



City Commission Agenda

for

October 16, 2007

Please Note: The City Commission agenda format allows citizens to speak on each issue prior to Commission discussion. 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

PROCLAMATIONS

YWCA Week Without Violence
Red Ribbon Week

NEIGHBORHOOD COUNCILS

1. Miscellaneous reports and announcements.

PUBLIC HEARINGS

2. Lots 1A and 10A, Block 14, Finlay's Supplement to Prospect Park Addition. **(Presented by: Ben Rangel)**
 - A. Res. 9690, Annexes said property. Action: Conduct joint public hearing and adopt or deny Res. 9690 and the Annexation Agreement.
 - B. Ord. 2984, Assigns zoning classification of R-3 Single-family high density district to property. Action: Conduct joint public hearing and adopt or deny Ord. 2984.
3. Res. 9692, Create Special Improvement Lighting District – City-owned Residential Lighting No. 1310. Creates Special Improvement Lighting District in Meadowlark Addition No. 5. Action: Conduct public hearing and adopt or deny Res. 9692. **(Presented by: Coleen Balzarini)**
4. Res. 9678, Cost Recovery, 826 2nd Avenue South. Assesses total charges of \$9,128 against property for demolition and cleanup. Action: Conduct public hearing and adopt or deny Res. 9678. **(Presented by: Mike Rattray)**
5. Res. 9703, Cost Recovery, 1416 4th Avenue North. Assesses total charges of \$5,823 against property for demolition and cleanup. Action: Conduct public hearing and adopt or deny Res. 9703. **(Presented by: Mike Rattray)**
6. Justice Assistance Grant (JAG) Recommendation. Recommends purchase of Mobile Data Terminals and equipment. Action: Conduct public hearing and approve or deny recommendation. **(Presented by: Corky Grove)**

OLD BUSINESS

NEW BUSINESS

ORDINANCES/RESOLUTIONS

7. Segments of 6th Street Southwest and Interstate Spur 315, in NE¼ Section 15, Township 20 North, Range 3 East. **(Presented by: Ben Rangel)**
 - A. Res. 9704, Intent to Annex said property. Action: Adopt Res. 9704 and set public hearing for November 20, 2007.
 - B. Ord. 2992, Assigns zoning classification in accordance with Title 17—Land Development Code, Chapter 8, Section 60. Action: Accept Ord. 2992 on first reading and set public hearing for November 20, 2007.

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.*

8. Minutes, October 2, 2007, Commission meeting.
9. Total Expenditures of \$1,037,004 for the period of September 28 – October 10, 2007, to include claims over \$5000, in the amount of \$799,165.
10. Contracts list.
11. Grants list.
12. Approve Professional Services Agreement with NCI Engineering Co. in the amount of \$121,070 for the 4th Avenue Northwest Improvements.
13. Award contract to Dick Anderson Construction in the amount of \$422,455 for the Giant Springs Storm Drain Outfall Rehabilitation.
14. Approve interlocal agreement with the Montana Law Enforcement Testing Consortium.
15. Approve labor agreement with the Great Falls Police Protective Association.

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

BOARDS & COMMISSIONS

16. Miscellaneous reports and announcements.

CITY MANAGER

17. Miscellaneous reports and announcements.

CITY COMMISSION

18. Miscellaneous reports and announcements.

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

19. Miscellaneous reports and announcements.

MOTION TO ADJOURN

CITY OF GREAT FALLS, MONTANA

AGENDA # 2

AGENDA REPORT

DATE October 16, 2007

ITEM Public Hearing – Resolution 9690, Ordinance 2984, and Annexation Agreement all related to Lots 1A and 10A, Block 14, Finlay’s Supplement to Prospect Park Addition

INITIATED BY Michael and Tammy Gittins and Earl and Helen Burow, Property Owners

ACTION REQUESTED Commission Adopt Resolution 9690 and Ordinance 2984 and Approve Annexation Agreement

PREPARED BY Charles Sheets, Planner 1

APPROVED & PRESENTED BY Benjamin Rangel, Planning Director

- - - - -

RECOMMENDATION:

The Planning Board has recommended the City Commission approve the annexation of Lots 1A and 10A, Block 14, Finlay’s Supplement to Prospect Park Addition and the City Zoning Commission has recommended the City Commission assign a zoning classification of R-3 Single-family high density district to same, upon annexation to the City.

MOTION: (Each motion to be separately considered):

“I move the City Commission adopt Resolution 9690 and approve the Annexation Agreement all related to Lots 1A and 10A, Block 14, Finlay’s Supplement to Prospect Park Addition.”

and

“I move the City Commission adopt Ordinance 2984.”

SYNOPSIS:

Resolution 9690 annexes Lots 1A and 10A, Block 14, Finlay’s Supplement to Prospect Park Addition and segments of 19th Street South, 22nd Alley South and 21st Avenue South.

Ordinance 2984 assigns a zoning classification of R-3 Single-family high density district, to Lots 1A and 10A, Block 14, Finlay’s Supplement to Prospect Park Addition, upon annexation to the City.

BACKGROUND:

Michael and Tammy Gittins and Earl and Helen Burow reside at 1902 and 1926 21st Avenue South, respectively. Their homes are currently served by cisterns for water and septic tanks/drain fields for sanitation. In the past it was cost prohibitive to extend City utilities to their properties. With a City water main being installed in the abutting portion of 21st Avenue South this year, the owners would like to annex to receive water service. Sanitary sewer service is not readily available in the area.

To provide contiguity and adhere to State Law, it will be necessary to annex the road and alley rights-of-way as depicted on the Exhibit “A” attached to Resolution 9690. A three lot, unincorporated enclave will be created. The current owners of subject three lots are not interested in annexation at this time.

Finlay’s Supplement to Prospect Park was originally subdivided in the late 1800’s. The lots within the subdivision are platted at less than 7500 square feet, which is the minimum lot size required by the Unified Land Development Code. As the applicants owned multiple lots and built their respective homes across lot lines, they recently caused to be prepared

amended plats to aggregate their respective lots into one lot each. The lots are now in conformance with the Unified Land Development Code.

Roadways serving the involved area are graveled. The applicants will waive their rights to protest creation of special improvement districts and agree to pay their proportionate share of the costs to install additional utilities, (street lighting, sanitary sewer, storm drainage) and street improvements when deemed necessary by the City.

Subject properties are surrounded by a predominately single-family residential neighborhood located outside the City limits with some rural characteristics. The applicants have requested subject properties be zoned R-3 Single-family high density district upon annexation to the City. Section 76-2-304 Montana Code Annotated lists 12 criteria and guidelines, which must be considered in conjunction with establishing municipal zoning on land. Staff concludes establishing residential zoning upon the lots would not be out of character with the existing uses and will enhance health, safety and welfare through application of City Codes. Staff concludes the 12 zoning criteria and guidelines are substantially met.

At the conclusion of a combined public hearing held on June 12, 2007, the Planning Board/Zoning Commission made two separate recommendations, as follows:

The Planning Board unanimously recommended the City Commission approve the annexation of Lots 1-4 & 8-10, Block 14, Finlay's Supplement to Prospect Park Addition and segments of 19th Street South, 21st Avenue South and 22nd Alley South and fulfillment of the following conditions:

- 1) The applicants shall execute an Annexation Agreement acceptable to the City, including agreement to pay their proportionate share of paving, curb, gutter and sidewalk in abutting portions of 19th Street South, 20th Street South and 21st Avenue South and sanitary sewer and storm drainage improvements, when deemed necessary by the City.
- 2) All applicable fees and charges due as a consequence of annexation shall be paid by the applicants.
- 3) Both residences shall be inspected for code/life-safety requirements and any identified deficiencies shall be corrected as a condition of annexation.
- 4) An amended plat consolidating Lots 1-4 and 8-10 into two separate lots, respectively, shall be prepared, filed and recorded,

and;

The Zoning Commission unanimously recommended the City Commission approve establishing a City zoning classification of R-3 Single-family high density district upon Lots 1-4 & 8-10, Block 14, Finlay's Supplement to Prospect Park Addition, upon annexation to the City.

The above stated conditions 1), 2) & 4) have been fulfilled and condition 3) will be fulfilled prior to filing the final plat.

Attach: Resolution 9690
Ordinance 2984
Reduced Copies of Drawing Portion of Amended Plats
Annexation Agreement (Not available online.)

Cc: Michael & Tammy Gittins, 1902 21st Ave S
Earl & Helen Burow, 1926 21st Ave S

RESOLUTION 9690

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF SAID CITY TO INCLUDE LOTS 1A AND 10A, BLOCK 14, FINLAY'S SUPPLEMENT TO PROSPECT PARK ADDITION, AND SEGMENTS OF 19TH STREET SOUTH, 21ST AVENUE SOUTH AND 22ND ALLEY SOUTH, IN SECTION 18, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA MORE PARTICULARLY DESCRIBED HEREINBELOW; ALL AS SHOWN ON THE MAP ATTACHED HERETO MARKED EXHIBIT "A" AND BY THIS REFERENCE MADE A PART HEREOF.

* * * * *

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is contiguous to said City, but without the boundaries thereof, certain tracts or parcels of land situated in the County of Cascade, State of Montana, and described as follows:

Lots 1A and 10A, Block 14, Finlay's Supplement to Prospect Park Addition, Cascade County, Montana, and containing 0.539 acres;

and,

A segment of 19th Street South right-of-way from the south boundary of Prospect Park Addition to Great Falls and the mid-section line of the SW¹/₄ of Sec. 18, T20N, R4E, to the south boundary of 22nd Alley South; a segment of 21st Avenue South right-of-way from the east boundary of Finlays Supplement to Prospect Park Addition and the mid-quarter section line of the SW¹/₄ of Sec. 18, T20N, R4E to the east boundary of 19th Street South; a segment of 22nd Alley South right-of-way from the east boundary of Finlays Supplement to Prospect Park Addition and

the mid-quarter section line of the SW¼ of Sec. 18, T20N, R4E to the east boundary of 19th Street South, containing 1.42 acres;

containing in all 1.959 acres more or less,

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

WHEREAS, Section 7-2-4601, Montana Code Annotated, provides that whenever the owners of real property contiguous to any incorporated city of the first class petition to have said property made a part of the municipal corporation, such lands may be embraced within the corporate limits thereof and the boundaries of such city of the first class extended so as to include the same; and,

WHEREAS, the owners of the hereinabove described property have submitted a petition to have said property annexed to the City of Great Falls; and,

WHEREAS, the City Commission now finds that it is to the best interest of the City of Great Falls and its inhabitants to proceed with the incorporation of said territory into the City of Great Falls; and,

WHEREAS, all of the proceedings herein have been conducted in strict compliance with and in conformity to the law and constitution of the State of Montana, and all conditions, acts, and things required to be done precedent to and in the passage and adoption of this resolution have been properly and legally done, and performed.

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

That the boundaries of the City of Great Falls, Montana, be and the same are hereby extended so as to embrace and include within the corporate limits of said city all of the land hereinabove described, included as: "LOTS 1A AND 10A, BLOCK 14, FINLAY'S SUPPLEMENT TO PROSPECT PARK ADDITION, CASCADE COUNTY, MONTANA, AND SEGMENTS OF 19TH STREET SOUTH, 21ST AVENUE SOUTH AND 22ND ALLEY SOUTH."

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

That the Cascade County Clerk and Recorder is hereby authorized and directed to change the appropriate district boundaries of the City of Great Falls, Montana, to include said tracts of land; and,

That this Resolution shall become effective from and after the date of the filing of said document in the office of the Cascade County Clerk and Recorder.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 16th day of October, 2007.

