through May 31, 2011.
20. Miscellaneous reports and announcements.

#### **CITY MANAGER**

21. Miscellaneous reports and announcements.

#### **PETITIONS AND COMMUNICATIONS** *(Please keep your remarks to a maximum of 5 minutes)*

22. Miscellaneous reports and announcements.

#### **CITY COMMISSION**

23. Miscellaneous reports and announcements.

#### **MOTION TO ADJOURN**



**Item:** Resolution 9742: Vacation of Cul-de-sac in 15<sup>th</sup> Street Bridge Addition

**From:** Jim Rearden, Public Works Director

**Initiated By:** Public Works Department

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

**Action Requested:** City Commission hold public hearing and consider adoption of Resolution 9742 to Vacate a Cul-de-sac in the 15<sup>th</sup> Street Bridge Addition.

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**Suggested Motion:**

1. Commissioner moves:  
  
"I move the City Commission adopt Resolution 9742."
  2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.
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**Staff Recommendation:** It is recommended the City Commission approve the vacation of the cul-de-sac (known as 12<sup>th</sup> Avenue North) in the 15<sup>th</sup> Street Bridge Addition.

**Background:** The City of Great Falls is currently considering relocating the existing City Recycling Center and Trash Disposal Facility and have had an appraisal completed on the property.

The subject right-of-way is located at 1100 15<sup>th</sup> Street North. Though the cul-de-sac was never officially built, the right-of-way needs to be vacated for the purpose of selling the City owned property known as Lot 2. Lot 1 is owned by Admiral Beverage Corporation, (Pepsi Cola).

NCI Engineering has prepared an appropriate amended plat which shows the distribution of the right-of-way proposed to be vacated, reconfiguration of the abutting Lots 1 and 2, and reservation of required utility easements.

**Fiscal Impact:** Vacation of the cul-de-sac would provide additional square footage to the parcel being proposed for sale, thus presumably providing a positive fiscal impact.

**Alternatives:** An alternative would be to allow the cul-de-sac to remain. This would allow the Recycling Center property to be further subdivided and sold in multiple parcels, but would also require expenditure of roadway improvements to serve the parcels.

**Attachments/Exhibits:**

Resolution 9742 w/ exhibits

RESOLUTION 9742

A RESOLUTION BY THE CITY COMMISSION  
OF THE CITY OF GREAT FALLS, MONTANA,  
TO VACATE A DEDICATED CUL-DE-SAC (KNOWN AS 12<sup>TH</sup> AVENUE NORTH)  
LOCATED IN THE 15<sup>TH</sup> STREET BRIDGE ADDITION TO GREAT FALLS,  
IN ACCORDANCE WITH THE PROVISIONS OF  
SECTION 7-14-4114, MONTANA CODE ANNOTATED

\* \* \* \* \*

WHEREAS, there exists a platted, dedicated public roadway consisting of a sixty (60) foot strip of land and cul-de-sac located in the 15<sup>th</sup> Street Bridge Addition, more particularly described as follows:

A tract of land in the NW ¼ of Section 6, T20N, R4E, P.M.M. located between Lots 1 and 2 of the 15<sup>th</sup> Street Bridge Addition; and designated and identified in various documents of record as “a City Street”, said tract being more particularly described as follows:

Beginning at the centerline intersection of 10<sup>th</sup> Avenue North and 13<sup>th</sup> Street; thence S89°53'E, 430.17 feet to the centerline intersection of 10<sup>th</sup> Avenue north and 14<sup>th</sup> Street; thence North 525.08 feet along the abandoned centerline of 14<sup>th</sup> Street to the north boundary of the Old Chicago, Milwaukee, St. Paul, & Pacific Railroad; thence N82°20'W, 90.83 feet; thence North 207.03 feet; thence S82°19'E, 201.83 feet to the true point of beginning; thence 149.42 feet Northerly along a circular curve to the right with a radius of 60.0 feet; thence 17.91 feet Easterly along a circular curve to the left with a radius of 20.0 feet; thence S89°57' E, 107.55 feet; thence 31.42 feet Northerly along a circular curve to the left with a radius of 20.0 feet; thence S0°03'W, 14.10 feet; thence 1.40 feet Southerly along a circular curve to the right with a radius of 923.0 feet; thence S89°52'E, 2.0 feet; thence 86.53 feet Southerly along a circular curve to the right with a radius of 925.0 feet; thence 33.32 feet Northerly along a circular curve to the left with a radius of 20.0 feet; thence N89°57'W, 105.46 feet; thence 17.91 feet Southerly along a circular curve to the left with a radius of 20.0 feet; thence 146.56 feet Northerly along a circular curve to the right with a radius of 60.0 feet to the true point of beginning, containing 19,565 square feet and .449 acres.

all as shown on the map attached hereto marked Exhibit “A” and by this reference made a part hereof; and,

WHEREAS, for several years said cul-de-sac (not formerly constructed) was used as public access to the City Pulverizer Complex; and,

WHEREAS, upon vacation of said cul-de-sac, the abandoned right-of-way shall revert to and be consolidated with the adjacent Lots 1 and 2 of the 15<sup>th</sup> Street Bridge Addition.

WHEREAS, the City Commission of the City of Great Falls, Montana, duly and regularly passed and adopted on the 19th day of February, 2008, Resolution 9731 entitled:

A RESOLUTION OF INTENTION  
BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA,  
TO VACATE A DEDICATED CUL-DE-SAC (KNOWN AS 12<sup>TH</sup> AVENUE NORTH)  
LOCATED IN THE 15<sup>TH</sup> STREET BRIDGE ADDITION TO GREAT FALLS,  
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 City Clerk of said City, forthwith caused notice of said Resolution 9731 to be:

- 1) published in the Great Falls Tribune, the newspaper published nearest the right-of-way proposed for vacation; and
- 2) posted in three public places, stating therein the time and place the City Commission shall hear all persons relative to said proposed vacation.

WHEREAS, a hearing was held by the City Commission of the City of Great Falls on the 6<sup>th</sup> day of May, 2008, at 7:00 P.M. in the Commission Chambers of the Great Falls Civic Center, where said Commission heard all persons relative to the proposed vacation of said cul-de-sac (known as 12<sup>th</sup> Avenue North)..

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

The cul-de-sac as dedicated within the 15<sup>th</sup> Street Bridge Addition to Great Falls is hereby vacated.

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that this Resolution shall become effective either thirty (30) days after its passage and approval or upon filing in the office of the Cascade County Clerk and Recorder, the amended plat consolidating the abandoned right-of-way with the adjacent Lots 1 and 2 of the 15<sup>th</sup> Street Bridge Addition, which ever event shall occur later.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 6<sup>th</sup> day of May, 2008.

\_\_\_\_\_  
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     )

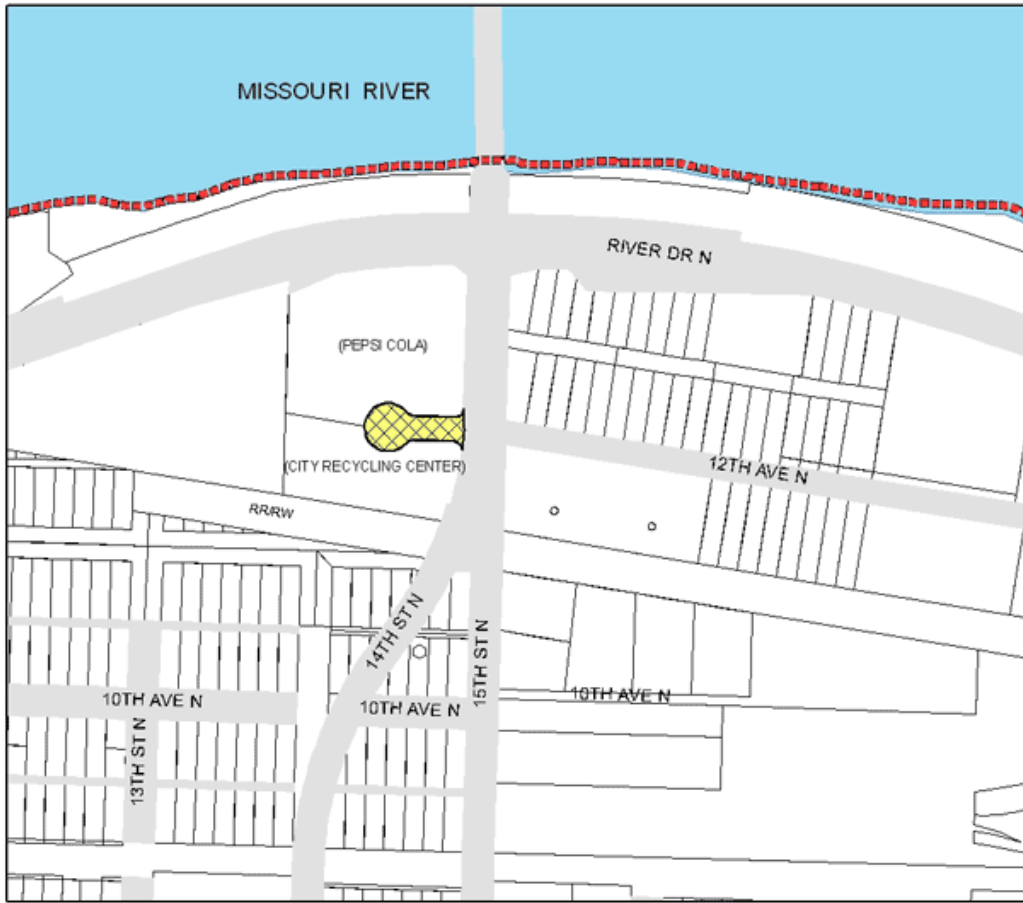
I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9742 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 6<sup>th</sup> day of May, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 6<sup>th</sup> day of May, 2008.

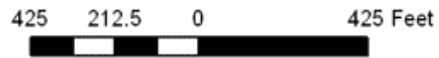
\_\_\_\_\_  
Lisa Kunz, City Clerk

(CITY SEAL)

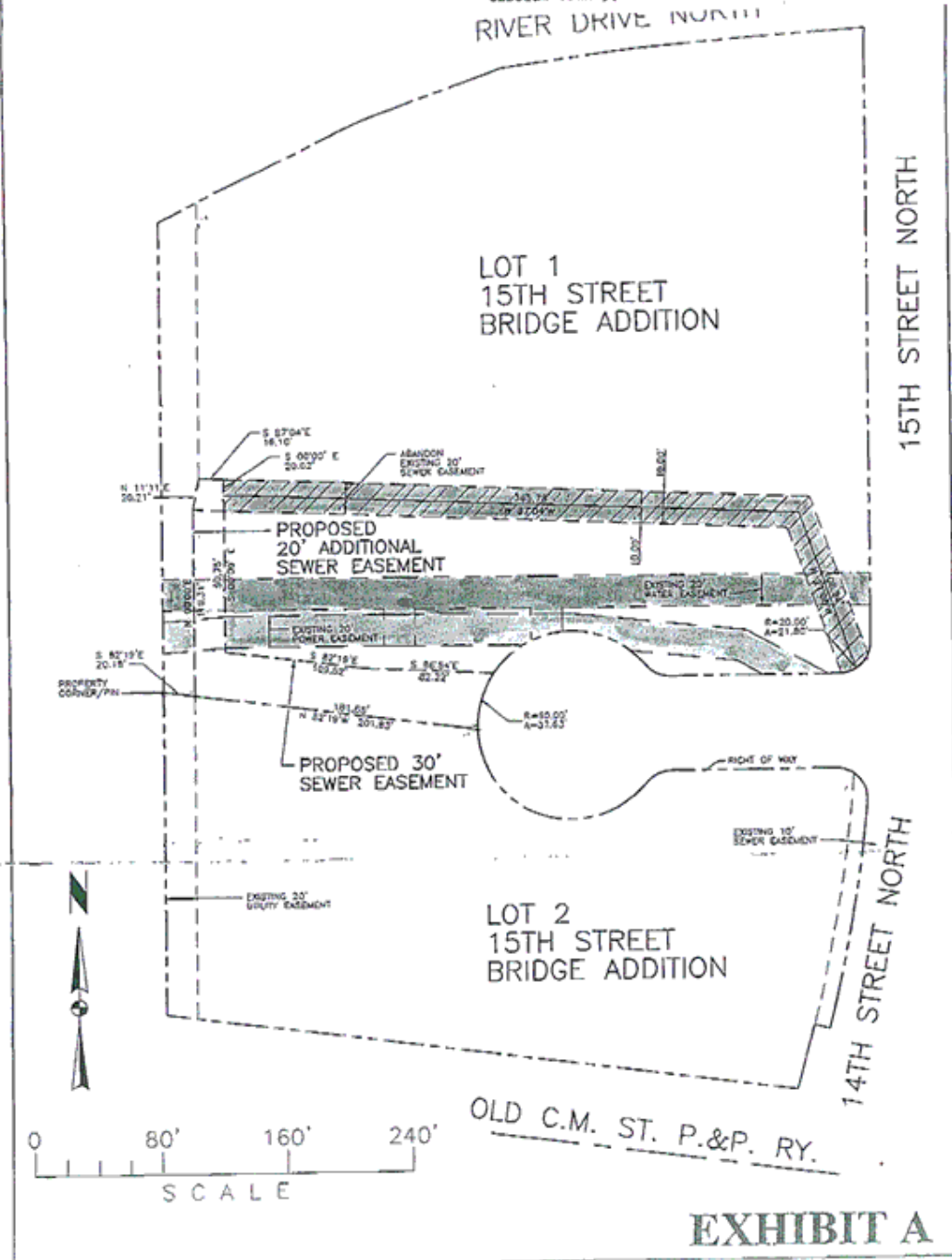
# EXHIBIT "A" VICINITY MAP



 RIGHT-OF-WAY PROPOSED TO BE VACATED







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**Item:** Consulting Agreement with Water Right Solutions and First Amendment to the Agreement

**From:** Water Right Solutions, Inc.

**Initiated By:** City Interest in Utilizing, Protecting & Defending Its Various Water Rights and Reservations

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

**Action Requested:** Authorize the City Manager to Execute a Consulting Agreement and First Amendment to the Agreement with Water Right Solutions, Inc.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission authorize the City Manager to execute a Consulting Agreement and First Amendment to the Agreement with Water Right Solutions, Inc.”

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

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**Staff Recommendation:** It is recommended that the City Commission authorize the City Manager to execute a consulting agreement and first amendment to the agreement with Water Right Solutions, Inc.

**Background:**

Significant Impacts: Services performed by WRSI since 2002 have included filings with the Department of Natural Resources and Conservation (DNRC) to correct and amend the City’s existing water rights and reservations. WRSI has also submitted applications and support of requests to add new points of diversion and places of use to the City’s water reservation to accommodate industrial companies operating or intending to locate operations in Great Falls.

Purpose: On June 18, 2002, the City Commission authorized the City Manager to enter into an Agreement with Water Right Solutions, Inc (WRSI). A new agreement has been prepared that updates the scope of work that might be performed by WRSI and the fees related to the work. The fee schedule has been the same since 2002. Fee increases are necessary due to inflationary cost increases as well as increasing demands on WRSI staff, which are occurring as a direct result of the acceleration of the adjudication of Montana water rights.

Project Work Scope: First Amendment to Agreement: On February 6, 2008, the MT Department of Natural Resources and Conservation (DNRC) Montana Water Court issued a Notice of Entry of Temporary Preliminary Decree for the Missouri River, From Holter Dam to Sun River (Basin 41QJ). This basin has 2,584 water right claims on file with DNRC. The City has three water right claims in this basin as well as additional water rights in the downstream 41Q Basin. Staff recommends that the City engage WRSI to review, evaluate, and if necessary make recommendation to the City to exercise its right to object to information contained in the Temporary Preliminary Decree that may have an adverse impact on the City's water rights.

All interested parties, including the City, have an opportunity to review their own water rights, as well as the water rights of other parties, during the Temporary Preliminary Decree time period. Such a review would evaluate potential impacts to City water rights in relation to others and in relation to conflicting information related to City water rights, in Basin 41QJ. The review would also evaluate Basin 41QJ claims and potential impacts on the City's downstream water rights in Basin 41Q. There are no known existing issues, and it is possible that no issues related to City water rights will be identified that would require further action. In order to make that determination, it is necessary to review the 2,584 water right claims and their potential impact to the City's rights. There are a number of different scenarios that might have an adverse impact on the City's rights.

Example 1: A water right holder in 41QJ is claiming or using water rights which are in excess of its historical use or existing claimed rights. This excess claim poses a potential negative impact to the City rights and therefore the City should object during the preliminary decree period.

Example 2: A City water right contains incorrect information such as a 'place of use' description that requires correction by the City.

The 180 day comment period is the primary opportunity for the City to participate in the Water Court proceedings related to Basin 41QJ. The City's right to appeal any adverse decision is limited once the Final Decree is issued. Therefore, Staff believes it is advisable to engage Water Right Solutions to review the preliminary decree and related 2,584 water right claims on behalf of the City. It is anticipated this may take up to 32 hours of consulting time to review and provide recommendations on what actions, if any, the City should make in regards to Basin 41QJ water rights.

Evaluation and Selection Process: WRSI has served as the City's water right consultant since 2002 when the malting plant requested to purchase raw water from the City. The City's previously unused water reservation was identified as the source of water to be used for this request. In order to use the proposed water reservation it was necessary to identify the existing places of use and diversion points and then make a change application to the DNRC. During the course of that specific task it became apparent that the City's other water rights and reservations were in need of review. In conjunction with the malting plant water use application, WRSI was also engaged to perform an overall review and provide the City with a recommended course of future actions to protect its water rights. At this time WRSI is very familiar with the City's water rights and provides necessary expertise to the City in the protection of those rights.

### Conclusion:

It is recommended that WRSI continue to act as the City's water rights consultant. This is a professional services contract where the consultant performs specific tasks at the request of the City. Each of those tasks has an associated cost of significantly less than the \$50,000 benchmark that would require a formal Bid or RFP process.

The First Amendment to the Agreement authorizes Water Right Solutions to review the preliminary decree and related 2,584 water right claims on behalf of the City. It is anticipated this may take up to 32 hours of consulting time to review and provide recommendations on what actions, if any, the City should make in regards to Basin 41QJ water rights. Based on the consultant's reported findings and recommendations it is possible that additional expenses may be necessary to protect the City's water rights.

**Concurrences:** The City Attorney has reviewed the contract. The indemnification clause within the contract has been revised per the City Attorney's recommendation.

**Fiscal Impact:** Consultant Agreement combined fees paid to date are \$105,500, or an average fee of less than \$21,000 per year. The rate will increase from \$75 per hour to \$85 per hour for staff time and \$100 per hour for principal consultant time. If the consultant appears as an expert witness on behalf of the City the fee will be \$150 per hour. Based on the consultant's reported findings and recommendations it is possible that additional work and related expenses may be necessary to protect the City's water rights.

### **Alternatives:**

The City has two other alternatives. It can do nothing in regards to reviewing and defending its water rights in relation to other water rights. The risk is that there may be issue remarks by the Water Court that are detrimental to the City's rights and the window of opportunity to participate in that process will be missed.

City Staff can bring the water rights review process in house and avoid consulting fees. This is not a recommended alternative as this is a specialized area in which City staff is not proficient.

### **Attachments/Exhibits:**

1. "A Cautionary Tale" by Stan Bradshaw, legal counsel to Trout Unlimited Montana Water Project. (Attachment not available online; on file in City Clerk's Office.)
2. Proposed agreement and first amendment to the agreement.

## CONSULTING AGREEMENT

THIS AGREEMENT is entered into between WATER RIGHT SOLUTIONS, INC.,(WRSI) 303 Clarke Street, Helena, Montana 59601 ("Consultant") and City of Great Falls (City), P.O. Box 5021, Great Falls, MT 59403 ("Owner") on the following terms and conditions.

### W I T N E S S E T H

1. Scope of Work. The Owner seeks to obtain the services of the Consultant and the Consultant agrees to provide to the Owner the following described services and scope of work:

WRSI will provide the following services: 1) Preparation of water rights documents associated with Applications for Permit Changes on City economic development projects or other municipal purposes; 2) Prepare documents necessary for the adjudication and defense of existing water rights, including the review of Water Court decrees, analysis of competing water rights for the purpose of objections; 3) Prepare analysis and research for the acquisition of additional water rights; 4) Attend, meetings and prepare presentations to the City Commission and other entities as requested; 5) Consultant will provide expert testimony at hearings before the DNRC, Water Court and District Court as needed.

Work will be coordinated as mutually agreed between the parties as various ongoing and new projects that involve water rights issues proceed through various legal/administrative processes.

2. Personnel. The Consultant may employ such employees as it deems necessary to operate its business affairs and to complete the Scope of Work set forth above. If the Consultant enters into any subcontract with an outside firm or person for particular tasks or particular expertise needed to complete the Scope of Work, such subcontracts (other than routine water sampling tests) shall be subject to the written approval of the Owner; provided, however, that any subcontracts identified in the Scope of Work (with subcontract fees set forth therein) shall be deemed to be approved by the Owner. The Consultant shall have the right to supervise and direct all work performed by any such subcontractors and the costs and fees of the subcontractors shall be paid by the Owner so long as subcontracts are approved in writing by the Owner or were included in the original Scope of Work.

3. Compensation. In consideration of the services rendered to the Owner as set forth in the Scope of Work, the Owner agrees to compensate the Consultant as follows:

a. Fees. All staff consulting fees, including travel, shall be billed at the rate of \$85.00 per hour. Consulting fees for the Principals of WRSI shall be billed at the rate of \$100.00 per hour. Expert testimony billed at \$150.00 per hour.

b. Expenses. Owner agrees to compensate the Consultant for reasonable expenses incurred in performing the Scope of Work including, but not by way of limitation: copies, postage, federal express, telephone charges, fax charges, use of automobile (at 0.65/mile) meals, filing fees, and water sample costs. In lieu of actual costs for meals, the Consultant may charge a reasonable per diem rate that shall be similar to the federal per diem rate. The general overhead costs of operating

Consultant's business (e.g., office space, utilities, equipment, secretarial support) are included in the hourly fees and shall not be billed to the Owner as expenses.

4. Invoices. The Consultant shall submit to the Owner monthly invoices providing a detailed accounting of all hourly services rendered and all expenses incurred. All itemized expenses submitted shall be supported by copies of receipts (except for reasonable per diem and mileage reimbursement).

5. Payment. The Owner agrees to pay the Consultant for all fees and expenses contained in the invoice within thirty (30) days of receipt of the invoice. Any invoices not paid within said 30 day period shall bear interest at the rate of 10% per annum.

6. Term. This Agreement shall be in force and effect until the Scope of Work is completed and the Consultant has been paid in full or until otherwise terminated as set forth in Paragraph 7.

7. Termination. Either party may terminate this Agreement upon providing the other party thirty (30) days prior written notice of the intent to terminate the Agreement. All notices shall be given as provided in Paragraph 8. In the event of termination of the Agreement by the Owner, the Owner shall still be liable to the Consultant for Consultant's fees and expenses incurred prior to the date of receipt of the Notice of Termination.

8. Notices. Any notice required by or issued in relation to this Agreement shall be made by first class mail to the following addresses of the parties:

Water Right Solutions, Inc.  
303 Clarke Street  
Helena, Montana 59601

City of Great Falls  
Fiscal Services, P.O. Box 5021  
Great Falls, MT 59403

All notices sent by mail shall be deemed to have been received three days after having been deposited in any United States Post Office properly addressed to the above address.

9. Independent Contractor. In performing the Scope of Work services under this Agreement, the Consultant and any person acting on behalf of the Consultant are independent contractors and are not and shall not be deemed employees or agents of the Owner.

10. Governing Law. The parties consent and agree that this Agreement is entered into in Helena, Montana, and that this contract shall be construed and enforced in accordance with the laws of the State of Montana. The parties further consent to and agree that the justice court and/or state district court for Lewis and Clark County, Montana, shall have jurisdiction over any disputes that may arise under this Agreement and that the prevailing party shall be entitled to costs and reasonable attorney fees. As an alternative to litigation, the parties may agree to submit the matter to binding arbitration and agree on a third party to resolve the dispute.

11. Amendments. This is the complete agreement of the parties and it supersedes any agreement or understanding that has been made prior to this Agreement. Any changes or alterations to this Agreement shall be in writing, duly signed by both parties, and affixed to the contract as an Amendment. This Agreement may not be assigned without the written consent of both parties, except as provided in Paragraph 13.

12. Waiver. The failure of a party to object to, or to take affirmative action with respect to, any conduct by the other party which is in violation of this Agreement shall not be construed as a waiver of the violation or breach or a waiver of any future violation, breach or wrongful conduct.

13. Survival of Agreement. This agreement shall not be terminated by a restructuring or incorporation of either party. This agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. If either of the parties restructures but remains within the general scope of their business, this Agreement shall remain in effect and can be assigned.

14 Insurance: Consultant hereby agrees to obtain at its own expense and to keep in full force and effect during the contract term the following insurance coverages. All policies shall be issued by companies licensed to do business in the State of Montana and having at least an "A" rating in the current Best's Manual. All such policies of insurance shall be endorsed to be primary of all other valid and collectible coverages maintained by the Consultant and the City of Great Falls, with respect to their activities in relation to the services provided. All applicable policies will be written on an occurrence basis. Claims made policies are not acceptable and do not constitute compliance with the Permit Holder's obligation under this paragraph.

*Comprehensive General Liability* – Said coverage shall have limits of not less than \$750,000 per claim \$1,500,000 per occurrence combined single limit for bodily injury and property damage. Coverage shall name, as additional insured, the City of Great Falls.

*Professional Liability Insurance* - Consultant will maintain at its expense: Professional Liability Insurance in the amount of \$1,000,000 including coverage for errors and omissions caused by Consultant's negligence in the performance of its duties under this agreement."

Consultant shall furnish to the City of Great Falls certificates of insurance including a copy of the Additional Insured Endorsement as evidence that the required coverage is in effect.

15. Indemnification Consultant shall indemnify, defend and hold harmless the City, its officers, agents and employees from any and all claims, demands or liability arising out of any intentional or negligent act or omission by the Consultant, its agents or employees in the performance of this contract; and, City shall indemnify, defend and hold harmless the Consultant, its agents and employees from any and all claims, demands or liability arising out of any intentional or

negligent act or omission by the City, its officers, agents or employees in the performance of this contract.

16. Effective Date The effective date of this Agreement shall be the date of the last party to sign the Agreement. This Agreement governs and controls all work performed by the Consultant for the Owner from the effective date of the Agreement.

OWNER: City of Great Falls

By \_\_\_\_\_

Date: \_\_\_\_\_

CONSULTANT: Water Right Solutions, Inc.

By \_\_\_\_\_

Date: \_\_\_\_\_

David M. Schmidt  
Principal, Senior Water Rights Specialist

APPROVED AS TO FORM:

By \_\_\_\_\_

David Gliko, City Attorney



**AMENDED CONSULTING AGREEMENT**

THIS FIRST AMENDMENT entered into between WATER RIGHT SOLUTIONS, INC. (WRSI) and The City of Great Falls (City) is an attachment to the scope of work as follows:

Conduct decree examination work in basins 41QJ and 41Q to identify water rights claims that could, if decreed potentially adversely impact water rights currently held by the City of Great Falls. WRSI will examine Montana Water Court Decrees to identify claims that would warrant objection. After consultation with the City WRSI would prepare draft objections (if any) for the City Attorneys, review.

It is anticipated this may take up to 32 hours of consulting time to review and provide recommendations on what actions, if any, the City should make in regards to Basin 41QJ water rights. Based on the consultant's reported findings and recommendations it is possible that additional work by WRSI may be necessary to protect the City's water rights. Any such additional work will be discussed and approved in advance by WRSI and City.

City of Great Falls

By \_\_\_\_\_ Date: \_\_\_\_\_  
Greg Doyon, City Manager

Water Right Solutions, Inc.

By \_\_\_\_\_ Date: \_\_\_\_\_  
David M. Schmidt, Principal Senior Water Rights Specialist

APPROVED AS TO FORM:

By \_\_\_\_\_  
David Gliko, City Attorney





**Item:** Annual Action Plan Including Use of 2008/2009 CDBG & HOME Funds

**From:** Chris Imhoff, CDBG/HOME Administrator

**Initiated By:** Chris Imhoff, CDBG/HOME Administrator

**Presented By:** Chris Imhoff, CDBG/HOME Administrator

**Action Requested:** Adoption of the Annual Action Plan and authorization of its submittal to the U. S. Department of Housing and Urban Development.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission adopt the Annual Action Plan including the 2008/2009 Community Development Block Grant and HOME Program funds as recommended.”

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

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**Staff Recommendation:** The Community Development Council and staff recommend the City Commission adopt the Annual Action Plan including the use of the 2008/2009 Community Development Block Grant and HOME Investment Partnership Program funds, and authorize submittal to the U. S. Department of Housing and Urban Development.

**Background:** The Consolidated Plan is a comprehensive planning strategy required by the U.S. Department of Housing & Urban Development. The Annual Action Plan portion of the Consolidated Plan includes the proposed use of CDBG and HOME funds for the approaching fiscal year.

Community Development Block Grant and HOME Grant project applications were received in February, 2008. The Community Development Council reviewed the applications and made funding recommendations to the City Commission on April 1, 2008. A 30-day comment period beginning April 4, 2008, through May 3, 2008, was established to receive citizen views on the proposed Annual Action Plan, the proposed use of 2008/2009 CDBG and HOME funds, and program performance and policies. A copy of the proposed Annual Action Plan has been available for review in the City Community Development Office, the Great Falls Public Library, and on the City of Great Falls web page.

At the end of the 30-day comment period, the City Commission must adopt as recommended, or amend and adopt, the final Annual Action Plan for submittal to the U.S. Department of Housing & Urban Development in order for the City to continue to receive Community Development Block Grant and HOME program funds. HUD must receive the Plan on or before May 15, 2008. The final Annual Action Plan is on file in the City Clerk's office.

**Concurrences:** The Community Development Council reviewed the applications and made funding recommendations to the City Commission on April 1, 2008.

**Fiscal Impact:** The City of Great Falls is expecting to receive \$917,014 of Community Development Block Grant funds and \$394,063 of HOME funds from HUD in the coming year.

**Alternatives:** The City Commission may choose to approve the Annual Action Plan as presented or amend the plan.

Attachments/Exhibits: List of Proposed Funding  
Public Hearing Comments

**2008/2009 PROPOSED USE OF FEDERAL GRANT FUNDS  
COMMUNITY DEVELOPMENT BLOCK GRANT**

*Affordable Housing*

	<u>Requested</u>	<u>Proposed</u>
<p><b>GREAT FALLS CITY COMMUNITY DEVELOPMENT— HISTORIC PRESERVATION</b> City-wide low interest loan program to provide additional funding for multi-family housing rehabilitation projects which require historic preservation regulation compliance</p>	\$50,000	\$49,267
<p><b>GREAT FALLS CITY COMMUNITY DEVELOPMENT— REHABILITATION SPECIALIST</b> Provision of rehab counseling, loan processing, inspections and construction monitoring for all CDBG-funded City revolving loan housing programs for low income people</p>	\$30,000	\$30,000
<p><b>MONTANA INSTITUTE OF FAMILY LIVING/PARK MANOR</b> Replace all interior door locks, keys and keyless entry system at Park Manor, an elderly/handicapped subsidized apartment building located at 100 Central Avenue</p>	\$20,000	\$20,000
<p><b>NEIGHBORWORKS GREAT FALLS</b> Revolving loan fund to provide down payment assistance, new construction, purchase and rehabilitation of houses and other activities addressing neighborhood revitalization activities in their CBDO-designated neighborhoods</p>	\$150,000	\$130,000

*Economic Development*

<p><b>MCLAUGHLIN RESEARCH INSTITUTE</b> Expand building to create job opportunities for low to moderate income persons</p>	\$100,000	\$100,000
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***Public Facility Improvements***

	<u>Requested</u>	<u>Proposed</u>
<p><b>GATEWAY COMMUNITY SERVICES</b>            Provide handicap accessible front entryway and purchase and install heating and cooling system valves in facility located at 1220 Central Avenue which houses agency that provides comprehensive community-based alcohol &amp; drug abuse treatment services                Propose funding front entryway only</p>	\$51,083	\$13,825
<p><b>GREAT FALLS CITY PARK &amp; RECREATION, COMMUNITY RECREATION CENTER—ELECTRICAL</b>            Electrical system panel upgrade at Community Recreation Center located at 801 2<sup>nd</sup> Avenue North</p>	\$65,726	\$0
<p><b>GREAT FALLS CITY PARK &amp; RECREATION, COMMUNITY RECREATION CENTER—HVAC</b>            Heating and cooling system upgrade at Community Recreation Center located at 801 2<sup>nd</sup> Avenue North                Propose funding only if use &gt;90% energy efficient furnace</p>	\$62,000	\$111,961
<p><b>GREAT FALLS CITY PARK &amp; RECREATION—WEST KIWANIS PARK</b>            Purchase &amp; install handicap accessible play structure, 2 benches and borders for play area at West Kiwanis Park located at 1<sup>st</sup> Avenue Northwest and 9th Street</p>	\$29,000	\$29,000
<p><b>GREAT FALLS CITY PUBLIC WORKS—HANDICAP RAMPS</b>            Install handicap ramps (curb cuts) to provide handicap accessibility on Central Avenue from 34<sup>th</sup> to 37<sup>th</sup> Street, Central Avenue and 42<sup>nd</sup> Street, 16th Avenue South and 4<sup>th</sup> Street and other areas at request of disabled citizens</p>	<b>\$75,000</b>	<b>\$75,000</b>
<p><b>GREAT FALLS CITY PUBLIC WORKS—SIDEWALK REPLACEMENT</b>            Grant program to provide assistance to low income homeowners to remove &amp; replace hazardous sidewalks in Census Tracts 3, 4 and 5 (Park Drive to 15<sup>th</sup> Street North between Central Avenue and 8<sup>th</sup> Avenue North) and other areas at request of low income homeowners</p>	\$50,000	\$50,000
<p><b>GREAT FALLS SENIOR CITIZENS CENTER</b>            Replace upstairs, ramp, staircase and downstairs entryway carpeting in facility located at 1004 Central Avenue which houses programs to serve the elderly                Propose funding carpeting on ramp and balance toward other areas</p>	\$15,000	\$7,000

<b>HABITAT FOR HUMANITY</b> Install sewer and water lines, excavate for foundation, and install sidewalks and parking pads at 604 7 <sup>th</sup> Street North, 2533 Castle Pines Way and 2537 Castle Pines Way	\$29,262	\$29,262
<b>HEISEY YOUTH CENTER</b> Remodel locker room at youth center located at 313 7 <sup>th</sup> Street North to make handicap accessible; renovations to include flooring, plumbing, fixtures and partitions	\$50,000	\$20,000
<b>VOICES OF HOPE</b> Install security system on elevator to provide secure access to 24 hour call center located at 915 1 <sup>st</sup> Avenue South	\$10,000	\$10,000

*Public Service Activities*

	<u>Requested</u>	<u>Proposed</u>
<b>AREA VIII AGENCY ON AGING</b> Purchase food for Meals on Wheels, a citywide home delivery meal program for seniors who are handicapped or unable to prepare meals	\$25,000	\$25,000
<b>BOYS &amp; GIRLS CLUB OF NORTH CENTRAL MONTANA</b> Recreational/educational scholarships for summer program for children from low income families; administered at two Weed & Seed Safe Haven locations (Great Falls Housing Authority–1722 Chowen Springs Loop and Westside Unit–600 1 <sup>st</sup> Avenue Southwest)	\$20,400	\$20,400
<b>CASA-CAN CHILDREN’S ADVOCATE NETWORK</b> Purchase computer, software, volunteer training materials and provide training conference expenses to expand volunteer program located at 415 2 <sup>nd</sup> Avenue North which provides advocates for abused and neglected children in the legal system Propose funding all except software	\$5,449	\$4,800
<b>CASCADE COUNTY LAW CLINIC</b> Purchase 2 computers, software, scanner, 2 printers, fax machine, shredder and Montana Annotated Code for agency located at 503 1 <sup>st</sup> Avenue North	\$5,260	\$0

<b>CASCADE COUNTY RETIRED AND SENIOR VOLUNTEER PROGRAM</b>	\$6,500	\$0
Purchase computer server and elderly resource directories for agency located at 1004 Central Avenue.		
<b>EASTER SEALS-GOODWILL INDUSTRIES</b>	\$17,750	\$17,750
Provide scholarships for P.L.A.Y., an early intervention program for children with Autistic Disorders under the age of three and purchase specialized commercial shredding equipment for Outsources Unlimited, an employment program which provides jobs for disabled workers; agency located at 4400 Central Avenue		
<b>FAMILY CONNECTIONS</b>	\$18,750	\$18,750
Provide child care scholarships for low income families; program administered through agency located at 600 Central Plaza		
<b>GREAT FALLS CITY PARK &amp; RECREATION—COMMUNITY RECREATION CENTER</b>	\$6,500	\$6,500
Provide scholarships for low income children for after school child care program, summer camp programs, and lifeguard certification; programs offered at community center located at 801 2 <sup>nd</sup> Avenue North and Morony Natatorium located at 111 12 <sup>th</sup> Street North		
<b>HANDS, INC.</b>	\$25,000	\$20,149
Provide child care scholarships for children from low income families; program offered at all Great Falls elementary schools		
<b>QUALITY LIFE CONCEPTS</b>	\$17,611	\$7,211
Purchase and install ceiling track system, additional slings and elevated bath tub at group home for people with developmental disabilities at 3937 15 <sup>th</sup> Avenue South		
Propose funding track system only		
<b>VICTIM-WITNESS ASSISTANCE SERVICES, INC.</b>	\$8,970	\$0
Purchase digital color imaging system (printer, copier, fax board, scanner, stand, warranty) and notebook computer for agency that provides assistance for victims of crimes and their families; agency located at 112 1 <sup>st</sup> Street South		



<b>YOUNG PARENTS EDUCATION CENTER</b>	\$17,000	\$17,000
Provide day care scholarships and emergency housing scholarships for low income teen or young adult parents completing high school or GED programs; programs located at alternative high school at 2400 Central Avenue		

*Administration*

<b>CDBG PROGRAM ADMINISTRATION</b>	\$183,414	\$183,414
General oversight, promotion, financial accountability, monitoring, reporting, and coordination of the CDBG program including activities to further fair housing and the Continuum of Care for Homelessness		

<b>TOTAL CDBG FUNDING REQUESTED</b>	<b>\$1,144,675</b>	
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<b>TOTAL CDBG FUNDING RECOMMENDATION</b>		<b>\$996,289</b>
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<b>TOTAL ANTICIPATED CDBG GRANT</b>		<b>\$917,014</b>
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<b>TOTAL CDBG FUNDS AVAILABLE FROM PREVIOUS YEARS</b>		<b>\$79,275</b>
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<b>TOTAL AVAILABLE CDBG FUNDS</b>		<b>\$996,289</b>
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**2008/2009 PROPOSED USE OF FEDERAL GRANT FUNDS  
HOME INVESTMENT PARTNERSHIP PROGRAM**

	<u>Requested</u>	<u>Proposed</u>
<b>GREAT FALLS HOUSING AUTHORITY—SAND HILLS</b>	\$250,000	\$250,000
Continuation of Phase I to acquire land, undertake site improvements and construct one affordable handicap accessible four-plex apartment complex at 1501 23 <sup>rd</sup> Street South		
<b>NEIGHBORWORKS GREAT FALLS</b>	\$250,000	\$106,330
Owners in Partnership XVI—construct or rehabilitate single family houses and provide down payment and closing cost assistance for low income home buyers on citywide basis		
<b>HOME PROGRAM ADMINISTRATION</b>	\$39,400	\$39,400
General oversight, management, promotion, financial accountability, monitoring, and coordination of the HOME program		
<b>TOTAL HOME FUNDING REQUESTED</b>		<b>\$539,400</b>
<b>TOTAL HOME FUNDING RECOMMENDATION</b>		<b>\$395,730</b>
<b>TOTAL ANTICIPATED HOME GRANT</b>		<b>\$394,063</b>
<b>TOTAL HOME FUNDS AVAILABLE FROM PREVIOUS YEARS</b>		<b>\$1,667</b>
<b>TOTAL AVAILABLE HOME FUNDS</b>		<b>\$395,730</b>

## CITY COMMISSION PUBLIC MEETING

April 15, 2008

A public meeting was held as part of the regular City Commission meeting on April 15, 2008, in the Commission Chambers at the Civic Center. The meeting was held to provide an opportunity for citizens to advise the City Commission on their opinions regarding the proposed Action Plan, the proposed use of CDBG funds, and on the performance of the CDBG and HOME grant programs in administration, distribution and implementation of federal funds.

The following listing is a summary of the comments which were expressed in support of the proposed disposition of funds.

**Joe Boyle, chairman, Great Falls Housing Authority Commission:** Mr. Boyle urged support of the Housing Authority's Sand Hills HOME proposal to construct accessible, subsidized housing in the form of a four-plex with two bedroom apartment units. He noted this would be phase 1 of constructing 16 affordable units and construction was expected to begin this Fall. The Housing Authority's waiting list shows the most pressing need is for one and two-bedroom units. The new units would be for the elderly, handicapped or small families. Mr. Boyle related that without HOME funds the Housing Authority could not afford to construct this affordable housing.

**Nancy Wilson, director, Meals on Wheels:** Ms. Wilson thanked the City Commission for their past support and requested continued CDBG funding for the Meals on Wheels program. She related the meal delivery program is growing. Ms. Wilson also noted Great Falls is the only town in Montana that does not have to put people on the waiting list for this meal delivery program, partly because they have been able to use CDBG funding.

**Sheila Rice, executive director, NeighborWorks Great Falls (aka Neighborhood Housing Services, Inc.):** Ms. Rice thanked the City Commission for many, many years of support for NWGF. She related she supports the proposed allocations for this year but wished to open a dialogue with the City of Great Falls regarding the City's role in affordable housing. Ms. Rice distributed a chart which showed a decrease in the City's overall support of NWGF. She noted the chart did not show the following: a) the decrease in overall funding available to the City which has occurred; b) the impact of program income; c) NWGF's production which for many years was nine to 10 units annually and this last year was 34 units; d) increase in tax base as a result of NWGF activities; and, e) impact of affordable housing on economic development. Ms. Rice asked the City Commission to examine their role in affordable housing, especially as efforts move forward to conduct a community-wide housing assessment. She noted five of the seven priorities in the plan are related to housing, while only 25% of the annual amount is allocated to affordable housing.

**Stuart Lewin:** Mr. Lewin commended the work Ms. Rice has done with NWGF, in particular the home buyer education which counseled potential home buyers to obtain fixed mortgage rates. This information greatly helped local people avoid the mortgage foreclosure crisis which is occurring elsewhere in the country.

**Ron Guessman:** Mr. Guessman indicated that he believes what Ms. Rice meant to say regarding the tax base was that the tax revenue rather than the tax base is increased.

**Dona Stebbins, mayor:** Ms. Stebbins noted that NHS aka NWGF has been doing foreclosure prevention for 13 years and this foresight helped decrease the level of the foreclosure problem in Great Falls.

**Bill Bronson, city commissioner,** questioned **Marty Basta, department head for the Park and Recreation Department,** regarding the two proposals the Park & Recreation Department Community Recreation Center submitted. Mr. Bronson questioned why the Community Development Council recommended not funding the electrical upgrade proposal but recommended funding the HVAC upgrade proposal at nearly twice the requested amount. Mr. Basta explained that after talking with the Community Development Council the Park & Recreation Department prioritized a high efficiency cooling and heating system and decided if they could purchase a more energy efficient system they would re-evaluate the need for an electrical upgrade.

**Mary Jollie, city commissioner,** questioned Joe Boyle as to why last year the Housing Authority was given funds for building a tri-plex and this year they are proposing to build a four-plex. **Kevin Hager, deputy director, Great Falls Housing Authority,** indicated that after looking at the size of the recently purchased site they determined four four-plexes would fit on the site. Because of the increased cost of construction it made more sense overall economically to build more units. Ms. Jollie also questioned Mr. Hager as to whether NWGF support has decreased as a result of the City through the Housing Authority taken more CDBG funds. Mr. Hager noted the Housing Authority has been allocated HOME funds rather than CDBG funds.

No one spoke in opposition of the proposed disposition of funds.



**Item:** Purchase Land from Duane & Darin Vick in Township 21 North; Range 3 East; NE ¼ of NE ¼ of Section 31 and situated East of 19<sup>th</sup> Street North and North of 33<sup>rd</sup> Avenue NE extended

**From:** Jim Rearden, Public Works Director

**Initiated By:** Public Works Administration

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

**Action Requested:** Approve purchase of land for new Transfer Station Site

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**Suggested Motion:**

1. Commissioner moves:  
“I move that the City Commission approve the purchase of 20 acres of land in Township 21 North; Range 3 East, NE ¼ of NE ¼ of Section 31”
  2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.
- 

**Staff Recommendation:** Staff recommends the City Commission approve the purchase of a 20 acre tract of land located on the East side of 19th Street North and North of 33<sup>rd</sup> Avenue NE extended in the NE ¼ of the NE ¼ of Section 31, Township 21 North; Range 3 East for the use of a new Solid Waste Transfer Station and Compost site.