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, Liza Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9690 was placed on its final passage by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 16th day of October, 2007, wherein it was approved by said Commission.

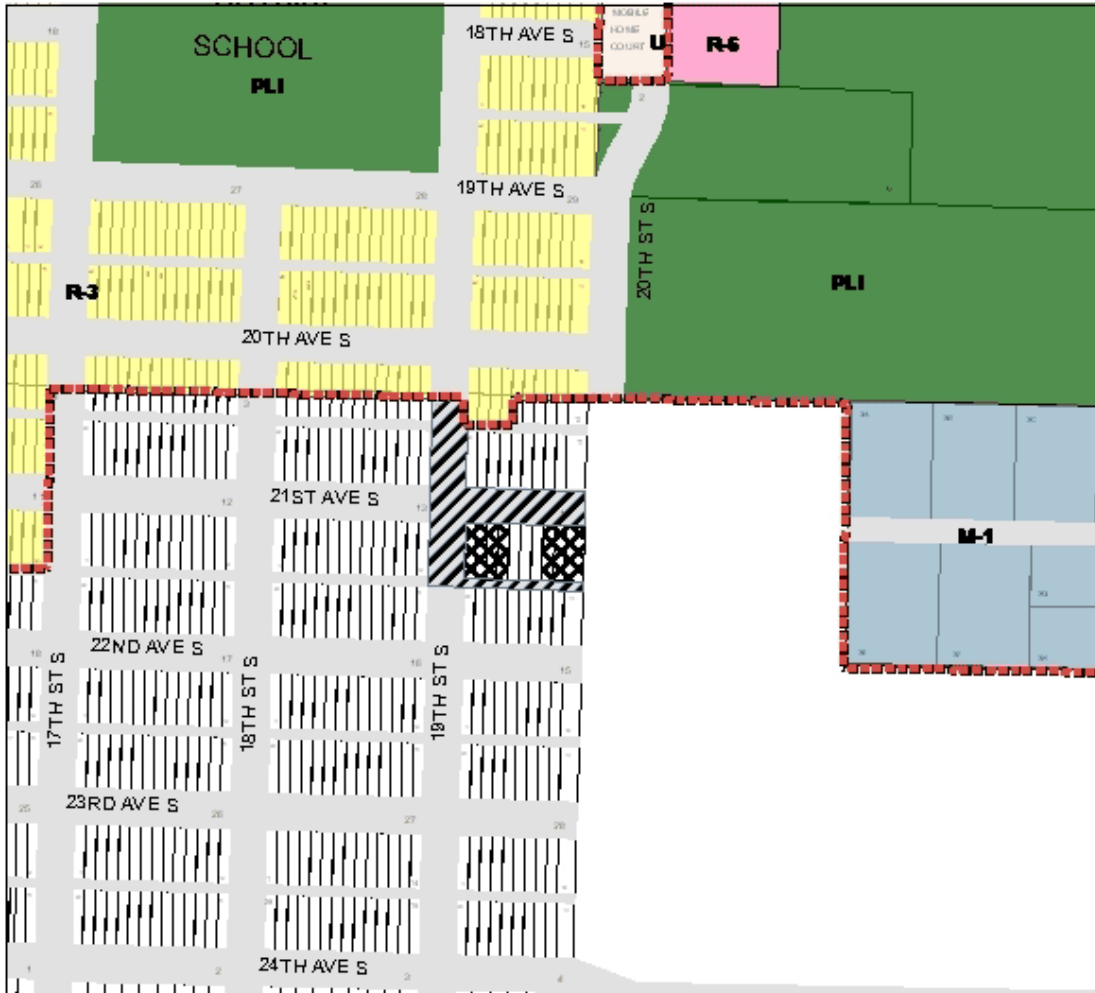
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 16th day of October, 2007.


Lisa Kunz, City Clerk


(SEAL OF CITY)








EXHIBIT "A"

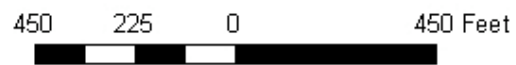
VICINITY/ZONING MAP



 LOTS 1A AND 10A, BLOCK 14, FINLAYS SUPP TO PROSPECT PARK ADDITION PROPOSED TO BE ANNEXED INTO THE CITY AND ASSIGNED A CITY ZONING CLASSIFICATION OF R-3 SINGLE-FAMILY HIGH DENSITY

 SEGMENTS OF RIGHT-OF-WAY PROPOSED TO BE ANNEXED INTO THE CITY PER 7-2-4211 M.C.A. REGARDING INCLUSION OF ROADS AND RIGHTS-OF-WAY

- | | | |
|--|--|---|
|  City Limits |  M-1 Mixed-use district |  Tracts of land outside City |
|  R-3 Single-family high density |  PLI Public Lands and Institutional | |
|  R-6 Multi-family high density |  U Unincorporated enclave | |



ORDINANCE 2984

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF R-3 SINGLE-FAMILY HIGH DENSITY DISTRICT TO LOTS 1A AND 10A, BLOCK 14, FINLAY'S SUPPLEMENT TO PROSPECT PARK ADDITION, IN SECTION 18, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA

* * * * *

WHEREAS, Michael and Tammy Gittins and Earl and Helen Burow, have petitioned the City of Great Falls to annex Lots 1A and 10A, Block 14, Finlay's Supplement to Prospect Park Addition, located in SW¹/₄, Section 18, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana; and,

WHEREAS, Michael and Tammy Gittins and Earl and Helen Burow, have petitioned said Lots 1A and 10A, Block 14, Finlay's Supplement to Prospect Park Addition, 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 said Lots 1A and 10A, Block 14, Finlay's Supplement to Prospect Park Addition, was published in the Great Falls Tribune advising that a public hearing on this zoning designation would be held on the 16th day of October, 2007, 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 1A and 10A, Block 14, Finlay's Supplement to Prospect Park Addition, be designated as R-3 Single-family high density district classification.

Section 3. The zoning being assigned by this ordinance for Lots 1A and 10A, Block 14, Finlay's Supplement to Prospect Park Addition, 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 1A and 10A, Block 14, Finlay's Supplement to Prospect Park Addition, 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 16th day of October, 2007.

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 Ordinance 2984 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 16th day of October, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City on this 16th day of October, 2007.

Lisa Kunz, City Clerk

(SEAL OF CITY)

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

Lisa Kunz, being first duly sworn, deposes and says: That on the 16th day of October, 2007, and prior thereto, she was the City Clerk of the City of Great Falls, Montana; that as said City Clerk she did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 2984 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








(SEAL OF CITY)

VICINITY/ZONING MAP



 LOTS 1A AND 10A, BLOCK 14, FINLAYS SUPP TO PROSPECT PARK ADDITION PROPOSED TO BE ANNEXED INTO THE CITY AND ASSIGNED A CITY ZONING CLASSIFICATION OF R-3 SINGLE-FAMILY HIGH DENSITY

 SEGMENTS OF RIGHT-OF-WAY PROPOSED TO BE ANNEXED INTO THE CITY PER 7-2-4211 M.C.A. REGARDING INCLUSION OF ROADS AND RIGHTS-OF-WAY

- | | | |
|--|--|---|
|  City Limits |  M-1 Mixed-use district |  Tracts of land outside City |
|  R-3 Single-family high density |  PLI Public Lands and Institutional | |
|  R-6 Multi-family high density |  U Unincorporated enclave | |

450 225 0 450 Feet



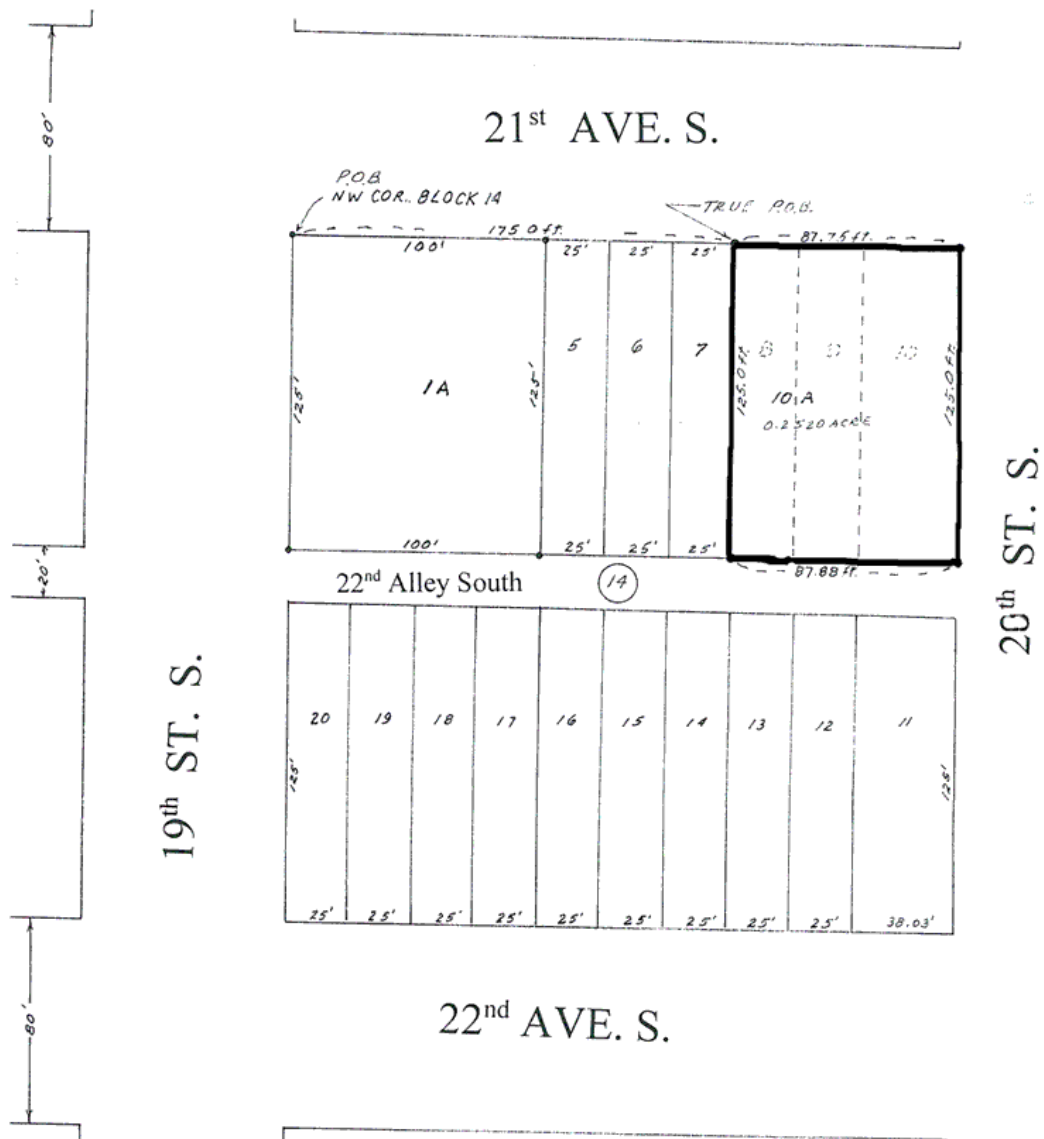
AMENDED PLAT

OF

LOTS 8, 9, AND 10, BLOCK 14, FINLAY
SUPPLEMENT TO PROSPECT PARK
ADDITION, GREAT FALLS, CASCADE
COUNTY, MONTANA

PURPOSE OF SURVEY

To amend the plat of Block 14, Finlay Supplement to Prospect Park Addition, Great Falls, Cascade County, Montana, by aggregating Lots 8, 9, and 10 into a single lot. This new lot is to be known as Lot 10A, Block 14.