**Background:** As the result of several meetings of a Recycling Focus Group, made up of private citizens, Montana Waste, Pacific Steel, Department of Environmental Quality and City staff, it has been determined that it would be beneficial to sell the current recycling center property, modify the functions and services being provided by the center and relocate the remaining functions to a new location. The decisions from the Recycling Group Meetings were:

- Allow private recyclers to handle recyclables which make economic sense
- Retain Recycling Center (For items not accepted by private recyclers)
- Retain Transfer Station to keep 20,000+ trips per year off of the highway (Small contractors and homeowners)

The primary purposes of the new site will be:

- Recycling Drop-off Center (3 acres)
- Hazardous Waste Depot (included in above)
- Compost Yard (8 to 10 acres)
  - Utilizing Park & Recreation trimmings & waste

- Utilizing Sanitation Division collected yard waste
- Utilizing Drop-off yard waste
- Utilizing Wastewater plant sludge (currently to landfill)
- Provide citizens with local compost, chips, mulch, etc. (cost?)
- Provide Park & Recreation with mulch, chips, etc.
- Water Treatment Plant sludge drying bed (3 to 5 acres)
- Maintain Re-use-it area, Christmas tree and E-waste programs

**Fiscal Impact:** Other City facilities will be combined into this one site. They are:

- City Recycling Center property
- Park & Recreation Compost yard
- Water Plant sludge disposal site (private site at capacity)

The purchase price is \$6500 per acre for a total purchase price of \$130,000. Surveying and other closing costs will bring the total cost to approximately \$140,000. The cost is proposed to be split as follows:

-	Water Fund	-	\$35,000
-	Sewer Fund	-	\$28,000
-	Sanitation Fund	-	\$49,000
-	Natural Resources	-	\$28,000

City staff obtained approval from City Commissioners to secure the property with \$6500 of earnest money and an Option to Purchase with Buy/Sell Agreement was executed. It is now time to Exercise the option and culminate the sale of the property. Closing on the property is to be 60 days from the exercise of the option. Staff also presented a Work Session on this topic at the March 4, 2008 Commission Work Session.

**Alternatives:** One alternative would be to keep the City facilities, as is, and continue to operate as we have. This option leaves us with the same issues we have had before, which are trash concerns, unsightly conditions in a commercially developing area and an annual operating loss at the facility.

**Attachments/Exhibits:** Map of new site  
 Breakdown of site development costs and funding sources  
 (Attachments not available online; on file in City Clerk's Office.)



**Item:** Ordinance 3003 to Assign City Zoning to Lots 34 and 35A, Beebe Tracts

**From:** Charles Sheets, Planner 1

**Initiated By:** City Commission

**Presented By:** Benjamin Rangel, Planning Director

**Action Requested:** City Commission accept Ordinance 3003 on first reading and set a public hearing for June 3, 2008, to consider adoption of Ordinance 3003.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission accept Ordinance 3003 on first reading and set a public hearing for June 3, 2008.”

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

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**Zoning Commission Recommendation:** The City Zoning Commission, following a public hearing held April 22, 2008, passed a motion recommending the City Commission assign a zoning classification of C-2 General commercial district to Lots 34 and 35A, Beebe Tracts upon annexation to the City.

**Background:** Lots 34 and 35A, Beebe Tracts are presently occupied by a bowling alley, tavern and casino (Murph’s Party Bowl & Nightclub) addressed as 5515 2<sup>nd</sup> Avenue North. The parcel receives water service from the City.

Please refer to the attached Vicinity/Zoning Map.

On February 21, 2006, the Great Falls City Commission adopted Ordinance 2930 regarding the annexation of parcels that receive water and/or sewer services and are currently outside the City limits. The City Commission has decided to annex parcels receiving water and/or sewer services to create a more coherent and consistent City boundary and to provide services more effectively to everyone in the City. It is also a matter of fairness to current City residents to make sure that those who use City services share the burden of paying for them equitably.

Pursuant to Section 69-7-201, MCA, it is the opinion of the Montana Attorney General that a City may require the annexation of a parcel located outside the city limits receiving water and/or

sewer services as a condition for the continuation of such utility services to said parcels, 46 Op. Atty. Gen. No. 12 (1995). Accordingly, the City Commission intends to apply this authority via Ordinance 2930.

The property lies in a natural depression that has no outlet. The conceptual plan to provide sanitary sewer service is to install a sewage lift station, near the lowest point of the depression that would service the entire basin. The cost of that facility would be distributed to all properties that benefit from the lift station. As the area further develops and the need for the lift station increases, a Special Improvement District would most likely be created to pay for the improvements.

The property owner has provided written consent to annex said property into the City of Great Falls, as a condition for the continuation of City water service in accordance with City Ordinance 2930. See the attached Response Form, signed February 15, 2008.

Upon annexation, subject property will be subject to City taxes and assessments.

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.

Lots 34 and 35A are presently zoned in the County as “B-1” Neighborhood Service District. In that access to said parcels is from 2<sup>nd</sup> Avenue North and the other incorporated properties along the north side of 2<sup>nd</sup> Avenue North are zoned C-2 General commercial district, which allows indoor recreation/sports/entertainment/taverns and some forms of casinos, it is recommended subject property be zoned C-2 General commercial district upon annexation to the City.

In summary, designating subject property for commercial use is consistent with other incorporated properties abutting the north side of the involved segment of 2<sup>nd</sup> Avenue North. Therefore, staff concludes all of the above stated criteria are substantially met.

At the conclusion of a public hearing held April 22, 2008, the Zoning Commission passed a motion recommending the City Commission assign a zoning classification of C-2 General commercial district to Lots 34 and 35A, Beebe Tracts, upon annexation to the City. No citizens spoke as proponents or opponents during the hearing.



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

**Fiscal Impact:** The City enhances its tax base with the annexation of these lots but assumes an obligation to provide police and fire services.

**Alternatives:** The City Commission could terminate annexation proceedings by disapproving Ordinance 3003, but the purpose and intent of Ordinance 2930 would not be met.

**Attachments/Exhibits:**

1. Ordinance 3003
2. Vicinity/Zoning Map
3. Copy of Owner's Response Form

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Mike Rattray, Community Development Director  
Corky Grove, Police Chief  
Murphy Limited Partnership, 5515 2<sup>nd</sup> Ave N, Great Falls MT 59405

ORDINANCE 3003

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF C-2 GENERAL COMMERCIAL DISTRICT TO LOTS 34 AND 35A, BEEBE TRACTS, IN NW¼, SECTION 10, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA

\* \* \* \* \*

WHEREAS, on February 21, 2006 the Great Falls City Commission adopted Ordinance 2930 regarding the annexation of parcels that receive water and/or sewer services and are currently outside the City limits; and,

WHEREAS, pursuant to 69-7-201, MCA, it is the opinion of the Montana Attorney General that a City may require the annexation of parcels located outside the city limits receiving water and/or sewer services as a condition for the continuation of such utility services to said parcels, 46 Op. Atty. Gen. No. 12 (1995); and,

WHEREAS, Murphy Limited Partnership, property owner of record, has provided written consent to annex said property into the City of Great Falls, as a condition for the continuation of City water and/or sewer services in accordance with City Ordinance 2930; and,

WHEREAS, notice of assigning a zoning classification of C-2 General commercial district, to said Lots 34 and 35A, Beebe Tracts, was published in the Great Falls Tribune advising that a public hearing on this zoning designation would be held on the 3<sup>rd</sup> day of June, 2008, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and recommended that the said zoning designation be made, 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. That the zoning of Lots 34 and 35A, Beebe Tracts, be designated as C-2 General commercial district classification.

Section 3. The zoning being assigned by this ordinance for Lots 34 and 35A, Beebe Tracts, 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 said Lots 34 and 35A, Beebe Tracts, into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this 3<sup>rd</sup> day of June, 2008.

\_\_\_\_\_  
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 hereby certify that the foregoing Ordinance 3003 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 3<sup>rd</sup> day of June, 2008 and approved by the Mayor of said City on the 3<sup>rd</sup> day of June, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 3<sup>rd</sup> day of June, 2008.

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

(CITY SEAL)

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

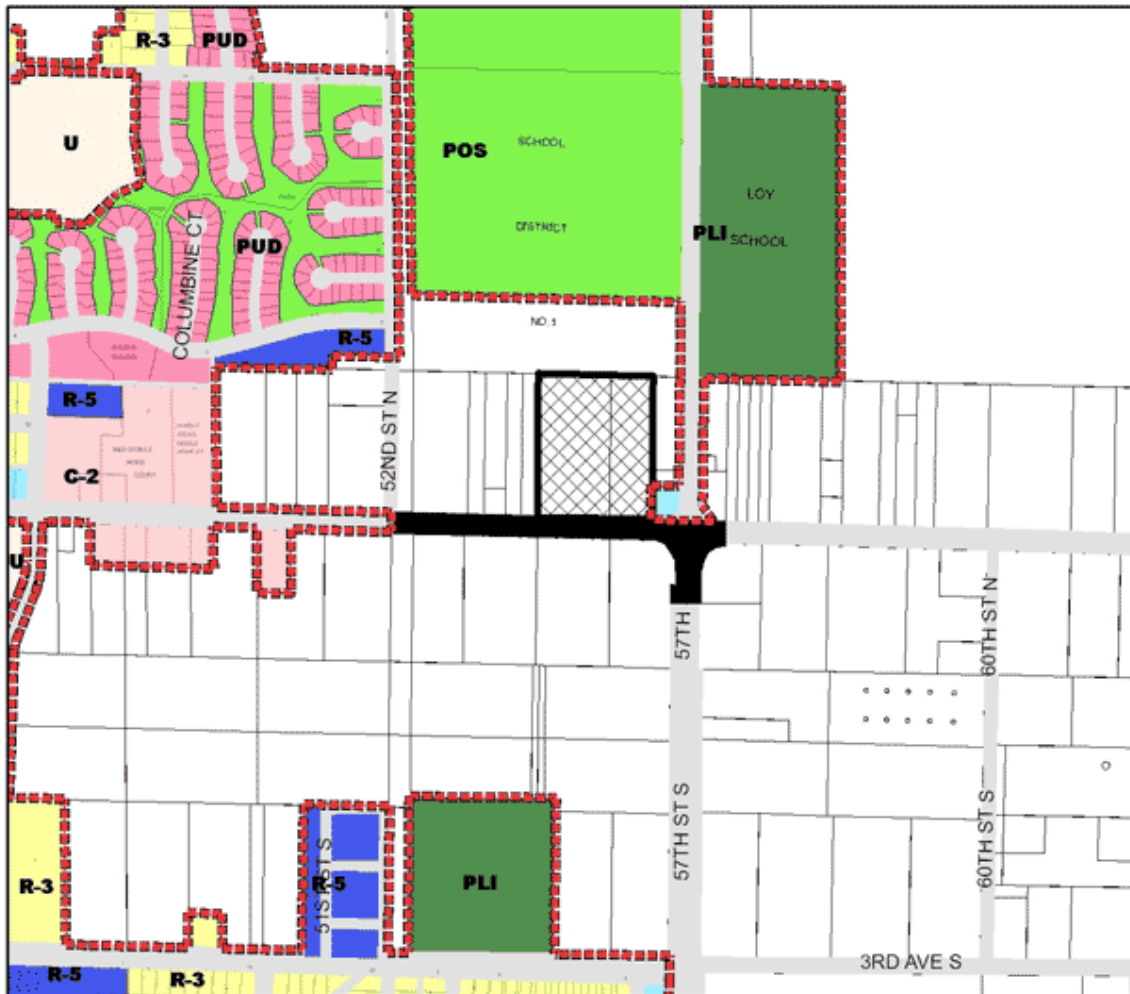
I, Lisa Kunz, being first duly sworn, deposes and says: That on the 3<sup>rd</sup> day of June, 2008 and prior thereto, I was the City Clerk of the City of Great Falls, Montana; that as said City Clerk, I did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 3003 of the City of Great Falls, 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



 LOTS 34 AND 35A, BEEBE TRACTS PROPOSED TO BE ANNEXED INTO THE CITY OF GREAT FALLS AND ASSIGNED A CITY ZONING CLASSIFICATION OF C-2 GENERAL COMMERCIAL DISTRICT

 PORTIONS OF 2ND AVENUE NORTH AND 57TH STREET NORTH PROPOSED TO BE ANNEXED

- |   |  |  |
|---|--|--|
|  City Limits                     |  C-1 Neighborhood commercial        |  POS Parks and Open Space     |
|  R-3 Single-family high density  |  C-2 General commercial             |  PUD Planned unit development |
|  R-5 Multi-family medium density |  PLI Public Lands and Institutional |  U Unincorporated enclave     |
|   |  |  Tracts of land outside City  |





January 25, 2008

**RESPONSE FORM**

As the owner of record, please type or print your name in the following section:

I, Murphy Limited Partnership, am the owner of record of property addressed as: 5515 2<sup>nd</sup> Ave N and legally described as: Lots 34 - 35A, Beebe Tracts, Section 10, Township 20 North, Range 4 East, Cascade County, Montana

\*\*\*\*\*

If your decision is to annex, please sign and date this section and return this form in the attached envelope within 30 days of the above date:

With my signature below, I provide my consent to annex the property into the City of Great Falls as a condition for the continuation of City water service in accordance with City Ordinance 2930.

Jane A. Murphy - General Partner  
(NAME / TITLE)

2-15-08  
Date

\*\*\*\*\*

If your decision is to not annex, please sign and date this section and return this form in the attached envelope within 30 days of the above date:

With my signature below, I am advising that I do not want to annex and that I fully acknowledge City water service will be terminated in accordance with City Ordinance 2930.

\_\_\_\_\_  
(NAME / TITLE)

\_\_\_\_\_  
Date

*[Handwritten notes]*  
FEB 25



**Item:** Ordinance 3004 to Assign City Zoning to Bootlegger Addition Phase I

**From:** Charles Sheets, Planner 1

**Initiated By:** McIntyre Enterprises, Inc. and Murphy Real Estate L.L.C.

**Presented By:** Benjamin Rangel, Planning Director

**Action Requested:** City Commission accept Ordinance 3004 on first reading and set a public hearing for June 3, 2008, to consider adoption of Ordinance 3004.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission accept Ordinance 3004 on first reading and set a public hearing for June 3, 2008.”

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

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**Zoning Commission Recommendation:** At the conclusion of a public hearing held December 11, 2007, the Zoning Commission passed a motion recommending the City Commission assign a zoning classification of R-3 Single-family high density district to Bootlegger Addition Phase I, upon annexation to the City.

**Background:** During a meeting held January 8, 2008, the City Commission conditionally approved the Preliminary Plat of Bootlegger Addition Phases I – II, as recommended by the Planning Board.

The developer now requests approval of the final plat and annexation of Phase I of the Preliminary Plat. Said Final Plat consists of 26 lots ranging in size from 8,000 sq ft to 13,046 sq ft along 41<sup>st</sup> Avenue Northeast located between Eagle’s Crossing Addition and Northview Addition.

For additional information, please refer to the attached Vicinity/Zoning Map and reduced copy of the Final Plat.

Access to the subdivision will initially be provided by 9<sup>th</sup> Street NE with eventual roadway connections to 12<sup>th</sup> Street NE, the Bootlegger Trail and streets in Eagle’s Crossing Addition.

Roadways within the subdivision will be improved to City standards with paving, curb and gutter.

City water and sanitary sewer mains will be installed in the roadways within the subdivision. The subdivision will drain by gravity into the existing sanitary system at the southwest corner of the subdivision.

Surface runoff from the subdivision will be directed north in the extension of 9<sup>th</sup> Street NE to the existing City storm water detention facility west of Eagle's Crossing Addition.

The applicant intends to fulfill the subdivision's park obligation by escrowing the applicable park fee. As the remaining 90 acres to the north and east of Phase I are subdivided and developed by the applicant, a centrally located area is planned to be dedicated as park land to serve the overall project.

Subject property is presently zoned in the County as "A-1" Agricultural District and it is proposed Phase I be zoned R-3 Single-family high density district, upon annexation to the City.

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.

Subject property is located on the fringe of the City, which has been attracting high quality single family dwelling units. The subdivision is a natural projection of urban growth.

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 newly developing areas.

Applicable policy statements include "Residential land uses should be planned and located so that they do not result in adverse impacts upon one another" and "Annexations should be logical and efficient extensions of the City's boundaries and service areas".

Annexation of subject property will enhance health, safety and welfare through application of City Codes and provision of municipal services.

It is anticipated the planned single family use of the property will be compatible with neighboring uses. Therefore, staff concluded the criteria stated in Section 76-2-304 Montana Code Annotated are substantially met.

At the conclusion of a public hearing held December 11, 2007, the Zoning Commission passed a motion recommending the City Commission assign a zoning classification of R-3 Single-family high density district to Bootlegger Addition Phase I, upon annexation to the City. No citizens spoke as proponents or opponents during the hearing.

It is anticipated the City Commission, following the public hearing on June 3, will consider annexation resolutions, an annexation agreement and final plat for Bootlegger Addition Phase I, simultaneously with Ordinance No. 3004.

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

**Fiscal Impact:** The City enhances its tax base with the annexation of these lots but assumes an obligation to provide police and fire services.

**Alternates:** The City Commission could deny acceptance of Ordinance 3004 on first reading and not set the public hearing. However, such action would deny the applicants due process and consideration of a public hearing, as provided in City Code and State Statute.

**Attachments/Exhibits:**

1. Ordinance 3004
2. Vicinity/Zoning Map
3. Reduced copy of final plat

Cc: McIntyre Enterprises, Inc., 719 3<sup>rd</sup> St W, Whitefish, MT 59937  
Murphy Real Estate LLC, P O Box 2972, Great Falls, MT 59403-2972  
HKM Engineering, P O Box 49, Great Falls, MT 59403



ORDINANCE 3004

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF R-3 SINGLE-FAMILY HIGH DENSITY DISTRICT TO BOOTLEGGER ADDITION PHASE I, IN NW¼ SE¼ OF SECTION 25, TOWNSHIP 21 NORTH, RANGE 3 EAST, P.M.M., CASCADE COUNTY, MONTANA

\* \* \* \* \*

WHEREAS, McIntyre Enterprises, Inc. and Murphy Real Estate L.L.C. have petitioned the City of Great Falls to annex Bootlegger Addition Phase I, located in the NW¼ SE¼ of Section 25, Township 21 North, Range 3 East, P.M.M., Cascade County, Montana; and,

WHEREAS, McIntyre Enterprises, Inc. and Murphy Real Estate L.L.C. have petitioned said Bootlegger Addition Phase I be assigned a City zoning classification of R-3 Single-family high density district upon annexation to City; and,

WHEREAS, notice of assigning a zoning classification of R-3 Single-family high density district to Bootlegger Addition Phase I was published in the Great Falls Tribune advising that a public hearing on this zoning designation would be held on the 3rd day of June, 2008, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and recommended that the said zoning designation be made, 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 described 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. That the zoning of Bootlegger Addition Phase I be designated as R-3 Single-family high density district.

Section 3. This ordinance shall be in full force and effect either 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 Bootlegger Addition Phase I into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS,  
MONTANA, this 3<sup>rd</sup> day of June, 2008.

\_\_\_\_\_  
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 hereby certify that the foregoing Ordinance 3004 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 3<sup>rd</sup> day of June, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City on this 3<sup>rd</sup> day of June, 2008.