AGENDA REPORT

DATE October 16, 2007

ITEM: RESOLUTION 9692 CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT – CITY OWNED RESIDENTIAL LIGHTING NO. 1310

INITIATED BY: FISCAL SERVICES DEPARTMENT

ACTION REQUESTED: CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION 9692

PREPARED BY: JUDY BURG, ACCOUNTING TECHNICIAN

PRESENTED BY: COLEEN BALZARINI, FISCAL SERVICES DIRECTOR

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RECOMMENDATION:

Staff recommends the City Commission conduct the public hearing and adopt Resolution No. 9692 creating Special Improvement Lighting District – City Owned Residential Lighting No. 1310.

MOTION:

“I move the City Commission adopt Resolution No. 9692.”

SYNOPSIS:

Staff received a signed petition from the developer of Meadowlark Addition No. 5 requesting street lights be installed. The petition is for the installation of twelve (12) 100 watt HPS street lighting units on 17 foot fiberglass poles with underground wiring. There are twenty (20) properties within the Meadowlark Addition No. 5. Boundaries and the positions of the street lighting for the petitioned area are outlined on Exhibit “A” included in the Intent to Create Resolution No. 9691.

Staff mailed letters regarding the City’s intention to create Special Improvement Lighting District – City Owned Residential Lighting No. 1310 along with a copy of the published legal notice and outlined the protest procedures to each person, firm or corporation, or a known agent having property located within the boundaries of the proposed district. During the 15 day protest period, no protest letters were received by the City regarding the creation of a special improvement lighting district as presented in the Intent to Create Special Improvement Lighting District – City Owned Residential Lighting No. 1310 Resolution No. 9691.

The special assessment for the installation cost of the improvements shall be payable over a term not to exceed 15 years. The **estimated** annual special improvement assessment (inclusive of capital, financing, operations and maintenance costs) in the newly created area will be \$200.34 for an average lot of 10,495 square feet. The **estimated** installation costs per parcel are shown on Exhibit “B” included in the Intent to Create Resolution No.9691. The property owners have the right to prepay the installation assessment as provided by law.

After the payment of construction costs are satisfied, there will continue to be an ongoing **estimated** annual maintenance assessment of \$60.80 for an average lot of 10,495 square feet for energy, transmission, distribution and other ongoing related costs as shown on Exhibit “C” included in the Intent to Create Resolution No. 9691.

BACKGROUND:

MCA 7-12-4301 and MCA 7-12-4333 authorizes the City Commission to create lighting districts and to assess the cost of installing and/or maintaining the district to the owners of the property embraced within the boundaries of such district.

On July 19, 2005 the City Commissioners adopted Resolution No. 9506 creating the City’s Street Light Policy, which established a policy that the City own and operate any new street lighting districts that would be requested by property owners or developers as allowed by state.

RESOLUTION NO. 9692

A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING DISTRICT – CITY OWNED RESIDENTIAL LIGHTING NO. 1310 IN THE CITY OF GREAT FALLS, MONTANA, TO INSTALL TWELVE (12) 100 WATT HPS ON 17 FOOT FIBERGLASS POLES WITH UNDERGROUND WIRING ALONG DELEA DRIVE TO INCLUDE PROPERTIES LOCATED IN MEADOWLARK ADDITION NO. 5

WHEREAS, the City Commission of the City of Great Falls, duly and regularly passed and adopted Resolution No. 9691 on the 18th day of September, 2007, which Resolution of Intention to Create Special Improvement Lighting District – City Owned Residential Lighting No. 1310 is now on file in the office of the City Clerk and to which reference is hereby made; and

WHEREAS, the City Commission caused notice of the passage of the Resolution of Intention No. 9691 to be published in the *Great Falls Tribune*, a daily newspaper published in the City of Great Falls, Montana, in the manner and form and during the period as required by law and also caused the City Clerk on the 21st day of September, 2007, that being the day of the first publication of the notice, to mail to each person, firm or corporation, or a known agent thereof, having property within the District, to the last known address of such person, firm or corporation or agent, a notice of the passage of the Resolution of Intention No. 9691; and

WHEREAS, the City Commission having this day met in regular session, at the time and place fixed and mentioned in the Resolution of Intention No. 9691 and in said notices for a public hearing, and the passing upon protests, against the making of the proposed District therein; and the Commission having fully heard and considered all of such protests and other testimony.

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

Section 1. The City Commission does hereby find and determine that the protests and each of them made against the creation of the District and against the making of the proposed

improvements be and the same are hereby declared insufficient.

Section 2. There is hereby created a Special Lighting District to be known and designated as Special Improvement Lighting District – City Owned Residential Lighting No. 1310 of the City of Great Falls, Montana, and the improvements described in the Resolution of Intention No. 9691 are hereby ordered to be made.

Section 3. The boundaries of the District shall be the same as described in the Resolution of Intention No. 9691 to which reference is hereby made for a particular description thereof.

Section 4. The City Commission hereby makes reference to the Resolution of Intention No. 9691 for further particulars, including the method of assessing the costs of the improvements against the benefited properties.

Section 5. That the creation of this District will supercede and take precedence over any existing, overlapping street lighting district boundaries.

PASSED by the Commission of the City of Great Falls, Montana, on this 16th day of October, 2007.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

Approved for Legal Content: City Attorney

State of Montana)

County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9692 was passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 16th day of October 2007, and approved by the Mayor of said City on the 16th day of October 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 16th day of October 2007.

Lisa Kunz, City Clerk

(SEAL OF CITY)

A G E N D A R E P O R T

DATE: October 16, 2007

ITEM Res. 9678, Cost Recovery, N 1/2 of E85' L6 & N 1/2 of L7, B410, GF Original Townsite

INITIATED BY Community Development Department

ACTION REQUESTED Conduct Public Hearing and Adopt Res. 9678

PREPARED BY Jay Parrott, Building Inspector

REVIEWED & APPROVED BY Mike Rattray, Community Development Director

- - - - -

RECOMMENDATION:

After closing the public hearing staff recommends the City Commission adopt Resolution 9678 and assess the total charges of \$ 9,128.00 against the property with interest and penalties on the unpaid balance.

MOTION:

I move to adopt Resolution 9678.

SYNOPSIS:

The record owner: Daniel G. Mullins and the contact person, Robert Mullins, of the property located on the N 1/2 of East 85' of Lot 6 and N 1/2 of Lot 7, Block 410, Great Falls Original Addition, Great Falls, Cascade County, Montana, were issued a "Notice of Hearing" before the City Commission of Great Falls to appear at 7:00 p.m., October 16, 2007. The hearing is to show cause why the owner of the property should not be liable for the costs incurred in razing and cleanup of the structure known as 826 2nd Avenue South. The following expenses were incurred:

Asbestos sampling by <i>City of Great Falls</i> staff	\$ 150.00
Pre-asbestos cleaning by <i>Wayne Riley Construction</i>	\$ 300.00
Removal of Asbestos by <i>Quality Urethane</i>	\$ 2,000.00
Administrative Fee	\$ 260.00
Ownership and encumbrance report by <i>Stewart Title</i>	\$ 110.00
Recording Fee	\$ 24.00
Publishing – Legal Ad	\$ 35.00
Razing Fee	\$ 49.00
Demolition & cleanup by <i>Liggett Construction</i>	<u>\$ 6,200.00</u>
TOTAL COSTS INCURRED	<u>\$ 9,128.00</u>

BACKGROUND:

Staff has taken the following action:

<u>Action</u>	<u>Date</u>
GFPD complaint taken	01-07-07
Search warrant issued by City Court	01-24-07
Initial inspection of property	01-25-07
Condemned with Sixty-day notice mailed	01-25-07
Appeal denied	03-15-07
Final inspection and approval by staff	06-01-07

Notification that a public hearing would be held on October 16th 2007, at 7:00 p.m., for the purpose of assessing said costs on the above-mentioned property was given to the property owner and published in the TRIBUNE on October 6, 2007.

cc: Coleen Balzarini, Controller
Judy Burg, Fiscal Control/Tax

RESOLUTION 9678

A RESOLUTION ASSESSING THE COSTS INCURRED IN RAZING AND CLEANING OF THE PROPERTY LOCATED ON THE NORTH ½ OF EAST 85 FEET OF LOT 6 AND NORTH ½ OF LOT 7, BLOCK 410, GREAT FALLS ORIGINAL ADDITION, GREAT FALLS, CASCADE COUNTY, MONTANA, ADDRESSED AS 826 2nd AVENUE SOUTH, AGAINST SAID PROPERTY.

WHEREAS, the record owner: Daniel G. Mullins and the contact person Robert Mullins, of the property located on the N ½ of East 85' Lot 6 and N ½ of Lot 7, Block 410, Great Falls Original Addition, Great Falls, Montana, was issued a notice to raze the structure.

WHEREAS, after due notice the property owner did not raze the structure.

WHEREAS, staff hired a contractor to raze the structure and clean the property.

WHEREAS, the contractor completed razing & cleanup with staff approving the work.

WHEREAS, the City Commission set October 16, 2007, at 7:00 p.m. for this hearing, to show cause why the property owner should not be held liable for the costs incurred in razing and cleanup of said property.

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

The amount of \$ 9,128.00 for razing and cleanup costs incurred in the abatement of a nuisance at N ½ of East 85' of Lot 6 and N ½ of Lot 7, Block 410, Great Falls Original Addition, Great Falls, Montana, described as 826 2nd Avenue South, be assessed against the property itself, with interest and penalties on the unpaid balance.

PASSED by the Commission of the City of Great Falls, Montana, on the 16th of October 2007.

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 the foregoing Resolution 9678 was placed on its final passage and adoption, and was passed and adopted by the City Commission of said City at a Regular Meeting thereof held on the 16th day of October, 2007, and approved by the Mayor of said City, on the 16th day of October, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City, this 16th day of October, 2007.

Lisa Kunz, City Clerk

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Commission will hold a public hearing on October 16, 2007, at 7:00 p.m., in the Commission Chamber of the Civic Center for assessing razing and cleanup costs on the following property in the amount set forth:

826 2nd Avenue South \$ 9,128.00

Any person interested or affected by the proposed charge may file written protests or objections, containing the description of the property and the grounds for such protest or objections, with the Clerk's office prior to the time set for the hearing.

BY ORDER OF THE CITY COMMISSION

Lisa Kunz, City Clerk

OFFICE USE ONLY

Publication Date: October 6, 2007

cc: Account # 451-7121-572-3599
Lisa Kunz, City Clerk
Itemized Account
Owner: Daniel G. Mullins
PO Box 1288
Craigsville WV 26205
Post on Property
Property File

ITEMIZED ACCOUNT FOR RECOVERY OF ABATEMENT COSTS

The following expenses were incurred during the razing and cleanup of property located on the N ½ of the East 85' of Lot 6 and N ½ of Lot 7, Block 410, Great Falls Original Addition, Great Falls, Montana, more commonly known as 826 2nd Avenue South.

Asbestos sampling & testing by <i>City of Great Fall</i> staff	\$ 150.00
Pre-asbestos cleaning by <i>Wayne Riley Construction</i>	\$ 300.00
Removal of asbestos by <i>Quality Urethane</i>	\$ 2,000.00
Administrative Fee	\$ 260.00
Ownership and encumbrance report by <i>Stewart Title</i>	\$ 110.00
Recording Fee	\$ 24.00
Publishing – Legal Ad	\$ 35.00
Razing Fee	\$ 49.00
Demolition & cleanup by <i>Liggett Construction</i>	<u>\$ 6,200.00</u>
TOTAL EXPENSES INCURRED	<u>\$ 9,128.00</u>

A G E N D A R E P O R T

DATE: October 16, 2007

ITEM Res. 9703, Cost Recovery, L5, B236, GF 1st Add., 1416 4 Ave. N.

INITIATED BY Community Development Department

ACTION REQUESTED Conduct Public Hearing and Adopt Res. 9703

PREPARED BY Jay Parrott, Building Inspector

REVIEWED & APPROVED BY Mike Rattray, Community Development Director

- - - - -

RECOMMENDATION:

After closing the public hearing staff recommends the City Commission adopt Resolution 9703 and assess the total charges of \$ 5,823.00 against the property with interest and penalties on the unpaid balance.

MOTION:

I move to adopt Resolution 9703.

SYNOPSIS:

The owner, Andrew T. Austad, of the property at Lot 5, Block 236, Great Falls First Addition, Great Falls, Cascade County, Montana, was issued a “Notice of Hearing” before the City Commission of Great Falls to appear at 7:00 p.m., October 16, 2007. The hearing is to show cause why the owner of the property should not be liable for the costs incurred in razing and cleanup of the structure known as 1416 4th Avenue North. The following expenses were incurred:

Administrative Fee	\$ 260.00
Ownership and encumbrance report by <i>Stewart Title</i>	\$ 110.00
Recording Fee	\$ 24.00
Publishing – Legal Ad	\$ 35.00
Razing Fee	\$ 49.00
Demolition & cleanup by <i>John Gordon Construction</i>	<u>\$ 5,345.00</u>
TOTAL COSTS INCURRED	<u>\$ 5,823.00</u>

BACKGROUND:

Staff has taken the following action:

<u>Action</u>	<u>Date</u>
Initial inspection of property	05-14-07
Structure(s) condemned with: Sixty-day notice mailed Appeal form mailed	05-15-07
Razing started by contractor	09-11-07
Final inspection and approval by staff	09-18-07

Notification that a public hearing would be held on October 16, 2007, at 7:00 p.m., for the purpose of assessing said costs on the above-mentioned property was given to the property owner and published in the TRIBUNE on October 6, 2007.

cc: Coleen Balzarini, Controller
Judy Burg, Fiscal Control/Tax

RESOLUTION 9703

A RESOLUTION ASSESSING THE COSTS INCURRED IN RAZING AND CLEANING OF THE PROPERTY LOCATED AT LOT 5, BLOCK 236, GREAT FALLS FIRST ADDITION, GREAT FALLS, CASCADE COUNTY, MONTANA, ADDRESSED AS 1416 4 AVENUE NORTH, AGAINST SAID PROPERTY.

WHEREAS, the owner: Andrew T. Austad, of the property located at Lot 5, Block 236, Great Falls First Addition, Great Falls, Montana, 1416 4th Avenue North was issued a notice to raze the structure.

WHEREAS, after due notice the property owner did not raze the structure.

WHEREAS, staff hired a contractor to raze the structure and clean the property.

WHEREAS, the contractor completed razing & cleanup with staff approving the work.

WHEREAS, the City Commission set October 16, 2007, at 7:00 p.m. for this hearing, to show cause why the property owner should not be held liable for the costs incurred in razing and cleanup of said property.

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

The amount of \$ 5,823.00 for razing and cleanup costs incurred in the abatement of a nuisance at Lot 5, Block 236, Great Falls First Addition, Great Falls, Montana, described as 1416 4th Avenue North, be assessed against the property itself, with interest and penalties on the unpaid balance.

PASSED by the Commission of the City of Great Falls, Montana, on this 16 day of October, 2007.

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 the foregoing Resolution 9703 was placed on its final passage and adoption, and was passed and adopted by the City Commission of said City at a Regular Meeting thereof held on the 16 day of October 2007, and approved by the Mayor of said City, on the 16 day of October, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City, this 16 day of October, 2007.

Lisa Kunz, City Clerk

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Commission will hold a public hearing on October 16, 2007, at 7:00 p.m., in the Commission Chamber of the Civic Center for assessing razing and cleanup costs on the following property in the amount set forth:

1416 4th Avenue North \$ 5,823.00

Any person interested or affected by the proposed charge may file written protests or objections, containing the description of the property and the grounds for such protest or objections, with the Clerk's office prior to the time set for the hearing.

BY ORDER OF THE CITY COMMISSION

Lisa Kunz, City Clerk

OFFICE USE ONLY

Publication Date: October 6, 2007

cc: Account # 451-7121-572-3599
Lisa Kunz, City Clerk
Itemized Account
Owner: Andrew T. Austad
PO Box 693
Fairfield MT 59436-0693
Post on Property
Property File

ITEMIZED ACCOUNT FOR RECOVERY OF ABATEMENT COSTS

The following expenses were incurred during the razing and cleanup of property at Lot 5, Block 236, Great Falls First Addition, Great Falls, Montana, more commonly known as 1416 4th Avenue North.

Administrative Fee	\$ 260.00
Ownership and encumbrance report by <i>Stewart Title</i>	\$ 110.00
Recording Fee	\$ 24.00
Publishing – Legal Ad	\$ 35.00
Razing Fee	\$ 49.00
Demolition & cleanup by <i>John Gordon Construction</i>	<u>\$ 5,345.00</u>
TOTAL EXPENSES INCURRED	<u>\$ 5,823.00</u>

CITY OF GREAT FALLS, MONTANA

AGENDA# 6

A G E N D A R E P O R T

DATE October 16, 2007

ITEM Take public comment, accept the recommendation of staff and authorize a Memorandum of Understanding between the City and Cascade County.

INITIATED BY Police Department.

ACTION REQUESTED Seek public comment on the recommended use of the Justice Assistance Grant (JAG) for 2007. Accept the recommendation of made by staff and allow Mr. Lawton to execute the memorandum of understanding.

PRESENTED BY Interim Chief of Police, Cloyd A. Grove.

RECOMMENDATION:

It is recommended the City Commission accept staffs recommendation to expend the funds to purchase Mobile Data Terminals and equipment for the Great Falls Police Department and the Cascade County Sheriff's Office.

MOTION:

I move the City Commission accept the recommendation of staff and approve the Memorandum of Understanding for execution by the City Manager.

SYNOPSIS:

The Justice Assistance Grant (JAG) has allocated is \$67,692.00 as a joint application between the Great Falls Police Department and the Cascade County Sheriff's Office. The staff at both agencies feels that it is important to continue both agencies growth in data communication. Both agencies currently use the same mobile data equipment and the same communications center. They are currently attempting to adopt a communication system, both voice and data, that will provide easy interoperable communication between street officers.

The proposed use of JAG grant funding will be used to purchase associated equipment, software, and installation of that equipment. The funds may also be used to make technological improvements to the existing system and to expand the systems capabilities. These may include but will not be limited to; mobile data terminals, and bar coding equipment and software. Once the system is fully operational it will improve crime response capabilities.

The application process allows 30 days for the review by the governing bodies (City and County) and provides an opportunity for public comment on the grant application.

BACKGROUND:

Congress allocated funds to be dispersed under the Justice Assistance Grant Program, established within the Bureau of Justice Assistance (BJA), US Department of Justice. The allocation is based on the following formula.

FORMULA

The JAG formula includes a *state allocation* consisting of a minimum base allocation with the remaining amount determined on population and Part 1 violent crime statistics, and a *direct allocation* to units of local government. Once the state allocation is calculated, 60% of the funding is awarded to the state and 40% to eligible units of local government. State allocations also have a *variable pass through* requirement to locals, calculated by the Bureau of Justice Statistics (BJS) from each state's crime expenditures.

JAG funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice for any one or more of the following purpose areas:

- Law enforcement programs
 - Prosecution and court programs
 - Prevention and education programs
 - Corrections and community corrections programs
 - Drug treatment programs
 - Planning, evaluation, and technology improvement programs
- *Any law enforcement or justice initiative previously eligible for funding under Byrne or LLEBG is eligible for JAG funding.

MATCH

While match is not required with the JAG Program, match is an effective strategy for states and units of local government to expand funds and build buy-in for law enforcement and criminal justice initiatives.

TRUST FUND

The unit of local government must establish a trust fund in which to deposit JAG funds. The trust fund may or may not be an interest bearing account.

PROHIBITED

JAG funds cannot be used directly or indirectly for security enhancements or equipment to nongovernmental entities not engaged in criminal justice or public safety. Based on extraordinary and exigent circumstances making the use of funds essential, BJA may certify a unit of local government's request to use funds for:

- Vehicles, vessels, or aircraft
- Luxury items
- Real estate
- Construction projects, other than penal or correctional institutions

A G E N D A R E P O R T

DATE October 16, 2007

ITEM Resolution 9704, Intent to Annex Segments of 6th Street Southwest and Interstate Spur 315, in NE¼, Section 15, Township 20 North, Range 3 East, Cascade County, Montana and Ordinance 2992 to Assign City Zoning

INITIATED BY: City Administration

ACTION REQUESTED Commission Adopt Resolution 9704, Accept Ordinance 2992 on First Reading and Set Hearing

PREPARED BY Charles Sheets, Planner I

APPROVED & PRESENTED BY Benjamin Rangel, Planning Director

- - - - -

RECOMMENDATION:

The City Planning Board has recommended the City Commission annex the unincorporated segment of 6th Street Southwest, from 10th Avenue Southwest to its intersection with Fox Farm Road, and a segment of Interstate Spur 315, from Exit 0 to its intersection with Fox Farm Road and the City Zoning Commission has recommended the City Commission assign zoning classifications in accordance with Title 17-Land Development Code, Chapter 8, Section 60, "Interpretation of boundaries for land use districts," upon annexation to the City.

MOTION: (Each motion to be separately considered)
"I move the City Commission adopt Resolution 9704."

and

"I move the City Commission accept Ordinance 2992 on first reading and set a public hearing for November 20, 2007, to consider adoption of Ordinance 2992."

SYNOPSIS:

Resolution 9704 sets a public hearing for November 20, 2007, to consider annexation of a segment of 6th Street Southwest and a segment of Interstate Spur 315 to the City of Great Falls. Ordinance 2992 assigns City zoning classifications to said unincorporated segments of rights-of-way, upon annexation of same to City.

BACKGROUND:

A segment of 6th Street Southwest, from 10th Avenue Southwest to its intersection with Fox Farm Road and a segment of Interstate Spur 315, from Exit 0 to its intersection with Fox Farm Road, are presently located outside the City Limits. The unincorporated rights-of-way consist of 23 acres more or less and are contiguous government land to the incorporated area of the City.

Please refer to the Vicinity/Zoning Map attached as Exhibit "A" to Ordinance 2992 and Resolution 9704.

Although annexation of the rights-of-way will also address the City Commission interest to annex unincorporated enclaves into the City, Section 7-2-4402, M.C.A., “Annexation of Contiguous Government Land” will be applied. These types of enclaves have been a source of confusion for some governmental entities, particularly law enforcement and emergency services, and neighbors.

The City has obtained a Request for Annexation of the subject segments of right-of-way from the Montana Department of Transportation.

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.