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

(CITY SEAL)

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

I, Lisa Kunz, being first duly sworn, deposes and says: That on the 3<sup>rd</sup> day of June, 2008, and prior thereto, I was the City Clerk of the City of Great Falls, Montana; that as said City Clerk I did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 3004 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

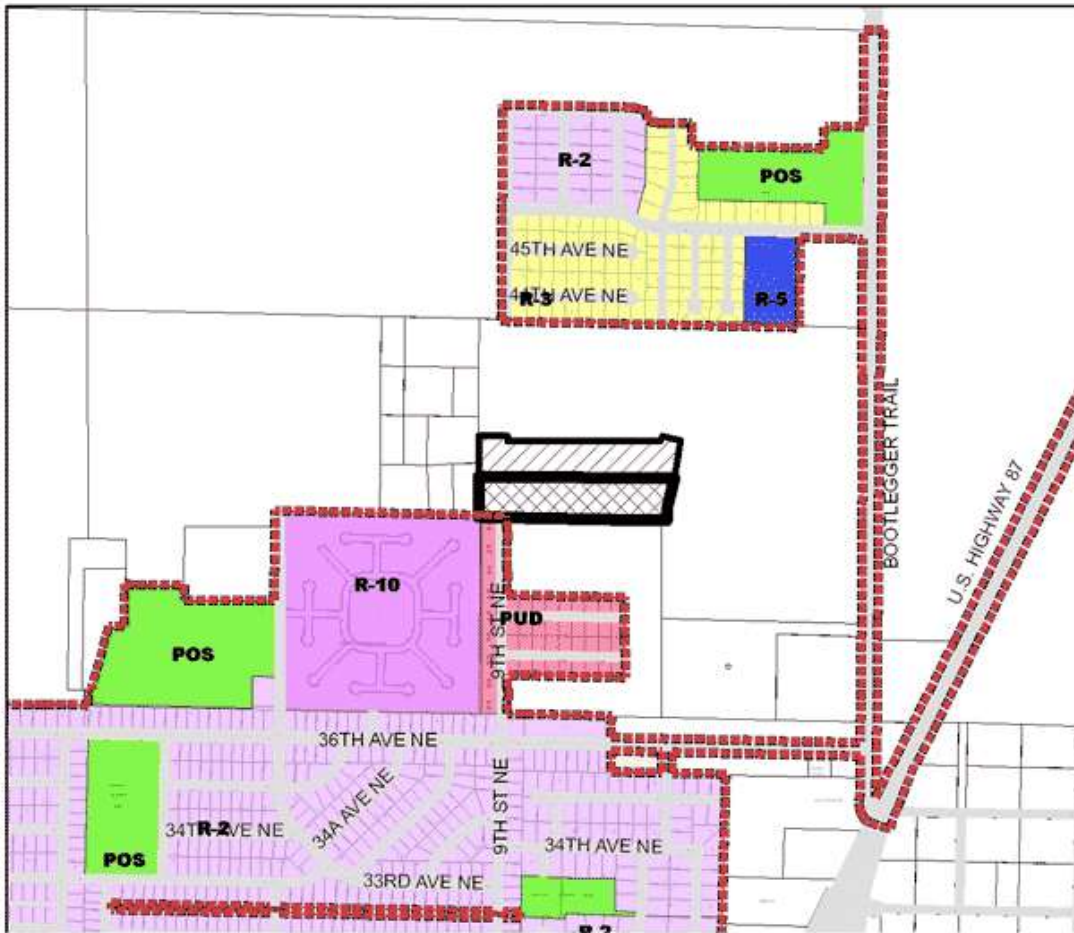
On the Bulletin Board, first floor, Civic Center Building;  
On the Bulletin Board, first floor, Cascade County Court House;  
On the Bulletin Board, Great Falls Public Library


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Lisa Kunz, City Clerk










(CITY SEAL)

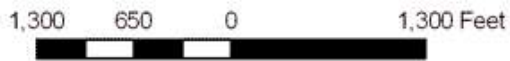
# VICINITY/ZONING MAP



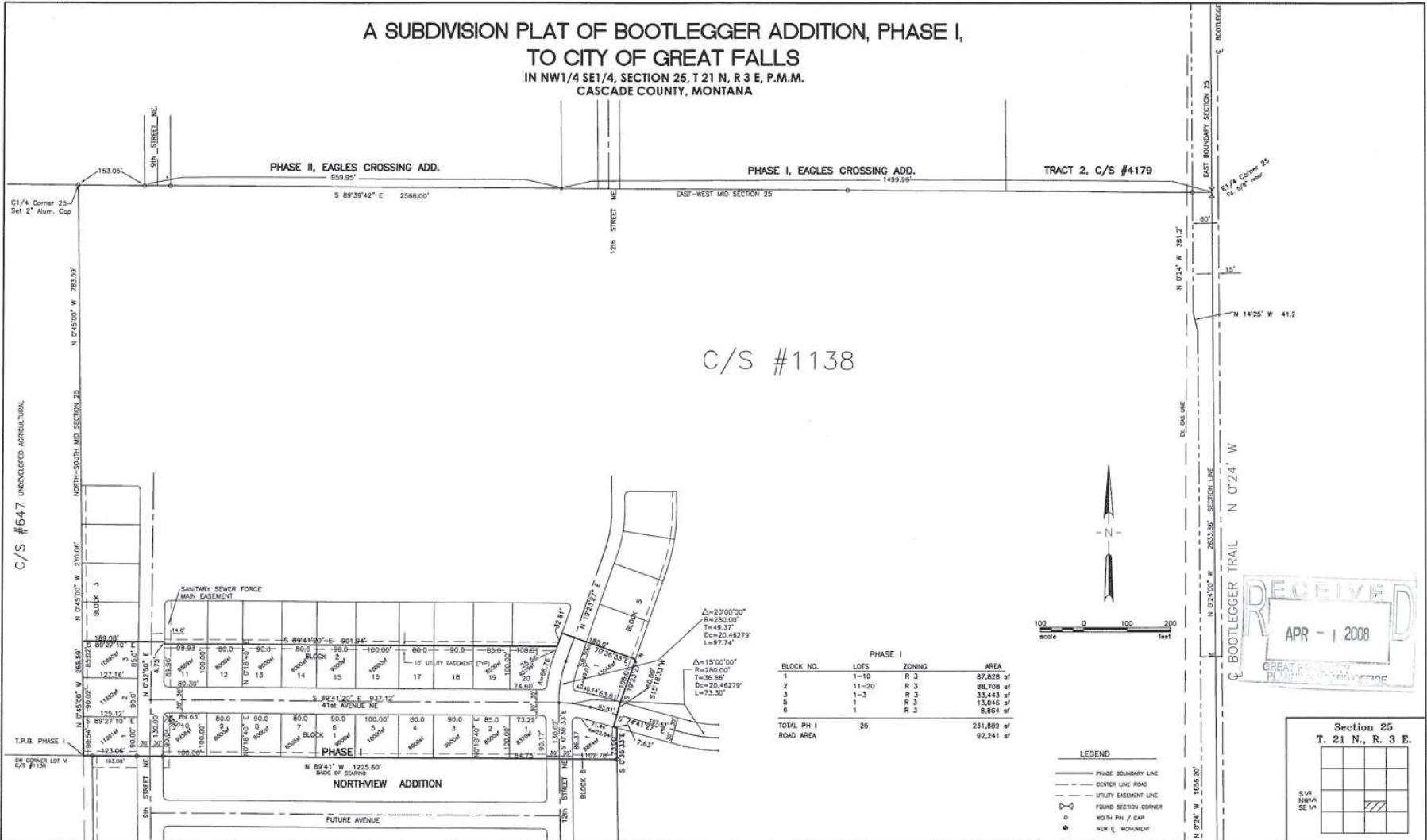
 FINAL PLAT OF BOOTLEGGER ADDITION PHASE I TO BE ANNEXED TO THE CITY

 REMAINING PORTION OF THE AREA CONTAINED WITHIN THE PRELIMINARY PLAT OF BOOTLEGGER ADDITION PHASES I & II

- |  |   |   |
|--|---|---|
|  City Limits                      |  R-5 Multi-family medium density |  PUD Planned unit development |
|  R-2 Single-family medium density |  R-10 Mobile home park           |  U Unincorporated enclaves    |
|  R-3 Single-family high density   |  POS Parks and Open Space        |  Tracts of land outside City  |



**A SUBDIVISION PLAT OF BOOTLEGGER ADDITION, PHASE I,  
TO CITY OF GREAT FALLS  
IN NW1/4 SE1/4, SECTION 25, T 21 N, R 3 E, P.M.M.  
CASCADE COUNTY, MONTANA**



C/S #1138

PHASE I			
BLOCK NO.	LOTS	ZONING	AREA
1	1-10	R 3	87,828 sf
2	11-20	R 3	88,708 sf
3	1-3	R 3	33,443 sf
5	1-3	R 3	13,046 sf
6	1	R 3	8,864 sf
TOTAL PH I ROAD AREA			231,889 sf
			92,241 sf

- LEGEND**
- PHASE BOUNDARY LINE
  - - - COVER LINE ROAD
  - - - UTILITY EASEMENT LINE
  - FOUND SECTION CORNER
  - NORTH PIN / CAP
  - NEW & MOUNTAIN

**County Treasurer's Certification**  
I hereby certify that no real property taxes assessed and levied on the land being divided are delinquent.

\_\_\_\_\_  
Cascade County Treasurer

*Cascade County  
Clerk and Recorder*

**BASIS OF BEARING**

Basis of bearings the South boundary of Section 25, Township 21 North, Range 3 East of the P.M.M.

Date Drawn: March, 2008    Drawn by: D.L.A.    Checked by: \_\_\_\_\_    Project No. 625.166.101

**HKM**  
**ENGINEERING**  
2701 18th Avenue NE  
PO Box 49  
Great Falls, MT 59403  
Phone: (406) 453-4635  
Fax: (406) 453-4288

COUNTY OF CASCADE  
**SUBDIVISION PLAT No. \_\_\_\_\_**  
SIX NINE, SEC. 25, TOWNSHIP 21 NORTH, RANGE 3 EAST OF THE P.M.M.

Prepared for: **Murphy Real Estate LLC & McIntyre Enterprises Inc.**  
P.O. Box 2972  
Great Falls, MT. 59403

Page  
1  
of  
2

D:\MSA\GIS\GIS\Montana\Phase I\Bootlegger\_Subd\_Plat.dwg 4/7/2008 8:32:17 AM MDT



**Item:** Ordinance 3006 to Assign City Zoning to Castle Pines Addition Phase VI

**From:** Charles Sheets, Planner 1

**Initiated By:** Harold Poulsen, Property Owner and Developer

**Presented By:** Benjamin Rangel, Planning Director

**Action Requested:** City Commission accept Ordinance 3006 on first reading and set a public hearing for June 3, 2008, to consider adoption of Ordinance 3006.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission accept Ordinance 3006 on first reading and set a public hearing for June 3, 2008.”

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

---

**Zoning Commission Recommendation:** At the conclusion of a public hearing held February 12, 2008, the Zoning Commission passed a motion recommending the City Commission assign a zoning classification of R-3 Single-family high density district to Castle Pines Addition Phase VI, upon annexation to the City.

**Background:** During a meeting held March 4, 2008, the City Commission conditionally approved the Preliminary Plat of Castle Pines Addition Phases VI - VIII, as recommended by the Planning Board.

The developer now requests approval of the final plat and annexation of Phase VI of the Preliminary Plat. Said Final Plat consists of 23 lots ranging in size from 7,500 sq ft to 8,971 sq ft along the east side of 13<sup>th</sup> Street South and along 28<sup>th</sup> Avenue South.

For additional information, please refer to the attached Vicinity/Zoning Map and reduced copy of the Final Plat.

Similar to Castle Pines Addition Phases III and V, NeighborWorks proposes to acquire 10 lots in the subdivision to accommodate construction of “self-help” program homes. Funding arrangements stipulate the homes be constructed outside the City Limits. Therefore, although the subdivision and annexation will be processed simultaneously, upon filing the final plat, the lots will be sold, homes

constructed and infrastructure installed, with annexation becoming effective, probably next spring, when the homes are ready for occupancy. The remaining 13 lots will be sold by the developer to others to build single-family residences. These 13 lots will be annexed simultaneously with the filing of the final plat.

Within the subdivision, streets and avenues will connect to 27<sup>th</sup> Avenue South, which in turn connects directly to 13<sup>th</sup> Street South. Roadways in the subdivision will be improved to City standards with paving, curb and gutter.

City water and sewer mains will be installed in the southerly extensions of Castle Pines Drive, 15<sup>th</sup> Street South and 16<sup>th</sup> Street South and in 28<sup>th</sup> Avenue South.

Based on land contours, the area generally slopes to the northwest. The Master Plan Agreement which accompanied Castle Pines Addition Phase I indicates the developer of Phase I and the City participated jointly in the construction of a surface drainage control facility (south of the Multi-Sports Complex) and storm drain piping in 13<sup>th</sup> Street South to serve the area being developed as Castle Pines Addition. City storm drainage has been extended south, with inlets in 27<sup>th</sup> Avenue South.

According to the Master Plan Agreement, the developer of Castle Pines Phase I paid to the City \$12,261 in lieu of dedicating park land for the area covered by the original master plan for Castle Pines Subdivision. Castle Pines Addition Phase VI is included within that original master plan area.

An Off-Site Improvement Trust Fund was established in conjunction with Castle Pines Phase 1 wherein as each lot is sold a monetary amount is deposited in the trust fund to assist in the eventual improvement of 13<sup>th</sup> Street South and 24<sup>th</sup> Avenue South, including water main installation and providing a secondary water source to the Castle Pines area.

Subject property borders Castle Pines Addition Phases II - V, which are being developed as single-family residential subdivisions. Castle Pines Addition Phase VI generally adheres to a conceptual plan that was prepared in 1995 for the area, in conjunction with a master plan for Castle Pines Addition.

Annexation of subject property will enhance health, safety and welfare through application of City Codes and provision of municipal services.

It is anticipated the planned single-family residential use of the property will be compatible with neighboring uses.

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.

At the conclusion of a public hearing held February 12, 2008, the Zoning Commission passed a motion recommending the City Commission assign a zoning classification of R-3 Single-family high density district to Castle Pines Addition Phase IV, upon annexation to the City. No citizens spoke as proponents or opponents during the hearing.

It is anticipated the City Commission, following the public hearing on June 3, will consider annexation resolutions, an annexation agreement and final plat for Castle Pines Phase VI, simultaneously with Ordinance No. 3006.

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

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

**Alternates:** The City Commission could deny acceptance of Ordinance 3006 on first reading and not set the public hearing. However, such action would deny the applicants due process and consideration of a public hearing, as provided in City Code and State Statute.

**Attachments/Exhibits:**

- 1. Ordinance 3006
- 2. Vicinity/Zoning Map
- 3. Reduced copy of final plat

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Harold Poulsen, P.O. Box 1376  
Woith Engineering, 1725 41<sup>st</sup> St S  
Al Henry, NeighborWorks, 509 1<sup>st</sup> Ave S



ORDINANCE 3006

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF R-3 SINGLE-FAMILY HIGH DENSITY DISTRICT TO CASTLE PINES ADDITION, PHASE VI, IN SECTION 19, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA

\* \* \* \* \*

WHEREAS, Harold Poulsen is the owner of record of Castle Pines Addition Phase VI, in Section 19, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana; and,

WHEREAS, Harold Poulsen has petitioned the City of Great Falls to annex Castle Pines Addition Phase VI; and,

WHEREAS, Harold Poulsen has petitioned said Castle Pines Addition Phase VI, be assigned a City zoning classification of R-3 Single-family high density district, upon annexation to City; and,

WHEREAS, notice of assigning a zoning classification of R-3 Single-family high density district, to Castle Pines Addition Phase VI, was published in the Great Falls Tribune advising that a public hearing on this zoning designation would be held on the 3<sup>rd</sup> day of June, 2008, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and recommended that the said zoning designation be made, 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. That the zoning of Castle Pines Addition Phase VI be designated as R-3 Single-family high density district classification.

Section 3. 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 Castle Pines Addition Phase VI into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this 3<sup>rd</sup> day of June, 2008.

\_\_\_\_\_  
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 hereby certify that the foregoing Ordinance 3006 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 3<sup>rd</sup> day of June, 2008 and approved by the Mayor of said City on the 3<sup>rd</sup> day of June, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 3<sup>rd</sup> day of June, 2008.

---

Lisa Kunz, City Clerk

(CITY SEAL)

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

I, Lisa Kunz, being first duly sworn, deposes and says: That on the 3<sup>rd</sup> day of June, 2008 and prior thereto, I was the City Clerk of the City of Great Falls, Montana; that as said City Clerk, I did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 3006 of the City of Great Falls, 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

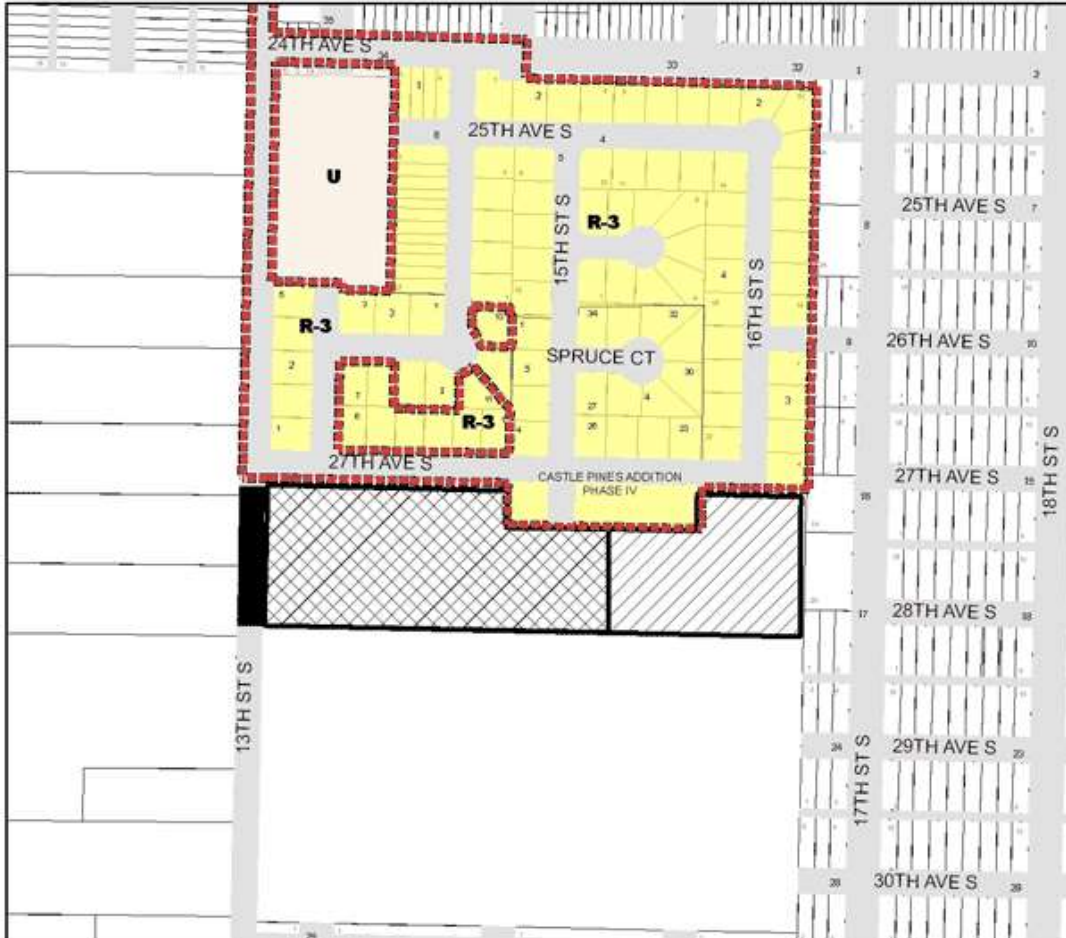
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Lisa Kunz, City Clerk

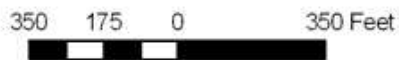
(CITY SEAL)

# EXHIBIT "A"

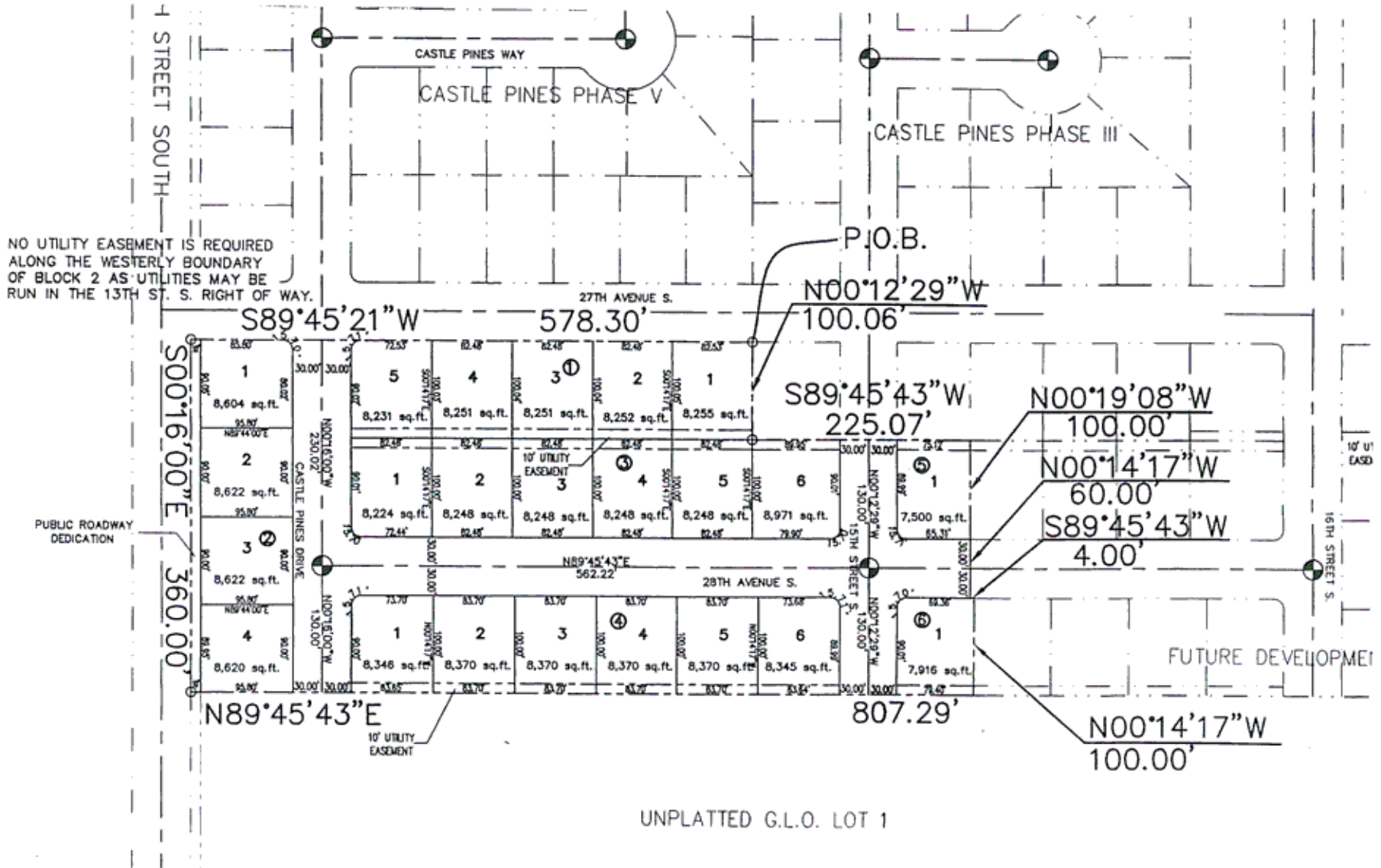
## VICINITY/ZONING MAP



-  FINAL PLAT OF CASTLE PINES ADDITION PHASE VI
-  REMAINING PORTION OF THE AREA CONTAINED WITHIN THE PRELIMINARY PLAT OF CASTLE PINES ADDITION PHASES VI - VIII
-  ABUTTING PORTION OF 13TH STREET SOUTH BEING ANNEXED SIMULTANEOUSLY WITH CASTLE PINES ADDITION PHASE VI
-  CITY ZONING CLASSIFICATION R-3 SINGLE-FAMILY HIGH DENSITY DISTRICT
-  CITY LIMITS



PLAT OF  
**CASTLE PINES PHASE VI**  
 AN ADDITION TO THE CITY OF GREAT FALLS  
 A SUBDIVISION LOCATED IN G.L.O. LOT 1 OF SECTION 19,  
 T20N, R4E, P.M., MT, CASCADE COUNTY, MONTANA





Agenda # 10  
Commission Meeting Date: May 6, 2008  
**CITY OF GREAT FALLS**  
**COMMISSION AGENDA REPORT**

---

**Item:** Resolution #9743, Remodel Tax Benefits, 1721 10<sup>th</sup> Avenue South

**From:** Mike Rattray, Community Development Director

**Initiated By:** William J. Himmelberg III

**Presented By:** Mike Rattray, Community Development Director

**Action Requested:** City Commission to consider adoption of Resolution #9743, for a remodeling tax benefit for McDonalds, 1721 10<sup>th</sup> Avenue South, Lots 7-10, Block 777, Great Falls 16<sup>th</sup> Addition

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission adopt Resolution #9743.”

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

---

**Staff Recommendation:** Staff recommends the adoption of Resolution #9743, for a remodeling tax benefit for McDonald's, 1721 10<sup>th</sup> Avenue South, Lots 7-10, Block 777, Great Falls 16<sup>th</sup> Addition.