The incorporated properties adjacent to the roadway segments proposed to be annexed involve multiple zoning districts. As such, the roadway segments will be zoned to the centerline with the same zoning classification as the abutting parcels. Designating subject segments of right-of-way with the same zoning classification as the abutting land use district is consistent with Title 17-Land Development Code, Chapter 8, Section 60, “Interpretation of boundaries for land use districts.” Therefore, staff concludes all of the above stated criteria are substantially met.

On September 25, 2007, the Planning Board/Zoning Commission conducted a joint public hearing on annexing and establishing City zoning on the segment of 6th Street Southwest and a segment of Interstate Spur 315. At the conclusion of the public hearing, the Planning Board unanimously recommended the City Commission approve the subject annexation and the Zoning Commission unanimously passed a motion recommending the City Commission approve establishing City zoning classifications in accordance with Title 17-Land Development Code, Chapter 8, Section 60, “Interpretation of boundaries for land use districts.”

It is anticipated the City Commission, following the public hearing on November 20, will consider a final annexation resolution, simultaneously with Ordinance 2992.

Attach: Resolution 9704
Ordinance 2992

Cc: Michael Johnson, Dist. Admin., MDT, 200 Smelter Ave NE

RESOLUTION 9704

A RESOLUTION OF INTENTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND SAID CITY BOUNDARIES TO INCLUDE SEGMENTS OF 6TH STREET SOUTHWEST AND INTERSTATE SPUR 315, IN NE¼, SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-2-4402, MONTANA CODE ANNOTATED

* * * * *

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is contiguous to said City, but outside the boundaries thereof, segments of 6th Street Southwest and Interstate Spur 315, in NE¼, Section 15, Township 20 North, Range 3 East, Cascade County, Montana, containing 23 acres, more particularly described as follows:

Commencing at the Northeast corner of said Section 15, said corner being the True Point of Beginning, proceed thence S0° 20'00"W, 1426.26 feet along the east line of said Section 15 to a point on the southerly right-of-way line of U.S. Highway No. 89 and the Northeast corner of Lot 1B, Block 1, Tietjan Triangle Addition;

Thence S63°08'W, 274.43 feet along the north boundary line of Lot 1B, Block 1 Tietjan Triangle Addition and the southerly right-of-way line of U.S. Highway No. 89, to a point on the easterly right-of-way of Fox Farm Road and the Northwest corner of Lot 1B, Block 1 Tietjan Triangle Addition;

Thence S63°08'W, 100 feet, crossing the Fox Farm Road right-of-way to the intersection of the westerly right-of-way line of Fox Farm Road and the southerly right-of-way line of U.S. Highway No. 89;

Thence S63°12'30" W, 1674.5 along the north boundary of Montana Addition and the southerly right-of-way line of U.S. Highway No. 89, to the intersection of the easterly Burlington Northern and Santa Fe Railroad (B.N.S.F. RR.) right-of-way and the southerly right-of-way line of U.S. Highway No. 89;

Thence S63°12'30" W, 264 feet along the southerly right-of-way line of U.S. Highway No. 89, crossing the B.N.S.F. RR. to the intersection point of the southerly right-of-way line of U.S. Highway No. 89 and the westerly right-of-way of B.N.S.F. RR.

Thence N14°00'E, 290 feet along the westerly right-of-way of B.N.S.F. RR. to the intersection of a point along the northerly right-of-way line of U.S. Highway No. 89;

Thence N63°08'50"E, 247.38 feet to a point on the easterly right-of-way of B.N.S.F. RR., and the southwest corner of Tract 2, Dick's Addition;

The next seven courses being found on Certificate of Survey 4311, of the records of the Clerk & Recorder's Office of Cascade County,

Thence N63°08'50"E, 594.4 feet;

Thence N77°12'E, 82.4 feet;

Thence N63°08'50"E, 220 feet;

Thence N77°12'E, 41.2 feet;

Thence N63°08'50"E, 482.7 feet;

Thence N27°29'E, 88 feet;

Thence Northerly, 150.6 feet to a point along a curve to the right (chord = S5°45'30", 150.2 feet; radius = 571.5 feet) along the westerly right-of-way of 6th Street Southwest to the Northeast corner of Tract 2, Dick's Addition;

Thence S89°06'40"W 225.25, to a point along the north boundary of Tract 2, Dick's Addition;

Thence N0°00'0"W, 239.61 feet to the southerly high water mark of the Sun River;

Thence N0°00'0"W, 380.15 feet to the northerly high water mark of the Sun River, and a point on the southerly bank of the West Great Falls Flood Levee;

Thence E0°00'0' 412.25 feet to a point along the westerly right-of-way of 6th Street Southwest;

Thence N22°40'12"E 469.22 feet to the Southeast corner of Mark 1B, University Portions of Section 15, Township 20 North, Range 3 East, Cascade County, Montana and a point on the westerly right-of-way line of 6th Street Southwest;

Thence North 93 feet to the northeast corner of Mark 1B, University Portions of Section 15, Township 20 North, Range 3 East, Cascade County, Montana and a point on the westerly right-of-way line of 6th Street Southwest;

Thence North 110 feet to the northeast corner of Mark 1A, University Portions of Section 15, Township 20 North, Range 3 East, Cascade County, Montana and a point on the westerly right-of-way line of 6th Street Southwest and a point on the north boundary line of Section 15, Township 20 North, Range 3 East, Cascade County, Montana;

Thence East 105.25 feet along the north boundary line of Section 15, to the Northeast corner of said Section 15, Township 20 North, Range 3 East, Cascade County, Montana, being the Point of Beginning,

containing in all 23 acres more or less and as shown on the Vicinity/Zoning Map attached hereto, marked Exhibit "A" and by this reference made a part hereof; and,

WHEREAS, Section 7-2-4402, Montana Code Annotated, provides that whenever any land contiguous to a municipality is owned by the State of Montana or by any agency, instrumentality, or political subdivision or whenever any of the foregoing have a beneficial interest in any land contiguous to a municipality, such land may be incorporated and included in the municipality to which it is contiguous and may be annexed thereto and made a part thereof; and,

WHEREAS, the City has obtained a Request for Annexation of the subject segments of rights-of-way from the Montana Department of Transportation.

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

That in its judgment it will be to the best interest of said City of Great Falls and the inhabitants thereof that the boundaries of said City of Great Falls shall be extended so as to include: "SEGMENTS OF 6TH STREET SOUTHWEST AND INTERSTATE SPUR 315, IN NE¼, SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA."

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION: That Tuesday, the 20th day of November, 2007, at 7:00 P.M., in the Commission Chambers at the Great Falls Civic Center, Great Falls, Montana, be and the same is hereby set as the time and place for a public hearing at which time the Great Falls City Commission shall hear all persons and all things relative to the proposed annexation of "SEGMENTS OF 6TH STREET SOUTHWEST AND INTERSTATE SPUR 315, IN NE¼, SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA."

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION: That the City Clerk of said City shall, at the aforesaid public hearing before the said City Commission and after expiration of a twenty (20) day period following the first publication of notice of passage of this Resolution, lay before the City Commission all communications in writing by her so received pertaining to said annexation.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 16th day of October, 2007.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF THE CITY)

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

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

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9704 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 16th day of October, 2007.

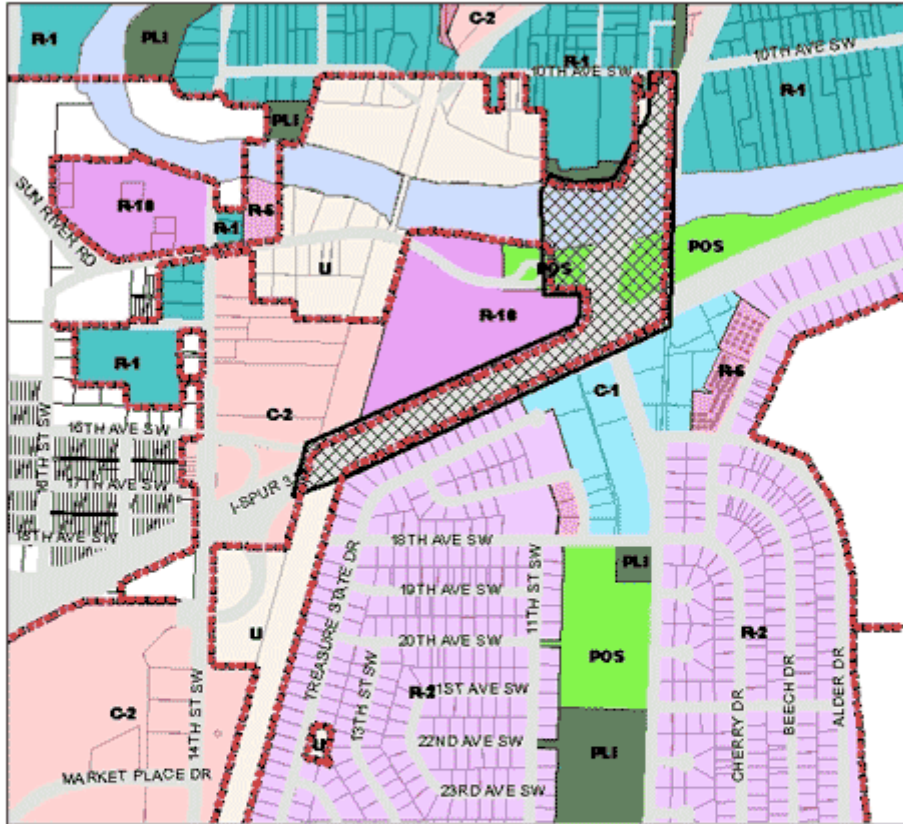
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 16th day of October, 2007.

Lisa Kunz, City Clerk












(SEAL OF CITY)

EXHIBIT "A"

VICINITY/ZONING MAP



 UNINCORPORATED SEGMENT OF 6TH STREET SOUTHWEST AND INTERSTATE SPUR 315 REQUESTED TO BE ANNEXED TO THE CITY AND BE ASSIGNED CITY ZONING CLASSIFICATIONS TO MATCH THE ABUTTING ZONING OF INCORPORATED PARCELS

- | | | |
|--|--|--|
|  City Limits |  R-10 Mobile home park |  POS Parks and Open Space |
|  R-1 Single-family suburban |  C-1 Neighborhood commercial |  PUD Planned unit development |
|  R-2 Single-family medium density |  C-2 General commercial |  U Unincorporated endave |
|  R-6 Multi-family high density |  PLI Public Lands and Institutional |  Tracts of land outside City |

1,000 500 0 1,000 Feet



ORDINANCE 2992

AN ORDINANCE ASSIGNING ZONING
CLASSIFICATIONS TO SEGMENTS OF 6TH
STREET SOUTHWEST AND INTERSTATE SPUR
315, IN NE¼, SECTION 15, TOWNSHIP 20 NORTH,
RANGE 3 EAST, CASCADE COUNTY, MONTANA

* * * * *

WHEREAS, the properties adjoining the unincorporated segments of 6th Street Southwest and Interstate Spur 315, in NE¼, Section 15, Township 20 North, Range 3 East, Cascade County, Montana are a mix of land uses; and,

WHEREAS, the annexation involves Montana Department of Transportation rights-of-way, wherein zoning is normally dictated by the most prevalent zoning districts bordering the corridor being annexed; and,

WHEREAS, the Great Falls Zoning Commission, at the conclusion of a public hearing held September 25, 2007, passed a motion recommending the City Commission of the City of Great Falls assign zoning classifications in accordance with Title 17-Land Development Code, Chapter 8, Section 60, "Interpretation of boundaries for land use districts," upon annexation to the City, as depicted on the zoning map attached hereto as Exhibit "A" and by this reference made a part hereof; and,

WHEREAS, notice of assigning zoning classifications, was published in the Great Falls Tribune advising that a public hearing on this zoning designation would be held on the 20th day of November, 2007, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and recommended that the said zoning designations 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 designations 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 roadway segments be zoned to the centerline with the same zoning classification as the abutting parcels, as depicted on the attached Exhibit "A".