**Background:** The property owner, William J. Himmelberg III, has expanded the building at 1721 10<sup>th</sup> Avenue South. The building permit was issued July 26, 2007, and the project was completed in February 2008, at an estimated cost of \$1,381,904. The applicant is requesting approval of the tax benefits and Resolution No. 9743 has been prepared to comply with the requirement that all applications be approved by resolution. Approval of the application will allow for the taxes generated from the expansion to be added to the existing taxes over a five-year period in increments of 20 percent each year.

Section 15-24-1501, MCA, provides the local government option of giving Tax Benefits for the Remodeling, Reconstruction or Expansion of Existing Buildings or Structures. The law governing this incentive was amended in 1985 requiring that each local governing body (City and County) may approve the Tax Benefit on a project by project basis. If one local government body approves the tax benefit and the other does not, the benefit will apply only to the mills levied by the approving governing body. In addition, tax benefits do not include any relief from state-wide levies and local government approval of the application must be by resolution.

The City Commission's policy regarding the approval of remodeling tax benefits was established by Resolution 9004, approved January 19, 1999, and requires that all property taxes on all property owned by the applicant be current and that the applicant be allowed to take advantage of only one City program available to provide local development assistance. This policy came about as a result of concern that certain projects were taking advantage of extremely low interest rates, city sponsored new construction or rehabilitation loan programs designed to improve building conditions, improve blighted areas and expand the tax base. After receiving the low interest loans, some developers were then applying for the reduction in property taxes, which had the net effect of canceling some of the benefits the City was supposed to derive from making the original loan.

In applying this policy to the application received from the current owners, we find that all property taxes are current and that the applicants have not received City financial assistance from other programs.

**Concurrences:** Not applicable.

**Fiscal Impact:** Approval of the application will allow for the taxes generated from the expansion to be added to the existing taxes over a five-year period in increments of 20 percent each year.

**Alternatives:** The City Commission may or may not adopt Resolution #9743.

**Attachments:** Resolution No. 9743  
Application (Not available online; on file in the City Clerk's Office.)

cc: William J. Himmelberg III  
101 River Drive North, Suite 102  
Great Falls, MT 59401

RESOLUTION NO. 9743

A RESOLUTION APPROVING THE APPLICATION FOR  
TAX BENEFITS FOR THE REMODELING, RECONSTRUCTION,  
OR EXPANSION OF EXISTING BUILDINGS OR STRUCTURES  
FOR WILLIAM HIMMELBERG III, DBA McDONALD'S, 1721 TENTH AVENUE  
SOUTH, LOTS 7-10, BLOCK 777, GREAT FALLS 16<sup>TH</sup> ADDITION,  
CASCADE COUNTY, GREAT FALLS, MONTANA

\* \* \* \* \*

WHEREAS, State Statutes (15-24-1501, MCA), as amended provide the opportunity for local governing bodies to give Tax Benefits for the Remodeling, Reconstruction or Expansion of Existing Buildings or Structures; and

WHEREAS, the local governing body must review each application and determine if it is to be approved or denied; and

WHEREAS, a copy of the processed application form, reflecting the governing body's decision, must be mailed to the Department of Revenue before April 1 of the tax year for which the benefits are sought; and

WHEREAS, William J. Himmelberg III, DBA McDonald's, has submitted an application for expansion of the building located at 1721 10<sup>th</sup> Avenue South, Lots 7-10, Block 777, Great Falls 16<sup>th</sup> Addition, Great Falls, Montana.

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

That the City Commission of the City of Great Falls does hereby approve said application for remodeling tax benefit as submitted.

PASSED by the Commission of the City of Great Falls, Montana, on this 6th day of May, 2008.

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

ATTEST:

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

(SEAL OF 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 the foregoing Resolution No. 9743 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 6th day of May, 2008, and approved by the Mayor of said City, on the 6th day of May, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City, this 6th day of May, 2008.

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

(SEAL OF CITY)





**Item:** Resolution 9745, Acknowledging the receipt of the letter of approval from Montana Department of Natural Resources and Conservation and authorize the sale and delivery of the City's \$4,010,000 in water revenue bonds

**From:** Martha Capps, Operations Supervisor

**Initiated By:** Fiscal Services, Public Works/Water Utility

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

**Action Requested:** Adoption of Resolution 9745

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission adopt Resolution 9745”

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

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**Staff Recommendation:** Staff recommends adoption of Resolution 9745, acknowledging the receipt of the letter of approval from Montana Department of Natural Resources and Conservation and authorizes the sale and delivery of the City's \$4,010,000 in water revenue bonds.

**Background:** Distribution mains in the City of Great Falls range in age from newly constructed to mains installed in 1889. Taking a proactive replacement approach to water main replacements has decreased the likelihood of unforeseen breaks, causing service interruptions to our customers and large, unavoidable constructions costs in an emergency situation. In 2002, the City had 90 breaks, compared to 73 in 2007.

The issuance of water utility system debt, in the amount of \$4,010,000, is intended to finance water main replacements within the city limits of Great Falls during the next two construction seasons. Currently, seven separate areas of replacements are planned throughout the City limits, and as bids are received and if funds are available, additional projects may be added.

The Department of Natural Resources and Conservation has agreed to finance the debt at 3.75% per annum, for 20 years, plus a one time origination fee of 1%. All engineering services have been completed through City staff. All issuance fees and costs will be paid out of this financing.

Pending completion of the financing process, cash balances in the water fund will provide sufficient cash to pay upfront expenses. This debt financing supplements the yearly capital improvements constructed using accumulated funds. At a future date, the Commission will be asked to approve a resolution fixing the terms and conditions of the bonds. Staff anticipates the bond closing in July, 2008.

Dorsey & Whitney, LLC will serve as bond counsel. In this capacity, they prepare necessary documents requiring action by the City Commission and staff, and the DNRC. They will also provide assurance that the procedures used to issue the bonds are in compliance with rules and regulations regarding the issuance of tax exempt revenue bonds, and also in compliance with existing bond ordinances of the outstanding Water System Revenue Bonds of the City.

**Concurrences:** 2006 Water Master Plan

**Fiscal Impact:** The water utility rates, implemented in February 2008, are capable of supporting this debt issuance.

**Alternatives:** The City Commission may deny passage of the resolution and the issuance of debt.

**Attachments/Exhibits:** Resolution 9745, A Resolution of the City of Great Falls, Montana, Acknowledging receipt of a letter of approval for drinking water revolving fund loan program in lieu of commitment agreement from the Department of Natural Resources and Conservation regarding the sale and delivery of the City's \$4,010,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2008, and authorizing the City to proceed with the issuance of the bond.

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of City of Great Falls, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "A RESOLUTION OF THE CITY OF GREAT FALLS, MONTANA, ACKNOWLEDGING RECEIPT OF A LETTER OF APPROVAL FOR DRINKING WATER REVOLVING FUND LOAN PROGRAM IN LIEU OF COMMITMENT AGREEMENT FROM THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION REGARDING THE SALE AND DELIVERY OF THE CITY'S \$4,010,000 WATER SYSTEM REVENUE BOND (DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM), SERIES 2008 AND AUTHORIZING THE CITY TO PROCEED WITH THE ISSUANCE OF THE BOND" (the "Resolution"), is 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 May 6, 2008 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 meetings 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, the following Commissioners voted in favor thereof: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_; voted against the same: \_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_; or were absent: \_\_\_\_\_.

WITNESS my hand and seal officially this \_\_\_\_\_ day of May, 2008.

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

(SEAL OF CITY)

RESOLUTION NO. 9745

A RESOLUTION OF THE CITY OF GREAT FALLS, MONTANA, ACKNOWLEDGING RECEIPT OF A LETTER OF APPROVAL FOR DRINKING WATER REVOLVING FUND LOAN PROGRAM IN LIEU OF COMMITMENT AGREEMENT FROM THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION REGARDING THE SALE AND DELIVERY OF THE CITY'S \$4,010,000 WATER SYSTEM REVENUE BOND (DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM), SERIES 2008 AND AUTHORIZING THE CITY TO PROCEED WITH THE ISSUANCE OF THE BOND

WHEREAS, pursuant to Montana Code Annotated Title 7, Chapter 7, Parts 44 and 45, as amended, the City Commission (the "Commission") of City of Great Falls, Montana (the "City") is authorized to issue its revenue bonds to pay the costs of designing, constructing and installing certain improvements to the City's municipal water system (the "System"); and

WHEREAS, the Department of Natural Resources and Conservation (the "DNRC") has provided to the City a form of a Letter of Approval for Drinking Water Revolving Fund Loan Program in Lieu of Commitment Agreement between the City and the DNRC, a copy of which is attached as Exhibit A (the "Letter of Approval") and pursuant to which the DNRC will loan the City \$4,010,000 (the "Loan") to pay the costs of financing certain improvements to the System (the "Project") and the City will evidence its obligation for the Loan by the issuance of its Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program) in the same amount (the "Bond"); and

WHEREAS, the City has reviewed the Letter of Approval; and

WHEREAS, it is the judgment and determination of the Commission that it is in the best interest of the City to accept the terms and provisions set forth in the Letter of Approval and proceed with the issuance of the Bond.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City as follows:

1. Acceptance of Terms of Letter of Approval. The Commission of the City hereby accepts the terms and provisions of the Letter of Approval.
2. Authority to Proceed. The Mayor, City Clerk, Fiscal Services Director, and City Manager of the City are hereby authorized to take all actions necessary and desirable to proceed with the issuance of the Bond to the DNRC in accordance with the provisions of the Letter of Approval and other applicable provisions of Montana law, subject to the final bond resolution being presented to the Commission for approval before the Bond is issued.

PASSED by the City Commission of the City of Great Falls, Montana, on this 6th day of May, 2008.

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

Attest:

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

Approved for Legal Content:

\_\_\_\_\_  
David V. Gliko, City Attorney

EXHIBIT A

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION



BRIAN SCHWEITZER, GOVERNOR

1625 ELEVENTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE (406) 444-2074  
TELEFAX NUMBER (406) 444-2684

PO BOX 201601  
HELENA, MONTANA 59620-1601

LETTER OF APPROVAL FOR DRINKING WATER REVOLVING FUND LOAN PROGRAM IN LIEU OF  
COMMITMENT AGREEMENT

April 7, 2008

City of Great Falls

Dear Greg Doyon:

The State of Montana, through its Drinking Water State Revolving Fund Program, has been approved by the Environmental Protection Agency (the EPA) to make loans for drinking water projects.

The purpose of this letter is to formally apprise you that the State had approved a loan to the city in the amount of \$4,010,000 which loan will be represented and secured by a Revenue Bond in the amount of \$4,010,000 payable over a term of 20 years at an interest rate of up to 3.75% per annum.

The Bonds shall be issued pursuant to a Bond Resolution adopted by the city in substantially the form of the Bond Resolution used by the city's Bond Counsel in previous revolving fund loans, subject to appropriate references and changes for any currently outstanding Bonds.

The city has notified DNRC of its desired closing date, on or before August 1, 2008, on the loan and DNRC will work with the city and its Bond Counsel to have the loan properly closed.

Please do not hesitate to call if there are any questions or comments.

Very Truly Yours,

Anna M. Miller  
Financial Advisor  
Conservation and Resource Development Bureau

cc: Mark Smith – DEQ w/  
Great Falls \$4,010,000 WRF file w/  
Janice Yeary – DNRC w/  
Coleen Balzarini – City

Marc Golz – DEQ w/  
Debbie Kuykendall – US Bank w/  
Martha Capps – City  
Rick Johnson - City

AMM:jj

CENTRALIZED SERVICES  
DIVISION  
(406) 444-2074

CONSERVATION & RESOURCE  
DIVISION  
(406) 444-6667

RESERVED WATER RIGHTS  
COMPACT COMMISSION  
(406) 444-6841

OIL & GAS  
DIVISION  
(406) 444-6675

TRUST LAND MANAGEMENT  
DIVISION  
(406) 444-2074

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Regular City Commission Meeting

Mayor Stebbins presiding

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

**PLEDGE OF ALLEGIANCE**

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

**PROCLAMATIONS:** Mayor Stebbins read proclamations for Public Safety Telecommunicator's Week, National Day of Prayer, and the Lewis and Clark National Historic Trail Interpretive Center 10<sup>th</sup> Anniversary Celebration.

**NEIGHBORHOOD COUNCILS**

NC 7

**1A. Aaron Weissman, NC 7,** commented that the council remains concerned about many problems in the lower north and south sides of Great Falls. At a meeting last night, the council discussed the recent crime activity at 5<sup>th</sup> Street and 5<sup>th</sup> Avenue North. Mr. Weissman stated that Patty Cadwell is attempting to set up a town meeting with the neighbors and others in that area to listen to these neighbors' concerns and determine what can be done. Mr. Weissman urged the Commissioners to attend that meeting. The Council also suggested lighting Gibson Park at night. He stated it may be expensive, but it is something that needs to be investigated. Mr. Weissman stated that the Council volunteered and gathered over 2,300 signatures from patrons of the downtown Albertsons requesting that there be a downtown grocery store. Mr. Weissman stated that this represents a market and there is a business opportunity there. Mr. Weissman asked for any help to make that a reality as the Albertson's store closes this week. Mr. Weissman thanked the City for its leadership in traffic safety by approving the installation of a left turn bay at 9<sup>th</sup> Street and 6<sup>th</sup> Avenue South and hoped that it would be installed soon.

NC 4

**1B. Sandra Guynn, NC 4,** thanked Jerry McKinley and the traffic department for installing a yield sign at 54<sup>th</sup> Street and 8<sup>th</sup> Avenue South, and installing a Do Not Park sign by the apartment complex that caused visibility issues. Ms. Guynn stated that one of the agenda items for their next council meeting is the parking problems at the Soccer Park. She invited anyone who is interested in that topic to attend. The meeting will be on April 24, 2008, at 6:30 p.m. at the Heritage Baptist Church.

NC 2

**1C. Robert Mehlhoff, NC 2,** commended the Great Falls Fire Department and the 911 dispatchers for their professional work at a recent fire he witnessed and called 911. Mr. Mehlhoff stated that he met with Chief McCamley a week prior and they talked about the increased number of responses and the Fire Department’s need to get an increase in its budget. They also talked about the possibility of the Fire Department not getting a budget increase. That would cause the fire rating to drop. Mr. Mehlhoff stated that it comes down to giving extra money to insurance companies or to the Fire Department. Mr. Mehlhoff stated that the Fire Department arrived within five minutes at the fire he witnessed. If they hadn’t, the house next door would have also burned. Mr. Mehlhoff asked the Commission to look at the fire and police budgets to find ways to increase those budgets. He doesn’t want to see the personnel put at risk in trying to protect the public.

**PUBLIC HEARINGS**

**Ord. 3002 and Res. 9735, Rezones Lots 1-7, Block 26, Huy’s Addition, and the westerly 250’ of 10<sup>th</sup> Alley South in Block 26 between 20<sup>th</sup> and 21<sup>st</sup> Streets, and vacates a majority of 10<sup>th</sup> Alley South in subject Block 26. Adopted.**

**2A. ORDINANCE 3002, REZONES LOTS 1 THROUGH 7, BLOCK 26, HUY’S ADDITION, AND THE WESTERLY 250’ OF 10<sup>TH</sup> ALLEY SOUTH IN BLOCK 26 BETWEEN 20<sup>TH</sup> AND 21<sup>ST</sup> STREETS FROM R-3 SINGLE-FAMILY HIGH DENSITY DISTRICT TO C-2 GENERAL COMMERCIAL DISTRICT.**

**2B. RESOLUTION 9735, VACATES A MAJORITY OF 10<sup>TH</sup> ALLEY SOUTH IN SUBJECT BLOCK 26.**

Acting Planning Director Bill Walters reported that the Commission will be considering action on four different documents. Ordinance 3002 rezones six existing residential lots along 9<sup>th</sup> Avenue South between 20<sup>th</sup> and 21<sup>st</sup> Streets from an R-3 Residential classification to a C-2 General Commercial classification to accommodate the proposed CVS pharmacy store that will overlap onto those six lots. The second document is an Agreement containing conditions associated with that zone change. The third document is Resolution 9735 to vacate a majority of the alley that exists in the block that is being considered for development of the CVS pharmacy, and the fifth document is an Amended Plat. The Amended Plat will combine the six existing residential lots with the vacated alley together with the frontage that is being acquired on 10<sup>th</sup> Avenue South all into one lot to accommodate the CVS pharmacy store.

The City Planning Board/Zoning Commission conducted a public hearing on this matter on January 22, 2008. Two individuals spoke on behalf of the applicant at that hearing. Two local citizens spoke as proponents and four citizens who reside in the area to the north of the subject property spoke in opposition. At the conclusion of the hearing on January 22, 2008, the City Planning Board/Zoning Commission passed motions recommending the City Commission approve the rezoning, alley vacation and the Amended Plat, subject to specified conditions. The applicant has attempted to mitigate



impact upon the adjoining residential neighborhood by precluding any direct vehicular access to 9<sup>th</sup> Avenue South by providing a 55' wide landscape buffer and a six foot high screen wall along the north side of the project site bordering 9<sup>th</sup> Avenue South. A significant portion of the City Planning Board/Zoning Commission recommendations consisted of the traffic analysis. Staff concluded that the roadways and intersections adjoining the pharmacy site have adequate capacity to accommodate the anticipated additional traffic. Also, the applicant has had a traffic impact study prepared which has been submitted to the Montana Department of Transportation. The preliminary study indicates the pharmacy would not require any significant improvements to mitigate any traffic related impacts.

Mayor Stebbins declared the public hearing open. Speaking in favor of Ordinance 3002 and Resolution 9735 were:

**Mark Macek**, 801 9<sup>th</sup> Street South, stated that this is a very good project for Great Falls. CVS is a national tenant that will take over some very old and dilapidated existing commercial buildings. He believes any time the City gets a project like this and the tenant has the ability to do that and blend into the neighborhood, it would do well to take advantage of that. National retailers find it difficult to develop on half a block on 10<sup>th</sup> Avenue South. Sometimes it is necessary to go into the other side of the block and encroach in the neighborhood. This particular tenant is one of a few that fits into a neighborhood better than others. It provides a convenience aspect to the neighborhood, as well as significant landscape buffering and screening so light and noise are mitigated resulting in minimal impact on the neighborhood. Mr. Macek opined that Walgreens turned out very well and has fit into the neighborhood and is a big asset for the community. CVS bought out Osco and is currently located in the Holiday Village Mall. Osco, and now CVS, have been in the marketplace for many years and have serviced many customers. This will provide customers with better service and convenience than they are getting now. Mr. Macek urged the approval of the Commission.

**Jack Schunke**, of the Morrison-Maierle Office in Bozeman, thanked the Planning staff and members of the City who were involved in the site plan review. Mr. Schunke stated that with their comments, they came up with a better project that will be a real asset to the community. Mr. Schunke stated that he reviewed and agrees with the recommendations and the conditions in the staff report. One condition of the report required that a traffic report be completed and submitted to the Montana Department of Transportation. Mr. Schunke stated that has been completed and, from that report, there may be some other requirements that are impacted by CVS, and they are receptive to working with the City and MDOT to meet those requirements. The traffic report, for the most part, agreed with the previous Walgreens' study and essentially reported that the traffic impacts from CVS will be minimal. Mr. Schunke discussed the circulation and improvements that the CVS store will have. He stated that having no access onto 9<sup>th</sup> Avenue is a plus; a significant

berm area will be well landscaped and buffered from the adjacent community of residents; a significant vertical rise in the area provides an additional buffer from the neighborhoods; consolidating accesses on 10<sup>th</sup> Avenue which is a significant improvement in terms of traffic flow and the access onto 10<sup>th</sup> Avenue is a right turn only in and out. There are also two other accesses into the facility that provide good traffic flow. At the zoning meetings there were concerns with dust and construction activities. Mr. Schunke stated that additional funds have been added to the budget to provide for additional watering to minimize dust, and they are attempting to consolidate the construction activity into a specific period thereby minimizing the disturbance.

Speaking in opposition to Ordinance 3002 and Resolution 9735 were:

**Ron Reis**, 2015 9<sup>th</sup> Avenue South, stated that he has dealt with this since it started. Mr. Reis stated that he is not against progress; he just doesn't want to be a part of it. Mr. Reis stated that no one has talked to him. He has a lot of medical problems. He attended the Planning Board meeting and stated that no one mentioned the residents across the street and how they were dealing with them. He has concerns about the unloading noise at night. He wants them to work with him and not against him.

**Stuart Lewin**, 615 3<sup>rd</sup> Avenue North, reminded the Commission and Planning staff about the development at Walgreens. Mr. Lewin stated that Walgreens allowed itself to have the buffer on the north side of it work effectively. There were huge trees there. They talked to the City forester and, as part of that project, he made sure the trees were saved. The buffer does work pretty well because of those huge trees. Mr. Lewin requested that they consider the light situation to mitigate the amount of lights that hurt the neighborhood the most.

Commissioner Jolley informed Mr. Lewin that the documents state they hoped that those trees could be saved, and it also addressed the light situation.

**Phyllis Gibson**, 2011 9<sup>th</sup> Avenue South, stated that the plans for CVS do look nice. She resides across the street and she is concerned about the construction dust and the health of her husband, who has COPD and emphysema. She is also concerned about construction after 10:00 p.m. and unloading at night will be noisy. Ms. Gibson stated that the only way to eliminate some noise is a stone fence and that is not what she is hearing. She wants to be assured that the lights that are put in do not shine on the north side of 9<sup>th</sup> Avenue South. She is disappointed that the City has even thought about changing an R-3 residential zoning to a C-2 general commercial. She talked to all of her neighbors on her side of the street, and they are not happy about having the neighborhood ruined, and they are concerned about crime. Ms. Gibson stated that no CVS representatives have talked with the neighbors on the north side of 9<sup>th</sup> Avenue South. Ms. Gibson said that there

are some things they are telling the City that are being taken at face value.

**Sheila Rice**, Executive Director of NeighborWorks Great Falls, 509 1<sup>st</sup> Avenue South, commented that there is an impact on affordable housing with this development, but there doesn't have to be. She has been working with the CVS developers on a voluntary basis to allow NeighborWorks to be given those houses along with some funds to move them and preserve six affordable houses in Great Falls. Ms. Rice encouraged the Commission to make preservation of affordable housing a condition of these kinds of zoning changes. She stated that the City may not always have this kind of a developer like CVS who is willing to work with NeighborWorks on a voluntary basis.

There being no other speakers, Mayor Stebbins declared the public hearing closed, and asked for the direction of the City Commission.

**Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Ordinance 3002 and the accompanying Agreement.**

Commissioner Jolley asked if someone could reiterate that they will do everything they can to make sure the lights don't shine on the north side of the street. The project manager for Velmeir Companies answered that the lights will meet the needs of CVS and the requirements of the City. If there is anything else they can do to make the neighbors happy, they will do that too. Commissioner Jolley asked if they would be constructing at night and was informed no. Mayor Stebbins added that there is an ordinance that prohibits construction at night.

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

Commissioner Beecher stated that he agreed with Mr. Lewin's comments. He encouraged the developers to look at the light issue seriously and consider the comments of the citizens. He stated that this is a good neighbor as opposed to some of the other uses that could go on that property.

Commissioner Bronson stated that, having gone through this when he served on the Planning Board and Zoning Commission on the Walgreens issue, he can appreciate the comments of those who have questions or concerns about this type of development. As with the Walgreens development, when you have a developer that is willing to make several accommodations to make this project as appropriate and as workable as possible, combined with the fact that, in this community, we just simply don't have a laissez-faire attitude, we put reasonable restrictions on developers to make sure that these projects are constructed in a way that provides the least amount of interference and the least amount of discomfort recognizing that there is always going to be a little bit of that when we do construction like this.

Commissioner Bronson stated his fear, as a citizen, is that when he looks at the status of the property along 10<sup>th</sup> as it is now, with the property that has been abandoned by Cattins, if nothing is done to that area within a reasonable period of time, you will have crime problems. It is a blighted area right now and will have a negative impact on the neighborhood unless there is some type of responsible commercial development in that strip in the very immediate future. They have someone that is willing to step up to the plate to do that and he thinks in the end that it is worth the inconveniences. Commissioner Bronson echoed Sheila Rice's comments that when we have the opportunity to preserve some of those homes and utilize them for affordable housing in this community, he thinks we are setting an example that the rest of the cities in this state should follow.

Motion carried 5-0.

**Commissioner Jolley moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 9735 and approve the Amended Plat of Lots 1-7 and 10-14, Block 26, Huy's Addition to Great Falls, and the accompanying Findings of Fact.**

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

Motion carried 5-0.

**2008/2009 HUD Annual Action Plan. Closed public hearing and set Final Annual Action Plan for May 6, 2008.**

**3. 2008/2009 HUD ANNUAL ACTION PLAN. RECEIVE CITIZEN INPUT REGARDING THE PROPOSED ANNUAL ACTION PLAN REQUIRED BY HUD INCLUDING THE PROPOSED USE OF 2008/2009 COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP PROGRAM FUNDS.**

CDBG Administrator Chris Imhoff reported that the City of Great Falls is expecting to receive \$917,014 in CDBG funds and \$394,063 in HOME funds from HUD in the coming year. The money will be used for projects in the community that primarily benefit low to moderate income persons. In order to continue to receive annual allocations of these grants, the City is required to submit a plan each year to HUD which includes information regarding how the City intends to use the CDBG and HOME funds. Project applications for the funds were accepted through February 15, proposals were reviewed by the Community Development Council, and funding recommendations were presented at the Commission meeting on April 1. Staff is asking the City Commission to conduct a public hearing allowing an opportunity for citizens to address the Commission with comments related to the Annual Plan and to the proposed use of the funds for the 2008/2009 year. The Annual Plan, including the CDBG and HOME funding recommendations, will be available for citizen review for a 30 day period between April 4 and May 3. A hard copy of the document can be reviewed at the Community Development department or at the Library and an

electronic version of the Plan can be viewed on the City's webpage. No action is required by the Commission this evening. Staff asks that the City Commission consider all the comments received when making the final funding approval on May 6.

Mayor Stebbins declared the public hearing open.

**Joe Boyle**, Chairman of the Housing Authority Commission, urged the Commission for their support of the HOME application for \$250,000. If approved, it will allow the Housing Authority to construct four two-bedroom apartments in the Sandhills property which was recently purchased from the City. These four units will be Phase 1 of eventually 16 apartments that will be affordable for low to moderate income citizens who cannot afford the current market rents in this community. The Housing Authority's waiting list shows that the most pressing need is one and two bedroom apartments. February's waiting list, for example, numbered 299 households. Two hundred and eleven of those households are waiting for one and two bedroom apartments. Twenty-nine of those waiting are seniors and the disabled. Mr. Boyle stated that the apartments will be constructed to accommodate the elderly and the handicapped, but small families may also benefit because of the area. It is very close to the University of Great Falls, MSU-COT and Benefis Hospital. Since there will be no federal subsidy that is attached to these apartments, there are no incentives for the private sector to meet this need. Without the use of HOME funds, the Housing Authority could not afford to put the units up and keep the rents affordable. The Housing Authority will contract with an architect to begin design as soon as the HOME funds are secured. Construction of Phase I is expected to begin this Fall. Mr. Boyle urged the approval of the HOME funding for the Great Falls Housing Authority and thanked the Commission for its consideration.

**Nancy Wilson**, Director of Meals on Wheels, thanked the Commission and Chris Imhoff for their past support. Ms. Wilson stated that Meals on Wheels is growing every day and their grocery bills are going up like everyone's. Ms. Wilson urged the Commission's continued support. She stated when she first wrote her proposal, she had 250 meals going out each day in Great Falls. January through March averaged 263 meals every day. They have their own kitchen and staff and can prepare meals on demand. Great Falls is the only town left in Montana that doesn't put anyone on a waiting list. That is because of the support that comes from this grant allocation to help them over the hump when they have a crisis. For example, one day in December they provided meals to 300 people. She urged the Commission's support of CDBG funds for Meals on Wheels.

Commissioner Jolley inquired how much Meals on Wheels was being awarded. Ms. Wilson responded \$25,000.

**Sheila Rice**, Executive Director of NeighborWorks Great Falls, thanked the Commission for many years of support of NeighborWorks Great Falls. Ms.

Rice stated that she wanted to open a dialogue with this Commission and City staff regarding this City's role in affordable housing. Ms. Rice provided a chart that shows the decline in overall support for NeighborWorks Great Falls from the City of Great Falls. In fairness, she stated what it does not show is there is a lot less money overall than there used to be. The second thing it does not show is the impacted program income. Sporadically, NeighborWorks Great Falls will receive repayment of a deferred mortgage that they can deploy into another deferred mortgage. It also does not show NeighborWorks Great Falls' production. For many years they did nine or 10 houses per year. Three years ago they did 20 units. Last year they did 34 units. This year they are on target for an additional 20 units. It also does not show the increase in taxes that can be attributed to the construction work of NeighborWorks Great Falls. Conservatively, once a vacant lot has a house on it, it has a \$1,000 tax bill. The 216 houses that they built or renovated is \$216,000 per year tax base added to the City of Great Falls, the school district and the County. Lastly, it does show the impact of affordable housing on economic development. Ms. Rice stated that recently they had front page news that a Bozeman technology plant is hopefully moving to Great Falls because their employees can still afford to buy a house in Great Falls. Ms. Rice thanked Chris Imhoff and asked the City Commission to examine its role in affordable housing. It is five out of the seven priorities in the Annual Plan, but a mere 25% goes to affordable housing.

**Stuart Lewin**, 615 3<sup>rd</sup> Avenue North, commended Sheila Rice's fine work since she has taken over this project. He was at a meeting recently where she talked with people in the housing program about how to manage their finances in such a way that they could afford to continue to pay for these houses. One of her recommendations was they need to have a fixed interest rate mortgage. Mr. Lewin stated that advice was super and has saved a lot of people that are marginal out of the current situation.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue N.E., stated that he would like to correct something that Sheila Rice said when she mentioned the tax base would increase by \$216,000. Mr. Gessaman stated that he believes she meant to say the tax revenue had increased by \$216,000. The tax base for these houses is about a \$16 million dollar increase.

Mayor Stebbins expressed kudos to Sheila Rice and stated that Neighborhood Housing Service, a/k/a NeighborWorks, has been doing foreclosure prevention for 13 years now.

Commissioner Bronson asked Park and Recreation Director Marty Basta about two grant requests for the Community Recreation Center and one of the recommendations that came out of CDC was not funded but the other one had an increase of almost twice the amount for the heating and cooling system upgrade. Commissioner Bronson asked why the CDC recommended a higher allocation for that and none for the other. Mr. Basta responded that the Park and Recreation Department originally requested funds for an

electrical upgrade at the Community Recreation Center. After talking with the Review Committee, it was determined that by purchasing a higher efficiency heating system, the needs for the upgrade in the electrical system would be reevaluated. They felt it was more important to have a high efficiency heating and cooling system in that facility, and they would forego the electrical improvements until they could see the load change those improvements would have on the electrical needs of the building.

Commissioner Jolley stated that last year Mr. Boyle's recommendation for CDBG funds was for a triplex at Sandhills and now it is a fourplex. She asked for a reason why that changed. Great Falls Housing Authority Deputy Director Kevin Hager responded that they were initially looking at three four plexes on that site. After looking at the size of the lot it was determined that four would fit. Due to the cost of construction going up and looking at economics, building more units without effecting concentration on the property made more sense. Commissioner Jolley inquired about the start of construction in September. Mr. Hager stated that it will be under construction this Fall. They are starting to talk with an architect about site plans. The property was just acquired within the last few weeks.

Commissioner Jolley thanked Sheila Rice for the graph. She asked as the NeighborWorks support went down, has the City, through the Great Falls Housing Authority, taken more of the CDBG grants. Mr. Hager answered that they have not taken any CDBG funds, but they have received HOME funds to acquire the land last year and then the request this year is for HOME funds also.

**Commissioner Rosenbaum moved, seconded by Commissioner Bronson, to close the public hearing and schedule the Final Annual Action Plan for May 6, 2008.**

Motion carried 5-0.

**Res. 9742, Vacate Cul-de-sac in 15<sup>th</sup> Street Bridge Addition. Postponed and Reset Public Hearing for May 6, 2008.**

**4. RESOLUTION 9742, VACATE CUL-DE-SAC IN 15<sup>TH</sup> STREET BRIDGE ADDITION.**

Public Works Director Jim Rearden reported that he now has the awaited and completed amended plat and it will be presented for final action on May 6, 2008.

Commissioner Jolley asked if Mr. Rearden had an appraisal on the City Recycling Center and for what amount. Mr. Rearden responded that Phil Rowen appraised the property for \$550,000. Commissioner Jolley asked if that would be advertised in the newspaper. Mr. Rearden responded that when any City property is sold it has to go out for competitive bid. Commissioner Jolley inquired if it would appear in the Great Falls Tribune and not just on a bulletin board. Mr. Rearden responded that it will be advertised and will go through the public process.

**Commissioner Bronson moved, seconded by Commissioners Rosenbaum and Beecher, that the City Commission postpone and reset the public hearing for May 6, 2008.**

Motion carried 5-0.

### **OLD BUSINESS**

**Consulting Agreement, Water Right Solutions, Inc., and First Amendment to Agreement. Tabled for May 6, 2008.**

#### **5. CONSULTING AGREEMENT, WATER RIGHT SOLUTIONS, INC., AND FIRST AMENDMENT TO AGREEMENT.**

Fiscal Services Director Coleen Balzarini reported that Water Right Solutions (WRS) has been acting as a consultant for the City of Great Falls since 2002, to look at the City's general water rights status, review and evaluate the water rights, and to assist the City in filing documents with DNRC. The first project WRS completed in 2002 was a booklet itemizing the City's water rights. One of the issues discovered by WRS was that there were places of use and points of diversion that didn't match up with where water was at. Some of the documents were written in the late 1800's and the early 1900's. A thorough review showed that was something the City needed to amend and correct. The City became involved with WRS when the Malting Plant had a need for industrial water. In order for the Malting Plant to access the water a change in place of use and point of diversion was required. That was the first time that the City exercised use of its water reservation. WRS also performed services related to the Highwood Generating Station. When the scoping meetings were held that were required by the RUS, WRS appeared to discuss and have available information on the water that was available for use. Since the contract had been in place since 2002, it was time to review and update it in terms of fees and types of work they would be doing for the City. The first item WRS will address is to review the City's water rights as they are going through the preliminary decree through the State and how they relate to all water rights within the 41Q and 41QJ basins. There are over 2,500 water rights within the basins. Ms. Balzarini stated that the Commission is asked to approve a new contract as of 2008 and to approve the first amendment allowing Water Right Solutions to review 41Q and 41QJ as it relates to the City's water rights.

**Commissioner Beecher moved, seconded by Commissioner Bronson, that the City Commission authorize the City Manager to execute a Consulting Agreement and First Amendment to the Agreement with Water Right Solutions, Inc.**

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

Commissioner Jolley asked for public comment.



**Stuart Lewin**, 615 3<sup>rd</sup> Avenue North, commented that he is an attorney and that he spends quite a bit of his time in the water rights area representing farmers and ranchers. Mr. Lewin stated that he has been following the adjudication process since he came to this area, and it is a complicated issue. Mr. Lewin stated that he reviewed this contract and is well aware of this group that was hired, and they do quite a bit of this work in this state. He stated that he is also aware that Commission Bronson has recommended that this agreement and amendment be approved. Mr. Lewin stated that he has been trying to review the City records as to water rights with former manager, Mr. Lawton, and was told the extensive files are with the people in Helena. He stated that he understands the City is now working on arrangements for him and others to go to Helena to review the records. Mr. Lewin stated that it is impossible for him to make any kind of evaluation about what those water rights experts are telling the City or what they are doing for the City. Mr. Lewin stated that he thinks he can provide the Commission some enlightenment about the contracts, and he is opposed to the Commission adopting the contract and the amendment. He finds that there are things in the new agreement that are completely unacceptable and he hoped that would result in the Commission tabling this new contract until it can be considered more at length. The main issue he finds troublesome is number 15 of the contract, and this item was not in the prior contract that was signed in 2002. Mr. Lewin read the indemnification clause. Mr. Lewin stated that this clause is basically saying that any work that the consultants are doing in Great Falls the City will cover them for. He believes that this agreement was poorly drafted and not what was intended. Mr. Lewin stated that Ms. Balzarini said that the City has been operating under the prior agreement for quite a long time and it was time to update it. Mr. Lewin said if this new agreement isn't approved tonight, it doesn't mean that work can't be performed under the old agreement. Mr. Lewin said the August 4<sup>th</sup> deadline is very important for all objections to be filed. Before the City should agree to pay double the amount it paid WRS before, it should see if there are other consultants that should be given consideration. Mr. Lewin stated that the consultants are experts and not attorneys, and suggested that the City hire a water rights attorney.

**Cheryl Reichert**, 51 Prospect Drive, commented that what we are talking about today is not old business. This is a whole new chapter. Paris Gibson recognized that water is the life blood of the community. As Mr. Lewin indicated, the detailed information has not been made available to the public. She finds it surprising that the original files reside in Helena and there are no duplicate copies here to review. Ms. Reichert stated that she is also concerned that there have been no competitive quotes. She spoke with Mary Sexton who directs the Department of Resources and Conservation and she asked her if this was because there aren't many people around who do this sort of thing. Mary told her this is a very active area throughout the State of Montana. Ms. Reichert believed it would be wise for the Commission to obtain competitive quotes. As previously stated, there are over 2,500 water rights in this basin. Ms. Reichert asked if Water Right Solutions represents

any of these other clients and, if they do, isn't that a potential conflict of interest. Regarding the indemnity clause, Ms. Reichert stated that as a physician she has to carry malpractice insurance. She can't ask patients to sign off on something that she did and hold her harmless. She believes that democracy benefits from active participation of the citizens. This is a complicated area with a steep learning curve. Ms. Reichert finds it reasonable to table or postpone this agreement and set a public hearing on this issue after providing adequate time to research this topic.

City Manager Gregory T. Doyon stated that, based on comments he heard tonight and concerns he has, he requested a second review of this item. Mr. Doyon recommended, if it is the Commission's pleasure, to withdraw the motion to allow time to look into the concerns raised tonight.

**On the recommendation of the City Manager, Commissioner Beecher withdrew the motion until this matter can be reviewed further.**

Commissioner Jolley asked that a work session on water rights be scheduled before this comes before a Commission meeting.

Commissioner Beecher commented that he doesn't understand the reason for the indemnify clause. However, from a standpoint of this particular consultant, Mr. Schmidt has a wealth of knowledge and background about the City's position on water rights. This is just a proposed amendment to the existing contract. To throw that out seems not to be very good business. If we put this out for bid, the other water right folks would have the same potential for conflict of interest.

Commissioner Bronson clarified the statement in Ms. Balzarini's report about his recommendation. He stated that it should be clear that his recommendation did not concern this contract. The contract was just presented to the Commission within the last few days. His recommendation went to a previous memo that was submitted to all the Commissioners and the Mayor by Ms. Balzarini that brought to their attention the terms of the Temporary Preliminary Decree issued by Judge Loble. His response was that it was prudent for the City to be a participant in assessing all the claims that are made in connection with that Temporary Preliminary Decree. Commissioner Bronson stated that WRS provides research with respect to hydrology, and with respect to whether or not these rights will interfere with the quantum of rights that are involved. Commissioner Bronson echoed Commissioner Beecher's comment that this company has a very excellent track record in providing very good services to this community. With that being said, Commissioner Bronson stated that he has reviewed the contract, and he does have some questions about some of the terms and conditions contained therein. For that reason, he is comfortable with putting off any final discussion about this particular contract or whether they go forward with this company or somebody else. However, he emphasized to everyone concerned about this, that they need to get on top of this issue as soon as

possible. They have a date certain in August to respond to the Preliminary Decree. He urged the City Manager to take whatever steps were necessary to get this expedited and back to the Commission as soon as possible.

Commissioner Jolley reiterated that about a month ago she requested what Commission action was taken to modify the historic Gibson water rights. She stated that there have been no public hearings on water rights, no discussions like this about water rights until tonight. Commissioner Jolley stated she also wanted to know what Commission actions were taken with regard to the PPL settlement. She stated that it was her understanding that in 2005, Dave Schmidt said the City had ample water under the existing water rights to run the City and, even if the City were to grow, there would be enough water to meet the increased demands. In 2006, Mr. Schmidt said the City's reserved water right equated to that of a small irrigation ditch. Commissioner Jolley asked Ms. Balzarini if water files were kept in Martha Capps' office. Ms. Balzarini responded no.

Fiscal Services Director Coleen Balzarini responded that the indemnification clause perhaps was not as good as it could be, but it was added at the recommendation of the City's Risk Manager. Item 14 of the contract talks about the insurance that the consultant was required to have, which included comprehensive general liability and professional liability insurance. Ms. Balzarini stated that for the part WRS was responsible for if there was a lawsuit, their insurance would cover it, and the City's insurance would cover anything we are responsible for. This consultant has significantly more insurance in these areas than the City requires in other contracts. Ms. Balzarini stated that the items Commissioner Jolley is asking for regarding the PPL amendment and the agreement, were part of the filing for the change in the point of diversion for the Highwood Generating Station. Ms. Balzarini stated that she believed Commissioner Jolley asked the City Clerk for a copy of the filing that was sent to DNRC and was, in fact, what she was provided. Ms. Balzarini explained that DNRC is the custodian of original water records for the State of Montana. The State of Montana owns the water and the City simply has a right to use it. Commissioner Jolley said Ms. Balzarini was misunderstanding what she was asking for. She is asking for what Commission action, this body, had taken when they gave the authority and by what method. Ms. Balzarini stated that she already responded to that. She informed Commissioner Jolley if she wanted to know what Commission actions were taken, the City Clerk has a record of all Commission actions. Commissioner Jolley stated that she has looked through the record on the website and couldn't find any. Commissioner Jolley again stated she wanted to know how decisions were made in the past on this important subject. Ms. Balzarini stated that this was not the first public session. There were work sessions that were publicly noticed, all of the Commission were in attendance, and Mr. Lewin and a number of people have commented at them. Commissioner Jolley stated there was no Commission action at a Commission meeting that dealt with water issues. Her question was how were these things accomplished, in a local government, without the public

knowing what was going on.

Commissioner Beecher interrupted and stated Commissioner Bronson can correct him if he is wrong, but at this point in time there has been no issue that has required Commission voting in regards to the water rights review or even where they are diverting an intake of water from one point to another. It has not required a policy type vote. Commissioner Jolley responded that work sessions, memos or emails don't decide Commission action. Commissioner Beecher disagreed and suggested they move on. Ms. Balzarini stated that there were two definite actions that were taken when they entered into raw water agreements with the Malting Plant and with Highwood Generating Station. Both of those make reference to raw water and the activities that needed to be done with regard to the City's water rights.

**Commissioner Rosenbaum moved, seconded by Commissioner Bronson, that the City Commission table this matter until May 6, 2008, to allow the City Manager to review the indemnification clause in the Consulting Agreement with Water Right Solutions, Inc.**

Commissioner Rosenbaum echoed what Ms. Balzarini said. He stated when he contracts with people he indemnifies them, and has the insurance requirements. The language in the contract was almost identical to what he has in all of his construction contracts.

Mayor Stebbins requested that a work session on water rights be scheduled. City Manager Gregory T. Doyon responded that, at a minimum, what is in order is that the Commission hear from the current consultant to get a progress report and update to refresh everyone's memory where we are at and where we are needing to go. Maybe that would establish some level of comfort with continuing with WRS, or give the Commission a better position to assess whether or not they want to put it out to bid. Mr. Doyon stated that he would work to resolve any issues on this before it is brought back before the Commission. It is very likely going to take another period of time, not consistent with the work sessions, to do this. He stated he would be in touch with them in short order to determine some other dates so there is enough time to cover, at least on an initial basis, some background information and get everybody up to speed.

Mayor Stebbins stated with the upcoming deadline, this should rise to the top of the priorities list.

Motion carried 5-0.

**NEW BUSINESS**

**ORDINANCES/RESOLUTIONS**

**Consent Agenda.  
Approved as printed.**

**CONSENT AGENDA**

6. Minutes, April 1, 2008, Commission meeting.
7. Total Expenditures of \$995,868 for the period of March 25-April 9, 2008, to include claims over \$5,000, in the amount of \$815,821.
8. Contracts list.
9. Grant list.
10. Award Construction Contract in the amount of \$73,327 to Pipeline Inspection Services, Inc. for the Water Treatment Plant Flume and Sanitary Sewer Manhole Lining Project. OF 1519.4
11. Approve Engineering Services Contract Amendment with NCI Engineering Co. for the North Park Sewer Lift Station #27 in an amount not to exceed \$47,310. OF 1374.5
12. Award Construction Contract in the amount of \$227,500 to Dick Anderson Construction, Inc. for the North Park Sewer Lift Station #27 Replacement. OF 1374.5
13. Approve final payment to Ed Boland Construction, Inc. and the State Miscellaneous Tax Division in the amount of \$12,823.42 for the 9<sup>th</sup> Street N.E. Storm Drain extension. OF 1476.1

**Commissioner Beecher moved, seconded by Commissioner Bronson, to approve the Consent Agenda as presented.**

Mayor Stebbins asked if there were any comments from the public. No one responded.