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 segments of 6th Street Southwest and Interstate Spur 315, in NE¼, Section 15, Township 20 North, Range 3 East, Cascade County, Montana, containing 23 acres, 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 20th day of November, 2007.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF THE CITY)

APPROVED FOR LEGAL CONTENT:

David V. Gliko, City Attorney

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

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 2992 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 20th day of November, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 20th day of November, 2007.

Lisa Kunz, City Clerk

(SEAL OF CITY)

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

I, Lisa Kunz, being first duly sworn, deposes and says: That on the 20th day of November, 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 2992 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

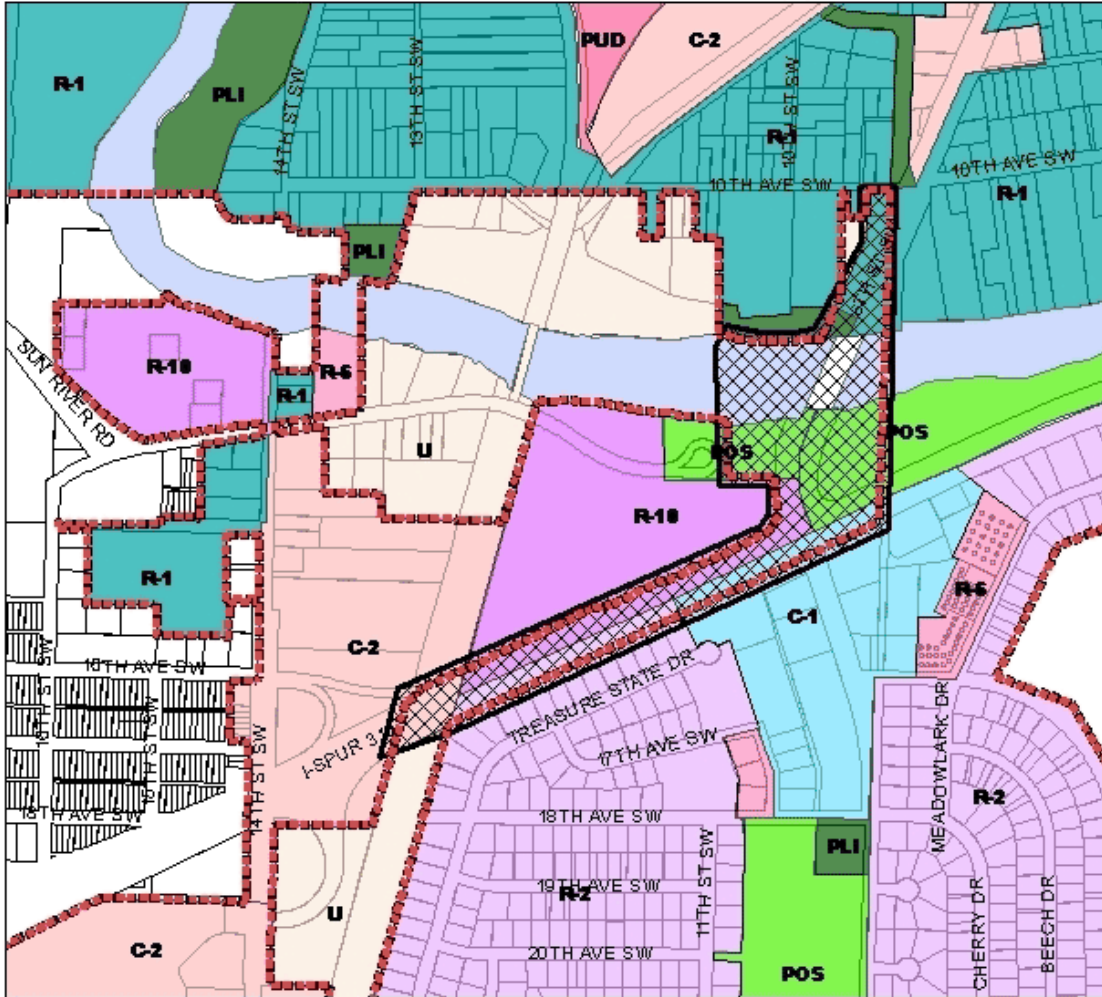
- On the Bulletin Board, first floor, Civic Center Building;
- On the Bulletin Board, first floor, Cascade County Court House;
- On the Bulletin Board, Great Falls Public Library

Lisa Kunz, City Clerk



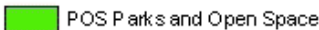




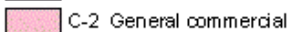

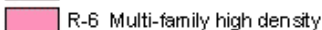

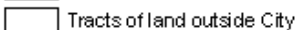
(SEAL OF CITY)

EXHIBIT "A"

VICINITY/ZONING MAP



 UNINCORPORATED SEGMENT OF 6TH STREET SOUTHWEST AND INTERSTATE SPUR 315 PROPOSED TO BE ANNEXED TO THE CITY AND BE ASSIGNED CITY ZONING CLASSIFICATIONS TO MATCH THE ABUTTING ZONING OF INCORPORATED PARCELS

- | | | |
|--|--|---|
|  City Limits |  R-10 Mobile home park |  POS Parks and Open Space |
|  R-1 Single-family suburban |  C-1 Neighborhood commercial |  PUD Planned unit development |
|  R-2 Single-family medium density |  C-2 General commercial |  U Unincorporated enclave |
|  R-6 Multi-family high density |  PLI Public Lands and Institutional |  Tracts of land outside City |

930 465 0 930 Feet



Regular City Commission Meeting

Mayor Stebbins presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL: City Commissioners present: Dona Stebbins, Sandy Hinz, Diane Jovick-Kuntz, Bill Beecher and John Rosenbaum. Also present were the City Manager, Assistant City Manager, City Attorney, Directors of Community Development, Planning and Fiscal Services, Acting Directors of Park and Recreation, Public Works, Library, the Police Chief, Acting Fire Chief, and the Acting City Clerk.

NEIGHBORHOOD COUNCILS

NC 4 Update. The Home Place.

1. **Bob Stubbs**, NC 4, reported that their Council had been working on cleaning up areas by the soccer fields. Mr. Stubbs said they are not “rolling over and playing dead.” They are still working and digging, and making a good, safe neighborhood. Mr. Stubbs continued that NC 4 has always been a moving council, and he was sure it wouldn’t change with whoever gets elected to Council at the next election. On a separate note, Mr. Stubbs asked the Mayor and Council members to think seriously of annexing the The Home Place into the City of Great Falls. NC 4 says the County has gone as far as it can to clean it up. NC 4 needs the help from the Commission to finish cleaning the property. Mr. Stubbs concluded that he would recommend for NC 4, that the City Commission annex The Home Place and get it finally cleaned up and get their neighborhood back to being good.

PUBLIC HEARINGS

Res. 9694, Cost Recovery for Hazardous Sidewalk at 325 1st Avenue North, GFO, B309, L9. Adopted.

2. **RESOLUTION 9694, COST RECOVERY FOR HAZARDOUS SIDEWALK, 325 1st AVENUE NORTH.**

Acting Public Works Director Dave Dobbs reported that the City Engineering Office received a complaint of a tripping hazard at 325 1st Avenue North, owned by Michael Hanson, on July 5, 2006. A pedestrian was walking, tripped, and fell at the above address. A subsequent inspection found 514 square feet of sidewalk adjacent to this property to be heaved, cracked and broken.

The owner of the property was notified of the hazardous situation at least twice with the final notice sent by certified mail. The owner contracted with The Concrete Doctor to mudjack 359 square feet of the sidewalk, but neglected to have the remainder removed and replaced with new concrete. Engineering Staff then received three bids to repair the remaining sidewalk.

The owner of the property, Michael Hanson was issued a "Notice of Public Hearing" on September 19, 2007 to inform him of the public hearing set before the City Commission at 7:00 PM on October 2, 2007.

After conducting a public hearing, Mr. Dobbs recommended the City Commission adopt the resolution and assess the property with interest and penalties on the unpaid balance.

Mayor Stebbins declared the public hearing open. There being no one to speak in favor of or opposition to Resolution 9694, Mayor Stebbins declared the public hearing closed and asked for the direction of the City Commission.

Commissioner Hinz moved, seconded by Commissioner Jovick-Kuntz, that the City Commission adopt Resolution 9694.

Motion carried 5-0.

Res. 9695, Cost Recovery for Hazardous Sidewalk 1100 1st Avenue South, GFO, B378, L1 North 103 Feet. Adopted.

3. RESOLUTION 9695, COST RECOVERY FOR HAZARDOUS SIDEWALK, BETWEEN 11th AND 12th STREETS SOUTH ON 1st AVENUE SOUTH.

Acting Public Works Director Dave Dobbs reported that the City Engineering Office received an email from the City's Risk Specialist that a tripping and falling incident had occurred between 11th and 12th Street South on 1st Avenue South on May 1, 2006.

Upon inspection, it was determined that the address was 1100 1st Avenue South. The property was owned by William O'Neil, and 25 square feet of sidewalk adjacent to this property was heaved and broken. The owner of the property was notified of the hazardous situation at least twice with the final notice sent by certified mail. The Public Works Department then took bids and got the work completed. In the process a couple more slabs were broken due to the age of the sidewalk. That was the contractor's responsibility to fix that. Actually more sidewalk ended up getting fixed, but it was not a price that was passed on to the homeowner.

After conducting a public hearing, Mr. Dobbs recommended the City Commission adopt the resolution and assess the property with interest and penalties on the unpaid balance.

Mayor Stebbins declared the public hearing open. Speaking in favor of Resolution 9695 was:

Michael Witsoe, 510 11th Street South, noted City sidewalks like in his mother's and father's neighborhood were built in 1914. Last year or the

year before, his mother was going to get on the program where the City had a grant. Mr. Witsoe continued to say that on the lower south side, Neighborhood Housing has built houses, and when they dug up the alley access, they left big holes in the alley. When people have curbs where they have yellow paint and somebody falls – Mr. Witsoe inquired whose responsibility the corrections were. He inquired about City trees pushing up the concrete. Mr. Witsoe asked, “If a person lives in a house for 60 years and the sidewalk was bad, and they had paid taxes for 60 years, whose responsibility is it?”

Mr. Witsoe asked for further clarification on the owner’s responsibility to “upkeep and maintain” sidewalks, outside of shoveling and cleaning it off. He inquired when the subcontractor for Neighborhood Housing caused damage in the alley, would he go after Neighborhood Housing, because the excavator acknowledged it? Mr. Witsoe added he did approve this because he knows the walk was bad, etc. Mr. Witsoe concluded that it was a shame that the City had to go to this extent to clean it up.

There being no one further to speak, Mayor Stebbins declared the public hearing closed and asked for the direction of the City Commission.

Commissioner Rosenbaum moved, seconded by Commissioner Hinz, that the City Commission adopt Resolution 9695.

Motion carried 5-0.

**OLD BUSINESS
NEW BUSINESS**

Assignment and Assumption Agreement with Electric City Power, Inc. Approved.

4. ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN ELECTRIC CITY POWER, INC. AND THE CITY OF GREAT FALLS

Fiscal Services Director Coleen Balzarini reported that this Assignment and Assumption Agreement was between Electric City Power, Inc., a nonprofit entity created by the City of Great Falls and the City of Great Falls. In essence, what it does is transfers and assigns all the City’s rights, title and interest in the City’s power supply contracts and customer contracts to the nonprofit utility, Electric City Power, Inc. It was created under the Interlocal Cooperation Act provided for under Montana Code and would allow ECP to take all of the existing customer contracts.

Ms Balzarini continued that Electric City Power had met the night before. There were unforeseen circumstances that prevented a quorum. Otherwise they would have asked the Electric City Power Board to approve this. The Agreement was prepared by legal counsel (Dorsey &

Whitney) and reviewed by co-counsel (Chapman & Cutler) as well as staff and the rest of the finance team. Electric City Power Board members will take action to approve it, assuming action was taken to approve it tonight, at their next board meeting.

Mayor Stebbins asked for the direction of the City Commission.

Commissioner Beecher moved, seconded by Commissioners Jovick-Kuntz and Rosenbaum, that the City Commission approve the Assignment and Assumption Agreement between Electric City Power, Inc. and the City of Great Falls, and authorize the City Manager to execute the agreement.

There being no questions from the public, Mayor Stebbins called for the vote.

Motion carried 5-0.

**Wholesale Power
Contract Between
Southern Montana
Electric and the City of
Great Falls. Approved.**

5. WHOLESALE POWER CONTRACT BETWEEN SOUTHERN MONTANA ELECTRIC AND THE CITY OF GREAT FALLS.

Fiscal Services Director Coleen Balzarini reported that this Agreement is between Southern Montana Electric G&T (“SME”) and the City of Great Falls. The City of Great Falls is the member of Southern Montana Co-Op. This Wholesale Power Contract renews-extends the existing Wholesale Power Contract that the City already has with Southern Montana through 2045. Ms. Balzarini continued that regardless of whether HGS is built, Southern Montana would continue to be the City’s provider of electricity services that we would then pass on to its customers. Ms. Balzarini reported that she heard that there were some clerical errors in this document at the Electric City Power Board Meeting. The corrections have been made. They were immaterial. They had no impact whatsoever on the content of this document. Southern Montana’s legal counsel, Mike McCarter, is there and available to answer any questions on this contract. Ms. Balzarini continued that the intent of this document was valid and intact and continues the agreement and arrangement that the City has as a member of Southern Montana’s Board.

Ms. Balzarini also shared an item that was mentioned the prior evening that this agreement was not as favorable to the City as one might think an agreement of this type would be. In reality, this agreement was very similar and to the extent possible, was identical to the agreements the other co-op members have signed. It actually envisioned, portrayed and depicted a co-op type of agreement. So the City would receive the benefits of being a member of the co-op, and the co-op would agree to provide unrestricted, uninterrupted supply of power.

Mayor Stebbins asked for the direction of the City Commission.

Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission approve the Wholesale Power Contract with Southern Montana Electric and authorize the City Manager to execute the contract.

Commissioner Hinz requested an explanation of the following wording on page 12 of the draft, paragraph ii – the cost that ECP would be paying for power if the City was not a percentage owner, “at a price based on operating the HGS, together with a reasonable charge reflecting an allocated share of SME’s debt service requirement...”

Mike McCarter stated he was one of the attorneys for Southern Montana Electric and he worked with Dave Swanson of Dorsey & Whitney in drafting this agreement. Mr. McCarter apologized for the typographical errors. He confirmed the changes were immaterial to the contract. Mr. McCarter continued that with respect to Subparagraph (e), what that essentially provided was that the price of electricity from the Highwood Generation Station would be at the cost of generating that power. It would basically be the same cost as what it cost the other members of SME including a 2% fee. The members pay a margin that goes towards their purchase of electricity and essentially that was some sort of equivalent there. Essentially it would be the same price that the members would be paying insofar as that electricity was available to go to the City if it was not an equity shareholder.

Commissioner Hinz reiterated that her question was the language that talks about the debt. If that was just incorporating all the costs that SME incurs in charging out the power, and whether that was correct.

Mr. McCarter confirmed that that was correct. Basically that would be capitalized and it would have to be amortized over the life of the plant. That amortization cost would be passed on to the other members of the co-op, as well as to ECP and the City.

Ms. Balzarini added that when the City does our water and sewer debt service, we do water and sewer debt issuances; the cost you pay within your bill helps to pay that debt. This was the same type of thing. The cost of electricity you will get from the Highwood Generating Station facility will include the debt that was incurred to build the plant.

Commissioner Hinz inquired about Page 18 on the very bottom, talking about determining that the City can not be a voting member of SME. Was there a conflict? Not only was Electric City Power a member of SME, or the City a member of SME, but Electric City Power has the authority to then sell electricity. The City has voting power (correct?) on SME’s Board. Was there enough separation of conflict of interest

here – as a speculative question.

Mr. McCarter responded that neither counsel for the City (Mr. Swanson or himself) saw a conflict. Essentially all the members of SME, including the individual co-ops are buying the electricity from SME and each of them are voting members. But each of them buys that electricity from SME and resells it to their members. The situation with the City was very similar to those of the other members.

Commissioner Hinz further inquired and requested an explanation on why the language was added “were it to be determined that the City could not be a voting member.”

Mr. McCarter responded that this was one of those worst-case scenarios. In essence it comes out of some drafting that they were doing with respect to the Development Agreement and maybe the Ownership Agreement with respect to the City being an equity owner in the plant. It was just inserted as an overabundance of caution in case some court at some future date were to say that the City couldn't be a member in SME. Then they would try to provide some sort of other structure for the City to continue to have a say in the management.

Mayor Stebbins asked for questions from the public.

Andre Deligdish, 3016 Central Avenue, inquired who was going to get the vote – the City or Electric City Power. How many votes were there going to be? One? Who was going to do it?

Ms. Balzarini responded that if the question was who had the vote and who had the seat on the Southern Montana Board, it was the City of Great Falls.

Ms. Deligdish continued that Electric City Power has just, by the Commissioners' previous vote, assumed everything. Right?

Ms. Balzarini responded that they had assumed the contracts and the customers and the ability to issue debt and use those contracts from their customers as the collateral for that debt. The Board position for Southern Montana does not change. The City of Great Falls still provides representation for that.

Mary Jolley, 1910 2nd Avenue North, noted that this was a long term contract and there were not any competitive bids for power. She noticed there were competitive bids for sidewalks to be fixed. The Commission has work sessions on Park & Ponder, Channel 7, and the Humane Society. A work session on a contract of this long term nature would be beneficial. There was no rush to do this. Mr. Gregori was quoted in the AP article as saying that the plant was on hold until the lawsuits were

settled. That appeared in the Great Falls Business Monthly last month. She indicated she was not the only one that didn't have a chance to read it, but even if she read it, she didn't think she would understand it. So a work session might be helpful.

Additionally, Ms. Jolley noted there were work sessions on the power plant, she was at one, and she heard about a plant that was going to be built; but she didn't hear that the City was going to own part of it at that work session. For years we have been told that 75% of the funding was secure and that was just not the case according to Ms. Jolley.

Kathleen Gessaman, 1006 36th Avenue NE, agreed with the last speaker that there was no need to rush into this contract, because it was a very confusing contract. As a citizen of Great Falls and a taxpayer who does pay the bills for the City power use, she thought the Commission should have a little more discussion involved with this contract. She cited the example of Page 20, for the Co-Gen facility (number 22). The City was now a member of the SME Co-Op, so they no longer have the independence to operate their own power. They can operate their own power generation (this co-gen operation at the wastewater treatment plant facility) but the City of Great Falls would have to sell this power to SME on terms mutually agreed to by both parties; then SME will sell that power back to the City. She believed that was supposed to be a 2% administration fee and she thought that should be inserted at this point. She thought it should make sure that this was clear, it's just not in a court of law that we have something to look at in the document. Then it goes on to say "at the same price subject to terms and conditions established by the board." She did not know what that board was, as it was not identified. She believed that the City of Great Falls will in turn put up to 3% administration fee to sell the power to ECP. So she believed now that from the Executive Director of ECP, that that would be 1% (at this time), but that could be up to 3%. So this would mean that the power produced was going to have an up to 5% markup, our own power we produce, and if in the future we would want to put in a windmill or something, we have to sell that power to SME and they will sell it back to City at 2% and then we will put up to 3% administration fee on that and then that will go to ECP, then ECP will sell it to whomever. Ms. Gessaman stated she thought we needed to understand this better and see if this was where we wanted to go. We have no other contracts from NorthWestern. Ms. Gessaman opined that the City seems to have locked itself into this co-op agreement, so she was not sure if that means that ECP will always have to be locked in as well. She stated it would nice to have a less formal discussion group so we could talk these sorts of things over.

George Golie, 316 20th Avenue South, Vice Chair of Electric City Power Inc. stated he thought the point of this contract was the rates for the power. He heard we should go to Northwestern Energy for power

supply. Right now he is paying \$58.00 and some of the customer rates for our customers right now are paying \$42.00, some are paying \$44.00, and this refinery's highest rate in 2011 would be \$46.14. Getting beyond all this negativism that we're constantly hearing here, we're looking at cost-based power and what was wrong with that? Cost-based power that helps the taxpayers and customers of Electric City Power. Cost-based power that helps the businesses out there that are using this power whereas they can maybe invest in infrastructure and higher wages. There was nothing wrong with that. He hoped that the Commission would approve this proposal.

Olaf Stimac, Jr., 300 7th Avenue South, stated that because of what had been done at the legislature, if any municipality wants to put up a windmill, they would have to sell the power to NorthWestern and have NorthWestern sell the power to the residents of that municipality. This we can thank the MEIC and NorthWestern Energy working hand-in-hand. There was nothing wrong with public power and he would like to see this go forward.

Ron Gessaman, 1006 36th Avenue NE, stated that it was a shame that on the most important day of the Electric City Power Board, they could not even come up with a recommendation on this contract. They could not even come up with a quorum at their latest meeting to make a recommendation on contracts that will determine the future of Electric City Power for the next 41 years because this contract extends out to 2048, not 2045. He realized that unforeseen circumstances certainly do come up, but someone should have sorted this out before yesterday. He stated he had in the past been very critical of ECP and this was another illustration of how these people on the ECP Board are not paying enough attention to their job. He believed that the City had rules and regulations on attendance on Boards and Committees, and the ECP Board has been in consistent violation of those rules. So he again asked the Commission to follow those rules and remove those individuals from the ECP Board that were in violation of the rules.

Mr. Gessaman further stated he was one of the individuals that spoke to the ECP Board at the "unofficial" meeting yesterday regarding the errors in the contracts and he did not read all of the other contract (the Wholesale Contract) because he was so disenchanted with all the errors he spotted right away in the draft contract. He did look at the draft Assignment Contract carefully and asked the Commission to note the yellow and red marks on his copy of it. Because of what he saw in these contracts, he thought the City was rushing things. Again, ECP had been in existence since October 1, 2004. They had been operating under whatever rules they are currently operating on, and now we suddenly had a multi-month activity rush to come up with a bunch of contracts that would determine the future for 41 years. Mr. Gessaman didn't feel this was right and there was already a precedent, which if you look at

the ECP bylaws, you would find it was passed by this Commission, and it was full of errors. He just couldn't understand how people could do this. He was an engineer and careful about details. There was a national court case in which millions of dollars recently changed hands because of the placement of a single comma in a contract, and here we have commas all over the place that are missing or where they shouldn't be. We have spelling errors, we have SWE for SME. There were multiple errors. The way he interprets the passage of a contract, when the Commission approves a contract, they don't approve a corrected contract somewhere down the road.