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

**Commissioner Jolley asked that Item 7 be removed for further discussion.**

Mayor Stebbins called for the vote.

Motion carried 5-0.

Commissioner Jolley stated that Item 7 involves a payment to SME for January expense charges. She stated if there is an ordinance that says it shall sustain itself at all times, then she would like it to do that. Commissioner Jolley inquired if we have any contracts with customers that go past 2012 yet. Ms. Balzarini responded no.

Mayor Stebbins called for the vote with regard to Item 7.

**Commissioner Beecher moved, seconded by Commissioner Bronson, to approve Item 7 on the Consent Agenda as presented.**

Motion carried 4-1. (Commissioner Jolley dissenting.)

**BOARDS & COMMISSIONS****14. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.****CITY MANAGER****15. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Gregory T. Doyon stated that he has had the opportunity to participate in some Military Affairs Committee activities over the last week and enjoyed getting to know the command staff that are serving at MAFB to better understand their role in the community. He has also been to the departments to get familiarized with the facilities. He reminded the Commission about some performance goals for him and suggested maybe talking about that at the next work session. As discussed with the Commission, Mr. Doyon stated that he will be attending his first SME meeting on Thursday and Friday of this week.

**CITY COMMISSION****16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.****PETITIONS AND COMMUNICATIONS****17. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Stebbins opened the meeting to Petitions and Communications.

**Agenda Item 5. ECP.  
HGS.**

**17A. Stuart Lewin**, 615 3<sup>rd</sup> Avenue North, stated that he finds comments made by two Commissioners tonight were inaccurate. Mr. Lewin stated that Commissioner Beecher's statement that the contract discussed tonight was only an amendment was not true. He stated that this is actually a new agreement. In the agreement it states that this agreement revokes all prior agreements. Mr. Lewin told Commissioner Rosenbaum if he can find any indemnity clause that looks like this one, he would like to see it. Mr. Lewin stated what has happened with the plant and all the issues and what is going on with ECP is completely out of hand. The Commission needs to take control of it. Mr. Lewin stated that the fall out of the HGS is going to be huge for the community. Montgomery Energy made a proposal and ECP said they couldn't even consider it because they have an agreement with SME that doesn't allow us to consider anything else from anybody else. He described it like putting your hand in a meat grinder.

**Ord. 2887 and Res. 9537.**

**17B. Richard Liebert**, 289 Boston Coulee Road, thanked the Commission for allowing public comment on the water rights. He welcomed Mr. Doyon to the community and stated that he follows in the footsteps of Paris Gibson who also

came from Maine and New England. Mr. Liebert also thanked the City for sponsoring Earth Day on the 26<sup>th</sup> of April. He hoped the City could take advantage of the new hydroelectric power that is going to come out of the Gibson Dam. Four years ago the Commission went global and went green. The Commission adopted Ordinance 2887 along with the State to implement the International Energy Conservation Code. Several years ago the Commission established Resolution 9537 which directed the City Manager to produce a Development Agreement. That was over three years ago. Mr. Liebert read a portion of the resolution. Last week when Mr. Gregori spoke he stated that we don't need a Development Agreement. Mr. Liebert stated that Mr. Gregori doesn't sit in the Commission's seat, he doesn't speak for the City Manager or the people here. He finds it disturbing that for 27 months a Development Agreement wasn't completed before Mr. Lawton left. He discussed a section of Item 5E and Item 7 on Exhibit A. Mr. Liebert also read a definition for joint venture. He stated that he doesn't think SME's by-laws provide the contractual protection that members would have to protect their rights and also the rights of the entire SME corporation. Mr. Liebert concluded with a quote from Abraham Lincoln.

**HGS.**

**17C. Pamela Morris**, 2201 8<sup>th</sup> Avenue North, stated that her son is an attorney with the City of St. Paul. Ms. Morris stated when she told him her concerns a couple of years ago about the Highwood Generating Station and expressed frustration with getting information from City officials as to the particulars, her son said to her to remember that the other side are good people too. She believes that Great Falls has been sold a bill of goods. She hopes they can reestablish a trust. Ms. Morris stated that in April, 2005, Resolution 9476 was passed regarding interim financing for Highwood Generation Station. It was to be reimbursed through bonds. Ms. Morris stated in the interim there have been several requests for bond issues and she foresees a real protest if the citizens don't get answers as to how the money is being allocated and budgeted from one item to another. Resolution 9537 states that, upon the completion of negotiations, the City Manager will present a substantial final form of a Development Agreement to the City for final approval. She stated that is far tardy. Ms. Morris requested that resolution provisions happen in a timely manner in the future.

**Earth Day.**

**17D. Kathleen Gessaman**, 1006 36<sup>th</sup> Avenue N.E., stated that she is excited for the celebration of Earth Day. Ms. Gessaman provided information from the U.S. Conference of Mayors regarding energy and the environment.

Commissioner Jolley stated that when some speakers give something to the City Clerk and the Commission never gets to see it. She stated when they speak to the Commission and provide something in writing, it should appear in their Friday packets. Mayor Stebbins responded that she thinks everything that has been given to the City Clerk for dissemination has been put in the Friday packet. Commissioner Jolley disagreed. Commissioners Beecher and Bronson agreed that the information has been included in the Friday packets.

**Water Rights.**

**17E. Charles Bocock**, 51 Prospect Drive, commended the Commissioners for having a work session on water rights and the problems of adjudication. He encouraged the City Manager to formulate an educational work session that would explain water rights as opposed to water reservations and the legality of adjudicating water rights as opposed to adjudicating water reservations. Paris Gibson didn't have any water reservations listed in any of his history, only water rights. This is incredibly important. Mr. Bocock stated that he believes the people the City is working with, or if it goes out to bid and get a different water consultant, that the water experts or advisors make sure that the City understands the legal ramifications of giving away water rights that it already has or water reservations. He said it was his understanding that one of the whole ideas of having the Highwood Generating Station was to prove up on water reservations because they weren't a right yet.

**HGS. Electricity rates.**

**17F. Ed McKnight**, 906 3<sup>rd</sup> Avenue North, stated that the minutes don't accurately reflect what happens here. Mr. McKnight stated the last time he was here he asked two test questions of Mayor Stebbins regarding the cost of electricity. He stated that she did not know the answers but he did. Mr. McKnight stated that the contract states there is a 2% penalty for not investing in the Highwood Generating Station at all, which would be \$20,000. Mr. McKnight opined that the City has \$10 million dollars tied up in HGS, when the total amount to be saved in the beginning predicted by the former City Manager was around 6% to 10 % of that \$1 million dollars. Mr. McKnight stated that the City does not pay residential rates for electricity. But, when you examine all the documents of the City, it always cites residential rates. Mr. McKnight stated that the problem was that Electric City Power does not have a cost of power that it claims it has. When you run the figures, the cost of Electric City Power is actually 10-15 percent more than it is claiming.

**Inflation, downtown grocery store, insurance settlement.**

**17G. John Hubbard**, 615 7<sup>th</sup> Avenue South, commented that on the news tonight he watched people trying to make a living in this country. He doesn't believe this country was founded for everyone to have to work 24/7. Commissioner Jolley interrupted Mr. Hubbard stating that when she was watching the news tonight Brigitte Bardot was on trial again in France for the fifth time for speaking derogatorily of muslims. Commissioner Jolley stated Mr. Hubbard reminds her of Brigitte Bardot. He asked how the poor people are supposed to live in this country. He said he gets no answers and only hears crickets. Mr. Hubbard inquired about getting a new grocery store downtown. He said that was important because a lot of poor people went there. Mr. Hubbard said he was also upset about the television air wave thing, because the poor people won't be able to watch TV. Mr. Hubbard stated that he just received his second insurance answer and is owed \$3,497,437, but is allowed zero by liquidation.

**Public meetings, water right files, Agenda Item 5.**

**17H. Ron Gessaman**, 1006 36<sup>th</sup> Avenue N.E., commented that Ms. Balzarini said work sessions were public meetings. Mr. Gessaman asked if that meant the public now gets to speak at work sessions because that has never happened in the past. Mr. Gessaman stated at a prior work session someone from Water



Right Solutions specifically said there were about 30 inches of water right records in the Fiscal Services Department. He wondered where those records were at now. Mr. Gessaman stated that Agenda Report 5 took two tries before the correct information was presented in the agenda report. Mr. Gessaman requested that 24 hours be given before the meeting when agenda items are changed. Mr. Gessaman also stated that items 14 – 16 of the contract attached to that agenda report have a different format. Mr. Gessaman said one of the representations made is that we didn't need a Development Agreement as called for by Resolution 9537 because we had the Assignment and Assumption Agreement with ECP. Mr. Gessaman said the Assignment and Assumption Agreement has nothing to do with the Highwood Generating Station and its development, it has to do with the purchase and sale of electricity by contracts owned by the City. That contract is dated October 2, 2007, and says that the City is the member of SME, not ECP. The Commission passed an Ordinance on June 18, 2002, asking the City Manager to arrange a contract with Water Right Solutions. At that point, the contract had already been signed by the previous City Manager. He fails to see how the City Manager can sign that contract before the Commission even authorized him to do it. Mr. Gessaman stated that this City administration needs to wait for direction from the Commission before they sign contracts.

### **ADJOURNMENT**

#### **Adjourn.**

There being no further business to come before the Commission, **Commissioner Beecher moved, seconded by Commissioner Bronson, that the regular meeting of April 15, 2008, be adjourned at 9:30 p.m.**

Motion carried 5-0.

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Mayor Stebbins

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City Clerk



**ITEM:** \$5,000 Report  
Invoices and Claims in Excess of \$5,000

**PRESENTED BY:** Fiscal Services Director

**ACTION REQUESTED:** Approval with Consent Agenda

**TOTAL CHECKS ISSUED AND WIRE TRANSFERS MADE ARE NOTED BELOW WITH AN ITEMIZED LISTING OF ALL TRANSACTIONS GREATER THAN \$5000:**

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MASTER ACCOUNT CHECK RUN FOR APRIL 16, 2008	962,909.82
MASTER ACCOUNT CHECK RUN FOR APRIL 23, 2008	199,011.69
MASTER ACCOUNT CHECK RUN FOR APRIL 30, 2008	394,927.61
MUNICIPAL COURT ACCOUNT CHECK RUN FOR APRIL 10 TO APRIL 16, 2008	5,017.80
MUNICIPAL COURT ACCOUNT CHECK RUN FOR APRIL 17 TO APRIL 23, 2008	61,492.73
MUNICIPAL COURT ACCOUNT CHECK RUN FOR APRIL 24 TO APRIL 30, 2008	2,510.00
WIRE TRANSFERS FROM APRIL 10 TO 16, 2008	12,984.27
WIRE TRANSFERS FROM APRIL 17 TO 23, 2008	759,003.93
WIRE TRANSFERS FROM APRIL 24 TO 30, 2008	62,889.60
<b>TOTAL: \$</b>	<b><u>2,460,747.45</u></b>

**GENERAL FUND**

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**OTHER ADMIN**

ENERGY WEST MARCH CHARGES (SPLIT AMONG FUNDS) 186.73

**POLICE**

STANFORD POLICE & EMERGENCY SUPPLY BODY ARMOR WITH SOFT TRAUMA PADS AND CARRIERS 10,501.44

ENERGY WEST MARCH CHARGES (SPLIT AMONG FUNDS) 3,290.10

NORTHWESTERN ENERGY MARCH CHARGES (SPLIT AMONG FUNDS) 582.06

**FIRE**

ENERGY WEST MARCH CHARGES (SPLIT AMONG FUNDS) 5,552.68

NORTHWESTERN ENERGY MARCH CHARGES (SPLIT AMONG FUNDS) 687.52

**PARK & RECREATION**

MONTANA WASTE SYSTEMS MARCH CHARGES (SPLIT AMONG FUNDS) 297.31

ENERGY WEST MARCH CHARGES (SPLIT AMONG FUNDS) 5,601.52

NORTHWESTERN ENERGY MARCH CHARGES (SPLIT AMONG FUNDS) 536.35

**SPECIAL REVENUE FUND**

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**PLANNING**

GREAT FALLS TRANSIT DISTRICT	1ST QUARTER REIMBURSEMENT TRANSIT PROGRAM	19,539.60
HALL WIDDOSS & CO PC REAL ESTATE APPRAISERS	EASEMENT APPRAISAL MISSOURI RIVER SCENIC AQ-GTF	5,000.00

**LIGHTING DISTRICT**

NORTHWESTERN ENERGY	APRIL CHARGES (SPLIT AMONG FUNDS)	70,356.33
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**STREET DISTRICT**

MT DEPT OF TRANSPORTATION	MACI SIDEWALK PROGRAM	495,820.00
NORTHWESTERN ENERGY	APRIL CHARGES (SPLIT AMONG FUNDS)	63.88

**LIBRARY**

ENERGY WEST	MARCH CHARGES (SPLIT AMONG FUNDS)	4,090.59
NORTHWESTERN ENERGY	MARCH CHARGES (SPLIT AMONG FUNDS)	797.73

**PARK & RECREATION SPECIAL REVENUE**

GAMETIME	4 PLAYGROUND STRUCTURE INSTALLATION EAGLE CROSSING, BLOOMINGDALE, BELVIEW, AND WEST KIWANIS PARKS	25,830.00
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**FEDERAL BLOCK GRANTS**

A T KLEMENS & SONS	REPLACE LIGHTING & INSTALL SCOREBOARD CIRCUIT AT URSULINE GYMNASIUM	9,743.00
NEIGHBORWORKS	DRAWDOWN #2 FOR NHS CDBG PROJECT	80,461.63

**CAPITAL PROJECTS**

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**GENERAL CAPITAL**

JAMES TALCOTT CONSTRUCTION INC	PMT #8 POOLS AND SPLASHDECKS	78,323.90
BIG SKY SIGN SERVICE INC	ILLUMINATED MONUMENT SIGN WITH BRICK TO MATCH THE NATATORIUM	9,284.00

**ENTERPRISE FUNDS**

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**WATER**

THATCHER CO	PMT #21 ALUMINUM SULFATE-LIQUID	5,035.08
ENERGY WEST	MARCH CHARGES (SPLIT AMONG FUNDS)	11,842.99
ABB INC	VALVE POSITIONERS FOR FILTERS	7,950.70
DANA KEPNER CO BILLINGS	400 3/4" SRII WATER METERS	51,600.00
DANA KEPNER CO BILLINGS	50 1" SRII WATER METERS	8,500.00
PHILLIPS CONSTRUCTION	SUNNYSIDE WATER MAIN REPLACEMENT	94,104.97
NORTHWESTERN ENERGY	MARCH CHARGES (SPLIT AMONG FUNDS)	6,483.81

**SEWER**

NCI ENGINEERING	PMT #5 LIFT STATION & WTP REHAB PROJECT	7,745.00
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**STORM DRAIN**

ED BOLAND CONSTRUCTION INC	9TH ST NE STORM DRAIN EXTENSION FINAL PAYMENT	11,417.30
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**SANITATION**

MONTANA WASTE SYSTEMS	MARCH CHARGES (SPLIT AMONG FUNDS)	59,671.40
ENERGY WEST	MARCH CHARGES (SPLIT AMONG FUNDS)	359.95
NORTHWESTERN ENERGY	MARCH CHARGES (SPLIT AMONG FUNDS)	111.61

**ENTERPRISE FUNDS CONTINUED****ELECTRIC**

SME	PMT OF ENERGY SUPPLY EXPENSE MAR 08	713,875.58
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**SAFETY SERVICES**

ENERGY WEST	MARCH CHARGES (SPLIT AMONG FUNDS)	822.52
QWEST	APRIL CHARGES	6,116.59
NORTHWESTERN ENERGY	MARCH CHARGES (SPLIT AMONG FUNDS)	145.51

**PARKING**

ENTRANCE CONTROLS INC	INSTALL NEW APP PC BOARD	6,366.50
APCOA/STANDARD PARKING	MAY 2008 COMPENSATION	22,369.33
NORTHWESTERN ENERGY	MARCH CHARGES (SPLIT AMONG FUNDS)	600.24

**GOLF COURSES**

ENERGY WEST	MARCH CHARGES (SPLIT AMONG FUNDS)	922.45
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**SWIM POOLS**

ENERGY WEST	MARCH CHARGES (SPLIT AMONG FUNDS)	4,877.68
WESTERN INDUSTRIAL MOTOR	ECWP PUMP RECONDITIONING FLOW RIDER	11,369.29
NORTHWESTERN ENERGY	MARCH CHARGES (SPLIT AMONG FUNDS)	340.58

**RECREATION**

ENERGY WEST	MARCH CHARGES (SPLIT AMONG FUNDS)	1,809.17
NORTHWESTERN ENERGY	MARCH CHARGES (SPLIT AMONG FUNDS)	457.40

**CIVIC CENTER EVENTS**

GREAT FALLS SYMPHONY	#08-53 LITTLE WOMEN TICKET RECEIPTS	5,781.55
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**INTERNAL SERVICES FUND****HEALTH & BENEFITS**

BLUE CROSS/BLUE SHIELD	ADMIN & REINS FEES APRIL 2008	40,685.90
BLUE CROSS/BLUE SHIELD	HEALTH INS CLAIMS APR 8 TO APR 14, 2008	12,984.27
BLUE CROSS/BLUE SHIELD	HEALTH INS CLAIMS APR 15 TO APR 21, 2008	45,128.35
BLUE CROSS/BLUE SHIELD	HEALTH INS CLAIMS APR 22 TO APR 30, 2008	62,889.60

**INSURANCE & SAFETY**

MONTANA MUNICIPAL INS AUTHORITY	GEN LIAB DEDUCTIBLE PYMTS MAR 2008	8,155.70
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**CENTRAL GARAGE**

BRENNAN HEATING & COOLING	REPLACE HEATING SYSTEM IN WASH RACK	8,875.00
MOUNTAIN VIEW CO-OP	DIESEL FUEL	25,695.07
MOTOR POWER GREAT FALLS INC	REBUILT TRANSMISSION INSTALLED UNIT 914	9,509.06

**PUBLIC WORKS ADMINISTRATION**

ENERGY WEST	MARCH CHARGES (SPLIT AMONG FUNDS)	7,633.24
NORTHWESTERN ENERGY	MARCH CHARGES (SPLIT AMONG FUNDS)	848.64

**CC FACILITY SERVICES**

ENERGY WEST	MARCH CHARGES (SPLIT AMONG FUNDS)	6,823.75
NORTHWESTERN ENERGY	MARCH CHARGES (SPLIT AMONG FUNDS)	1,349.56

**TRUST AND AGENCY****COURT TRUST MUNICIPAL COURT**

CITY OF GREAT FALLS	FINES & FORFEITURES COLLECTIONS	59,164.73
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**CLAIMS OVER \$5000 TOTAL:**

\$	<u>2,156,966.44</u>
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COMMUNICATION TO THE CITY COMMISSION

DATE: May 6, 2008

**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
<b>A</b>	Park and Recreation	Great Falls Clinic	07/12/2008	261-0000-346-3093	\$5,000	RiverFest Sponsor
<b>B</b>	Public Works Engineering	Montana Department of Transportation	06/2007 – 12/2009	N/A	None	Bike/Pedestrian Facility Improvements – 38 <sup>th</sup> Street North, 8 <sup>th</sup> Avenue North, and 6 <sup>th</sup> Street S.W. <b>OF 1402</b>
<b>C</b>	Public Works Engineering	Montana Department of Transportation	06/2007 – 12/2009	N/A	None	Misc. MDT Overlays, Utility Agreement for Park Drive – 6 <sup>th</sup> Street to 1 <sup>st</sup> Avenue North <b>OF 1531</b>
<b>D</b>	Public Works Engineering	Lapke Construction, LLC	04/2008 – 06/2008	50% Capital Improvement Fund & 50% Private Party Payment	\$45,657.50	Jaycee Pool Parking Area – remove and replace curb and gutter along 23 <sup>rd</sup> Avenue N.E. to create angle parking area <b>OF 1541</b>
<b>E</b>	Fiscal Services	Dorsey & Whitney, LLP	04/18/2008	511	\$12,000 (Est.)	Bond Counsel fee for Water System Revenue Bond



**Item:** Final Payment: Giant Springs Storm Drain Outfall Rehabilitation, O.F. 1458

**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 that the City Commission approve Final Payment for the Giant Springs Storm Drain Outfall Rehabilitation, O.F. 1458 in the amount of \$6,204.00 to Dick Anderson Construction Inc., and \$62.04 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 the vote.

---

**Staff Recommendation:** Approve final payment request.

**Background:**

Significant Impacts

The City installed the storm drainage system that serves eastern Great Falls in the early 1960's. The system now drains an area roughly bounded by 10<sup>th</sup> Avenue South on the south, 38<sup>th</sup> Street on the west, and 57<sup>th</sup> Street on the east.

Citizen Participation

Utility easements were negotiated and recorded with two effected parties: Albert and Connie Kunesh and Mountain View CO-OP.

Workload Impacts

Stelling Engineers Inc. prepared the plans, contract documents, and easements for the new storm drain outfall. City engineering staff provided contract management, and construction phase engineering and inspection.

### Purpose

This project extended the storm drain around the existing outfall that was causing accelerated erosion of a natural ravine drainage channel. Prior to this project the storm drain system's outfall was located on the Albert Kunesh property about 400 feet north of 18<sup>th</sup> Avenue North and discharged into a natural ravine. The ravine channel below the outfall had become unstable and has been eroding more rapidly in recent years. The City had temporarily stabilized the outfall about 3 years ago to minimize further damage.

### Project Work Scope

The project installed approximately 2,300 feet of 42-inch, 48-inch and 54-inch diameter concrete pipe that now conveys the storm water to a new discharge point near the BNSF Railway culvert located just south of Giant Springs State Park. Approximately 400-feet of the old piping and outfall was plugged and abandoned.

### Evaluation and Selection Process

The design consultant, Stelling Engineers, was selected in accordance with the City's Architects/Engineers/Surveyors Selection Policy. Dick Anderson Construction was selected through the competitive bidding process, having submitted the lowest responsible bid.

### Conclusion

City staff 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 final project cost is \$422,405.00 which is \$50.00 under the amount awarded and approved. Lack of miscellaneous work items contributed to the lower final contract amount. The project was completed within the contract time, with substantial completion and the start of the 2-year warranty occurring on January 10, 2008.

**Concurrences:** Not Applicable

**Fiscal Impact:** This project was constructed for \$422,405.00, 11% less than the Engineer's Estimate of \$470,530.00, a difference of \$48,125.00. The project was funded by the City's Storm Drain Fund.

**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:** Preliminary Plat of Eagle's Crossing Addition Phase IV

**From:** Charles Sheets, Planner 1

**Initiated By:** Eagle's Crossing Inc., Property Owner and Developer

**Presented By:** Benjamin Rangel, Planning Director

**Action Requested:** City Commission approve Preliminary Plat of Eagle's Crossing Addition Phase IV.

---

**Suggested Motion:**

1. Commissioner moves:

"I move the City Commission approve the Preliminary Plat of Eagle's Crossing Addition Phase IV, and the accompanying Findings of Fact, subject to fulfillment of stipulated conditions."

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

---

**Planning Board Recommendation:** At the conclusion of a public hearing held April 8, 2008, the Great Falls Planning Board passed a motion recommending the City Commission approve the Preliminary Plat of Eagle's Crossing Addition Phase IV, and the accompanying Findings of Fact, subject to fulfillment of stipulated conditions.

**Background:** Matt Rosendale, the owner and developer doing business as Eagle's Crossing, Inc., has submitted applications regarding the following:

- 1) Preliminary Plat of Eagle's Crossing Addition Phase IV, located in Section 25, Township 21 North, Range 3 East, Cascade County, Montana.
- 2) Annexation of Phase IV, consisting of 6.5 acres to the City of Great Falls.
- 3) Zoning the area requested to be annexed from the current County "R-2" Low Density Residential District to the City R-2 Single-family medium density district.

Eagle's Crossing Addition Phase IV is located along the west boundary of 9<sup>th</sup> Street Northeast and the north boundary of 49<sup>th</sup> Avenue Northeast and consists of 16 single-family lots.

Access to subject property will be provided by 9<sup>th</sup> Street Northeast and 49<sup>th</sup> Avenue Northeast. Both rights-of-way had been dedicated as a part of Eagle's Crossing Addition Phase III. The



stubbed rights-of-way within Phase IV will be improved with standard City paving, curb and gutter. As the applicant is also developing Eagle's Crossing Addition Phases II and III, no reimbursement will be required for the paving, curb and gutter, water main and sewer main being installed in 9<sup>th</sup> Street Northeast and 49<sup>th</sup> Avenue Northeast.

City water and sewer mains are proposed to continue in the stubbed streets to the west and north. The developer will provide easements within the subdivision for private utilities such as telephone, cable, power and gas.

Surface drainage from Phase IV generally flows to the south to a regional storm water retention facility, located ¼ mile to the southwest. The subdivision's proportionate share of the costs of the retention facility and the offsite storm piping system will be assessed.

The developer fulfilled the subdivision's park obligation by dedicating land in conjunction with Phase I of Eagle's Crossing Addition.

The Planning Board conducted a public hearing on the preliminary plat on April 8, 2008. The development has generated no public comment. At the conclusion of the public hearing, the Planning Board unanimously passed a motion recommending the City Commission approve the Preliminary Plat of Eagle's Crossing Addition Phase IV and the accompanying Findings of Fact, subject to the following conditions being fulfilled by the applicant:

- 1) The final plat of Eagle's Crossing Addition Phase IV shall incorporate correction of any errors or omissions noted by staff including provision of a notification clause to lot purchasers regarding soil conditions.
- 2) The final engineering drawings and specifications for the required public improvements to serve Phase IV shall be submitted to the City Public Works Department for review and approval prior to consideration of the final plat.
- 3) An annexation agreement shall be prepared containing terms and conditions for annexation of Eagle's Crossing Addition Phase IV, including agreement by applicant:
  - a) to install, within two years of the date of annexation of the subdivision, the public improvements referenced in Condition 2) above;
  - b) to pay proportionate share of the costs for the regional storm water retention facility and offsite storm piping system; and,
  - c) to indemnify and hold City harmless for any damages that may be sustained as a result of adverse soil and/or groundwater conditions.
- 4) All applicable fees owed as a condition of plat or annexation approval shall be paid upon final platting and annexation, including:

a) Annexation Agreement Fee	\$ 200.00
b) Resolution of Annexation Fee	\$ 100.00
c) Final Plat Fee	\$ 200.00
d) Storm Sewer Fee (\$250/acre x 6.5 acres)	\$1625.00
e) Recording fees for Agreement, Resolution and Easements (\$11 per page x pages)	to be determined

The zoning for the subdivision will be addressed in conjunction with the final plat and annexation of the development.

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

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

**Alternates:** The City Commission could either deny the preliminary plat; approve the preliminary plat without conditions; or approve the preliminary plat with modified or additional conditions to the extent allowed in City Code and State Statute.

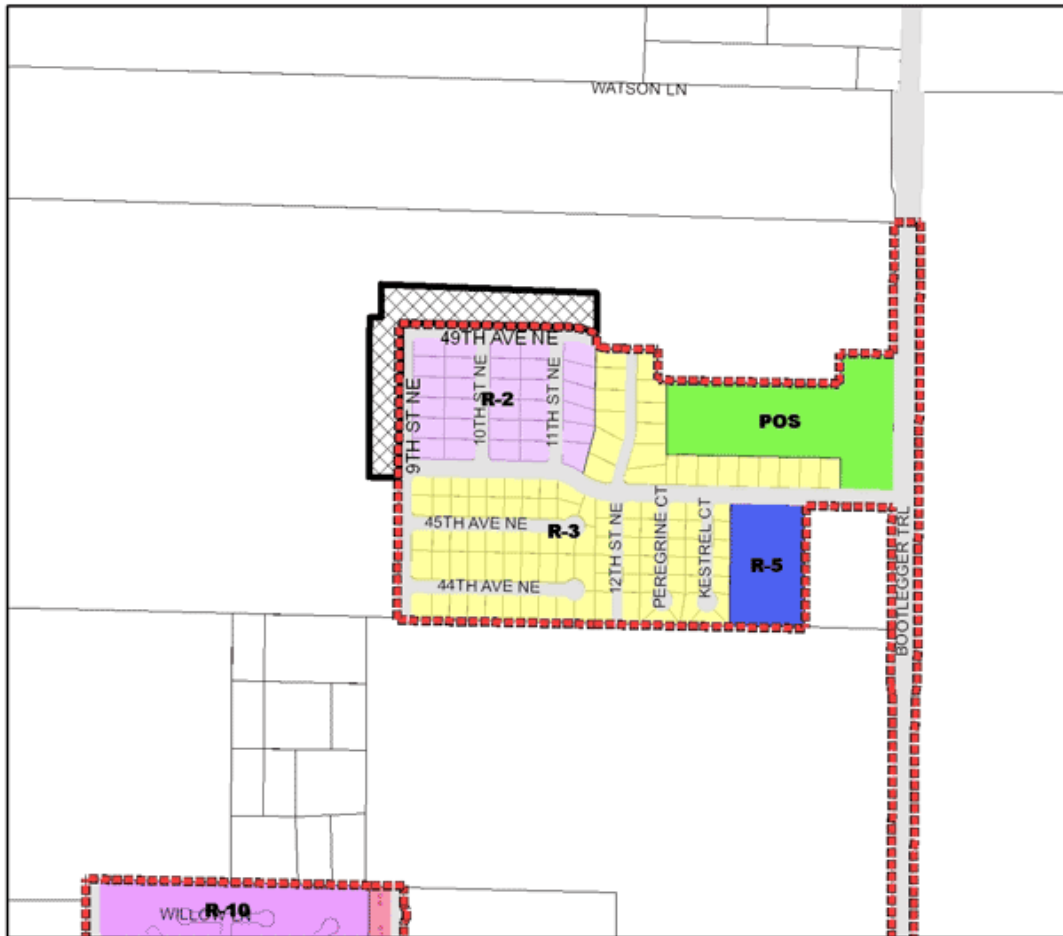
**Attachments/Exhibits:**

1. Vicinity/Zoning Map
2. Reduced copy of preliminary plat
3. Findings of Fact

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Matt Rosendale, 1954 Hwy 16, Glendive, MT, 59330  
HKM Engineering, P O Box 49, Great Falls, MT, 59403

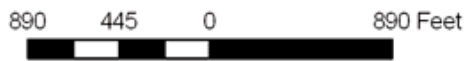
# EXHIBIT "A"

## VICINITY/ZONING MAP

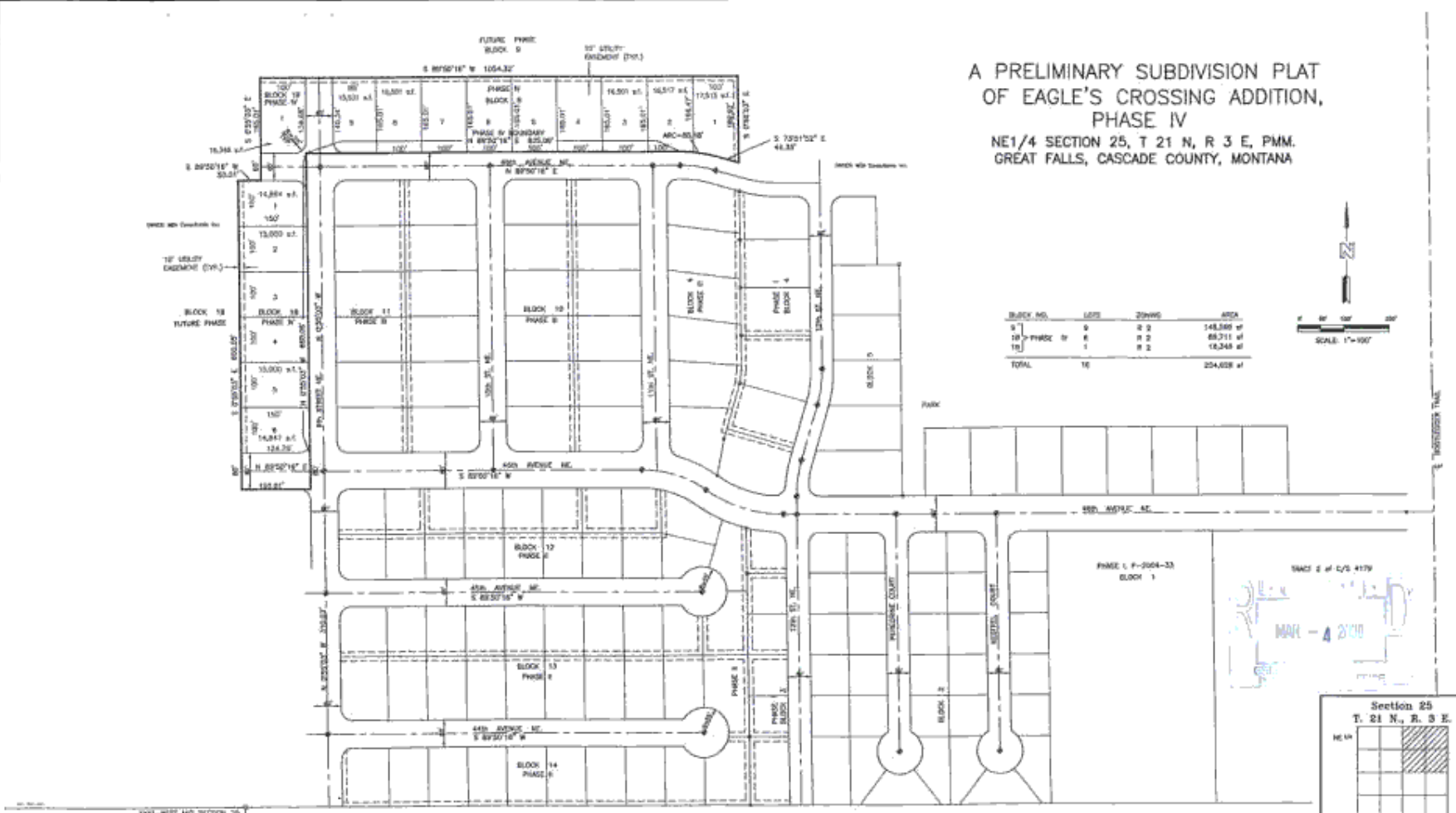


PROPOSED PRELIMINARY PLAT OF EAGLE'S CROSSING ADDITION PHASE IV TO BE ANNEXED TO THE CITY AND ASSIGNED A CITY ZONING CLASSIFICATION OF "R-2" SINGLE-FAMILY MEDIUM DENSITY DISTRICT

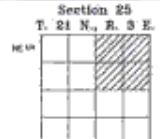
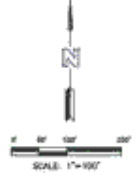
- |                                  |                                 |                             |
|----------------------------------|---------------------------------|-----------------------------|
| STREETS                          | PUD Planned unit development    | R-10 Mobile home park       |
| City Limits                      | R-3 Single-family high density  | POS Parks and Open Space    |
| R-2 Single-family medium density | R-5 Multi-family medium density | Tracts of land outside City |



A PRELIMINARY SUBDIVISION PLAT  
OF EAGLE'S CROSSING ADDITION,  
PHASE IV  
NE1/4 SECTION 25, T 21 N, R 3 E, PMM.  
GREAT FALLS, CASCADE COUNTY, MONTANA



BLOCK NO.	LOTS	ZONING	AREA
9	0	R 2	148,589 sf
10 - PHASE IV	8	R 2	88,211 sf
18	1	R 2	16,248 sf
TOTAL	16		254,828 sf



**LEGEND**

- PAVEMENT BOUNDARY LINE
- CENTER OF ROAD
- UTILITY BOUNDARY LINE
- 1/2" SLOPE PER FOOT
- E. SIDEWALK
- WEST OF BOUNDARY
- EAST OF BOUNDARY

**County Treasurer's Certification**  
I hereby certify that no real property taxes assessed and listed on the land being divided are delinquent.

\_\_\_\_\_  
Cascade County Treasurer

**Cascade County Clerk and Recorder**

\_\_\_\_\_  
Cascade County Clerk and Recorder

**BASIS OF BEARING**  
Basis of bearings the South boundary of Section 25, Township 21 North, Range 3 East of the PMM.

Date Drawn: 06/10/2009    Drawn by: BJA    Checked by:    Project No.: 425-158-003

**HCM**  
**ENGINEERING**  
2701 16th Avenue NE  
PO Box 49  
Great Falls, MT 59403  
Phone: (406) 453-6025  
Fax: (406) 453-6288

COUNTY OF CASCADE  
**SUBDIVISION PLAT No.** \_\_\_\_\_  
M.S.L. Sec. 25, Township 21 North, Range 3 East of the PMM.

Prepared for:  
Eagle's Crossing, Inc.  
1954 Highway 16  
Glenview, MT

Page 1 of 1

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**FINDINGS OF FACT  
FOR PRELIMINARY PLAT OF  
EAGLE'S CROSSING ADDITION, PHASE IV  
IN THE NE1/4 OF SECTION 25, T21N, R3E  
CASCADE COUNTY, MONTANA  
(PREPARED IN RESPONSE TO 76-3-608(3) MCA)**

**I. PRIMARY REVIEW CRITERIA**

**Effect on Agricultural**

In previous years, the subdivision site had been used for dry land crop production but that activity has diminished with the advent of urban development in the vicinity. The subdivision will not interfere with any irrigation system or present any interference with agricultural operations in the vicinity.

**Effect on Local Services**

The subdivision will connect to City water and sewer systems. The cost of extending the utility systems will be paid by the subdivider with some participation by the City for over sizing expenses. The City should not experience an appreciable increase in maintenance and operating costs. The occupants of eventual residential units within the subdivision will pay regular water and sewer charges.

The subdivision will receive law enforcement and fire protection services from the City. The nearest fire station is four miles from the subdivision site. Providing these services to development in the subdivision is expected to be a negligible cost to the City. Any increased costs likely will be covered by increased tax revenues from improved properties.

Public streets will be extended into the subdivision to serve the proposed residential lots, but the subdivision will have a negligible impact on cost of road maintenance. The subdivider will have responsibility to install curb, gutter and paving in the roadways within the subdivision.

The tract of land in which the proposed subdivision is located pays less than \$1000.00 annually in local property taxes. After full improvement of the subdivision including 16 single-family residential lots, the development is expected to pay in excess of \$140,000 to \$150,000 annually in local property taxes to the County, City, State, School District and other taxing entities at current mill levies.

**Effect on the Natural Environment**

The subdivision, which consists of 16 single-family residential lots ranging in area from 14,547 to 17,515 sq ft, is not expected to adversely affect soils or the water quality or quantity of surface or ground waters. The bulk of the surface runoff generated by the subdivision will be directed to the southwest to an existing detention facility.

**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, snow or rockslides, wildfire, nor potential man-made hazards such as high voltage power lines, nearby industrial or mining activity, or high traffic volumes.

**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**

Existing abutting dedicated road rights-of-way and off-site easements necessary to accommodate City water and sanitary sewer mains to serve the subdivision are in place. Within the subdivision, the subdivider will provide the necessary utility easements as a part of the subdivision plat.

**IV. LEGAL AND PHYSICAL ACCESS**

The sole source of access to the subdivision, at least for the foreseeable future is 46<sup>th</sup> Avenue NE, a dedicated, and paved, City maintained roadway connected to Bootlegger Trail, a paved roadway maintained by the Montana Department of Transportation. Public roadways abutting the subdivision, dedicated in a previous subdivision, and improved to municipal standards and maintained by the City will provide legal and physical access to each proposed lot.



**Item:** Appointments to the Design Review Board

**From:** City Manager's Office

**Initiated By:** Design Review Board

**Presented By:** City Commission

**Action Requested:** Appoint two members to the Design Review Board for three-year terms through March 31, 2011.

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission appoint \_\_\_\_\_ as the architect member and \_\_\_\_\_ to the Design Review Board for three-year terms through March 31, 2011.”

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 to the Design Review Board for three-year terms through March 31, 2010. It is recommended that one of the new appointments be an architect. Experience and knowledge with landscaping would be desirable for the other applicant.

**Background:** Ordinance 2722 was approved at the March 18, 1997, Commission meeting which amended Titles 2 and 15 of the Official Codes of the City of Great Falls and established the Design Review Board. The adoption of Ord. 2923 in September of 2005, the Land Development Code, re-established the Design Review Board.

Martin Byrnes (architect) has served on the Design Review Board since April of 2002. He is not eligible to be reappointed. Ronald Yates was appointed in April of 2005. Mr. Yates is not interested in reappointment. Therefore, it is necessary to appoint two new members to fill these vacancies.

Purpose

The purpose of the Board is to further promote the health, safety and general welfare of the City. The Board has the authority and responsibility to review specified types of development proposals to ensure that the design and aesthetics conform to the review criteria contained in Title 17. The Board's composition should achieve a diversity of expertise, background, and

interest. The Land Development Code states that it is preferred the board includes two architects and three individuals chosen for their demonstrated interest in and expertise in design or community aesthetics.

Members must reside in the City of Great Falls.

Evaluation and Selection Process

Announcements regarding the openings were placed in the *Great Falls Tribune* and on the City's Website. Applications are submitted to the City Commission for their consideration in making appointments.

Continuing members of this board are:

Donn Bailey  
David Cantley (architect)  
Jean Price

Citizens interested in serving on this Board:

John Bolton (architect)  
Jule Stuver (architect)  
Douglas Ormseth  
Bruce Forde

**Concurrences:** Not applicable.

**Fiscal Impact:** Not applicable.

**Alternatives:** Continue advertising to seek further citizen input.

**Attachments/Exhibits:**

Board Applications



**Item:** Appointments to the Housing Authority Board

**From:** City Manager's Office

**Initiated By:** Great Falls Housing Authority

**Presented By:** City Commission

**Action Requested:** Appoint two members to the Great Falls Housing Authority Board.

---

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission appoint \_\_\_\_\_ to a five-year term through June 30, 2013, and reappoint Grace McLean as a tenant member for a two-year term through June 30, 2010, to the Great Falls Housing Authority Board.”

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 new member to the Housing Authority Board for a five-year term through June 30, 2013, and reappoint Grace McLean as a tenant member for a two-year term through June 30, 2010. Expertise in lending and finance is desired.

**Background:** Daniel Sullivan was appointed to the Housing Authority Board in August of 2003. Mr. Sullivan has served a five-year term and is not eligible to be reappointed. Grace McLean was appointed as a tenant member in October of 2004, was reappointed in 2006, and is eligible to be reappointed for another two-year term. Therefore, it is necessary to reappoint Ms. McLean and one new member. The term of tenant member Albert Anderson expires on May 31, 2008. There have been no applications received from tenant members for consideration at this time. Staff will continue to seek tenant applicants for City Commission consideration.

Purpose

The Great Falls Housing Authority Board consists of seven commissioners appointed by the City Commission. Two commissioners must be residents of the Housing Authority properties. The Board is an independent authority responsible for setting policy for the operation and management of public housing properties, HUD Section 8 program and other affordable housing programs. The Board also serves as the loan committee for the City's Housing Rehabilitation Program. The Board is also responsible for providing safe, decent, sanitary, and affordable



housing for the community's low-income residents. Tenant terms are two years and regular members are five years.

Evaluation and Selection Process

Announcements regarding the openings were placed in the *Great Falls Tribune* and on the City's Website. Applications are submitted to the City Commission for their consideration in making appointments.

Continuing members of this board are:

Joseph Boyle  
Howard Corey  
Timothy McKittrick  
Curtis Thompson

Citizens interested in serving on this Board:

Michael J. McCleary

**Concurrences:** Not applicable.

**Fiscal Impact:** Not applicable.

**Alternatives:** Continue advertising to seek further citizen input.

**Attachments/Exhibits:**

Board Application



**Item:** Appointments to the Advisory Commission on International Relationships

**From:** City Manager's Office

**Initiated By:** Advisory Commission on International Relationships

**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 \_\_\_\_\_ to three-year terms through May 31, 2011, 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 new members to the Advisory Commission on International Relationships (ACIR) for three-year terms through May 31, 2011.

**Background:** The terms of Ella Mae Howard and Virginia “Lee” Niebuhr have both expired and neither are eligible for reappointment. Jamie Smith resigned, and Charles Tyler has moved. Therefore, there are four vacancies on the ACIR.

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. Only two applications were received. Those applications are being submitted to the City Commission for their consideration in making appointments. When additional applications of interest are received, staff will propose additional appointments.

Continuing members of this board are:

Robin Baker  
Jay Buckley  
Vandana Damany  
Aart Dolman  
Carol Lindseth  
Matthew Murray  
Sandra Erickson

Citizens interested in serving on this Board:

Laura McGee  
Heather Palermo

**Concurrences:** Not applicable.

**Fiscal Impact:** Not applicable.

**Alternatives:** Continue advertising to seek further citizen interest.

**Attachments/Exhibits:**

Board Applications