Susan Kahn, 1708 Alder Drive, stated her concern for the educational background of the Electric City Board and wondered if there were any engineers on the Board. Ms. Kahn stated she was embarrassed the Commission does not take the leadership and management role over the Board. She also inquired where the expertise on that Board was. She expressed her concern over making a 40 year commitment without drawing on the experts. She requested the contract be combed over by people who would represent the City of Great Falls.

David Warner, 321 8th Avenue South, voiced his support and encouragement for the Commission to accept this document and enter into this contract. He thought that it would be a good engagement for the City of Great Falls and thanked the Commission for entertaining this.

Ed McKnight, 906 3rd Avenue North, first commented on what Mr. Golie said because it went back to items the Commission passed in the past. When setting a rate on May 1, 2007, this rate quoted was used to figure out how much money we were saving. He noted rates quoted by NorthWestern Energy, as was pointed out in the comment period, was not a rate that the City paid. Mr. McKnight noted the rates were from most expensive to least expensive. The rate quoted was the most expensive residential rate and that was pointed out in the comment period. Mr. McKnight requested that whenever you are talking about how much money you are saving please do not refer to rates the City does not pay and begin referring to rates the City does pay. Mr. McKnight continued that Mr. Golie referred to Montana Refining Company and he (Mr. McKnight) averaged up all the contracts and it turned out the City was of course saving Montana Refining Company money because the City was carrying the debt and liability for the amount of money we are saving Montana Refining Company.

Mr. McKnight stated he was confused by an SME advertisement in the paper Sunday because the plug was out of the wall because we don't have any electricity. We're not capable of getting electricity once Bonneville Power Administration stops their contract – lights are going out. There was not going to be any electricity, unless we build the HGS.

Yet the Commission was signing this contract whether HGS was built or not. Yet SME apparently, as far as the information Mr. McKnight had, was associated with nine other co-ops in eastern Montana. Every one of those nine other co-ops have been able to somehow purchase their electricity at a long term stable rate and are having no problems at all. It was only SME, they have made it very clear, that unless HGS was built, it was not even possible for them to buy electricity at a reasonable rate at all. Why would we enter into this long term contract with a company that has no possibility of buying affordable electricity at all.

Aart Dolman, 3016 Central Avenue, stood with the previous speakers that everything was on hold. There is no need to rush into this contract. As Mr. Gessaman noted there was much litigation about a comma, and for example in the Tribune editorial page by SME's accountant about the slippery slope of language. A few months ago he was told this was merely a cash transaction. It looked good in SME's account. Now he discovered reading that here we are involved in something like a security agreement, like a renter. The problem was a renter might pay for this kind of agreement a few hundred dollars for his rent. But here we are talking about several million dollars. Mr. Dolman added after reading the contract there were some gross errors in it and if one could go to court based on a comma or word, it would not go good for this contract. There was bound to be accountability, therefore he respectfully requested that the Commission hold off on this contract and study that very carefully and get some legal opinion where we are going with this.

Carol Fisher, 500 53rd Street South, urged the Commission that based on the simple typos that they hold off on this and someone take a red pen and go through there and correct them. She also added she would be very concerned if a comma could make that much difference, that there were a lot of errors just quickly looking over it in about five minutes.

Tim Gregori, General Manager of Southern Montana Electric Co-Op, addressed a couple of the statements and comments. With regard to Commissioner Hinz's comments on the rates, the electric utility industry, as with the water industry and all other industries, there was a phrase known as cost of service – which was the basis for determining rates. A cost of service study was performed when you take a look at all the costs of a particular commodity (whether it was electricity or water), including cost of operation, cost of maintenance, cost of debt service, rates of return, cost of transportation, and so on and so forth. You bring all those costs together for a particular period of time. Then you determine the amount you have to charge for each unit to be able to retire all of those costs. In the case of electricity on an annual basis, what you do is you take a look at all of your costs, including debt service, and you figure out how much you have to charge for each kilowatt hour in order to retire all of those costs. Mr. Gregori continued to say that that was a very important point because it moved into the

second part of what he wanted to address which was with regard to the cost that the City of Great Falls would pay for electricity as opposed to a purchase you make from investor utility.

Mr. Gregori explained that electric cooperatives are by their charters required to sell the energy they produce at the cost of service with a very minimal margin. He continued that within the contract there was a phrase that refers to the amount of margin that Southern Montana would charge the City of Great Falls for electricity, that was 2%. You could go to any Public Service Commission that regulates investment on utilities and you would see that the typical rate was somewhere between 12-14%. So there was a savings there. You have two facilities that are operating and producing electricity. The savings and the reason you form a cooperative is you do not get a rate of return because you are selling it at cost. In return for that, the owners and the customers (which are one in a cooperative) share the risk and that benefit was passed on. That was why you will notice in the contract that the cost of service refers to those things such as debt service. Mr. Gregori added that a comment was made referring to the rates. There was a different rate with NorthWestern Energy with regard to the cost of service they charge for industrial customers, residential customers, lighting customers and on through the entire list. The rate that was typically referenced here was the residential rate. The reason the residential rate was referenced was it folds all of those costs together and into a single member. You will often hear the number \$57.00/mwh, \$56.00/mwh. What that means in layman's terms was 56 cents/kwh. The rate from Electric City Power would be less than that. That does not mean that there was any subsidy flowing from the City of Great Falls or from anyone else to his rate – it simply means that the passed through rate together with all the associate charges will be much less than that 5.7 figure. Certainly it was cheaper for an industrial customer, it may be cheaper for lighting. But if you bring into account the demand charge as well as the energy charge, and you pull those together, you are going to come up with a rate fairly close to that 5.7 cents.

Mr. Gregori continued that the second comment he wanted to address was the statement that their plant was on hold. He went on to say he had a profound disagreement with the reporter on what he reported as far as what he said. Mr. Gregori's comment to the reporter was "There are a number of issues that we have to deal with, including litigation, concerning our Record of Decision and the Air Quality Permit. It would be premature at this time to say that the plant was on hold because of these challenges. There are a number of things that need to be addressed. The plant could be placed on hold, but at this time our legal team was working on those issues and we remain hopeful that they will be dealt with in a timely fashion." Mr. Gregori added that was an incorrect statement to say Highwood Station was on hold. Highwood Station was not on hold.

In regard to the contracts, Mr. Gregori reported that with regard to the co-generation facilities, it was very common in electric cooperatives that you share the good – and you share the bad. It's a co-op. If one customer was able to go out and get a better deal because they are a large customer, and another customer goes out and gets a deal because they are a small customer, what you do to ensure that equal benefit was being shared across all those members was you pool those contracts. That's why you call it an All Requirements Contract. An All Requirements Contract was the backbone of the electric cooperative industry across the United States and that's why electric co-ops typically have the lowest power costs in the regions. Mr. Gregori continued to explain that they went out at the same time as NorthWestern Energy to secure the contracts that we enjoy today. Our wholesale power rate today for the members of Southern Montana Power are approximately \$31.00/mwh, NorthWestern Energy's are about \$57.00. Do the math. They continue to show their ability to go out and secure those contracts. The statement was made what happens if Highwood Station wasn't built. They would continue to do what they have done in the past. They would go out and secure contracts. They have contracts in place to carry them out to 2012 and they will continue to watch for appropriate deals on contracts to bridge us through until the time Highwood Station comes on line. They will adjust those contracts to coincide with their date of energization and moving into the future. If they have no energization, they will continue to get contracts and they believe they have the ability to negotiate affordable contracts for the members they serve. Mr. Gregori concluded that as an electric cooperative, all the members have an equal vote. It doesn't matter if you have 55,000 or if you have 5,000 customers – every member gets one vote and it's a co-op. The City of Great Falls, as with all the members, has the ability to come and debate their issues and try to lobby for what they believe to be in the best interests of the co-op. But at the end of the day, they make a decision what was going to be best for the members.

With regard to financing, Mr. Gregori explained that they have an application pending before the Rural Utility Services for their portion of the facility. That application was also not on hold. The financing continues to move forward and it would be dealt with in a timely fashion. With regard to the issue of Southern Montana and the idea to go out and purchase contracts to deal with facilities with emission challenges so on and so forth, Mr. Gregori called to mind that he was the Manager of Central Montana at the point those folks left. He was fully familiar with the contracts these folks had because he negotiated them. They are in a completely different load control area and they have a completely different service system. The members forming Southern Montana took a look at their options. What they decided to pursue, because they did not have the same options available to them on equal

par as the other members, was look for an opportunity to put a reliable, affordable, quality supply of electric energy that had an emissions footprint that they can be proud of. He was not certain he could say that about some of those other contracts, but those are issues that those folks need to deal with. At the end of the day, what we want to see was Electric City be proud of the fact that it has on its borders a facility that will provide reliable, affordable, quality electric energy in which you will have the say not only of how it was priced to its members but also how it affects the community.

Michael Melvin Witsoe, 2612 1st Avenue South, remarked about the errors in the contract and felt the errors were ridiculous and it doesn't even look like a contract produced by a professional firm. Once it was written and once it was signed – it was carved in stone. He urged the Commission to wait two weeks. Mr. Witsoe also inquired about the difference in transportation costs. For the last year and a half he recorded and listened to the people from SME (Mr. Gregori, Bison Engineering and other paid people) and it was like listening to a used car salesman. Mr. Witsoe did not wish to be derogatory or a slick attorney, because every time a counterpoint was brought up they change it. Every time someone brought up a question to the Commission in regard to questions on this, they changed it. Mr. Witsoe noted it seemed there was a rush to put this in for 53 years when two more weeks wouldn't make a difference. Mr. Witsoe emphasized the need for a review, and no need to rush and lock ourselves into a problem. Mr. Witsoe would like the people purchasing to look at the transportation charge differentiation. When we buy it from NorthWestern, they get it from Coalstrip or right here from the dams and we pay a transport charge. When we buy from SME, we pay transport from Billings or somewhere else. NorthWestern charges them to get it down there. The hospital, Sletten, Mr. Davidson, etc. should look into the factor and Mr. McKnight has all of these items and they would be brought up to where transportation does not make it cheaper. Mr. Witsoe continued that at Electric City Power Board's meeting there were questions based on (from knowledgeable people) peak power, standard power and useable power. We're quoting all of ours on peak power. That's like taking a Kawasaki or a generator and you crank it up and it burns all the time-all the way. There are questions, Mr. Witsoe urged the Commission to wait two weeks or so while the public professionals (people other than those paid by the City and SME) to look this over.

Mr. Witsoe inquired whether it was "in stone?" He continued by saying, "Once you guys agree to this and sign it, would it be written in stone? Your non-answer was my answer."

Commissioner Hinz noted that the typos and few commas that were out of place were not substantive. Being an English Major herself, she trusted, and Ms. Balzarini said herself, that they have gone through and

corrected the typos, so what they had before them (the draft) she hoped that the corrections would be made, and when it was signed – yes, it would be signed and there are ways to amend this contract. Commissioner Hinz directed a question to Mr. Gregori that if in fact the Highwood Generating Station was not built, what about the rates that are in this contract? Can the City be assured that we can keep these low rates if you have to go out and shop?

Tim Gregori noted if he could predict the price of electricity and know which contract to sign at exactly which time, we would all have very very low rates. Mr. Gregori called to attention one of the contracts the City has, and it has been in place long enough that he could say this without hindering confidentiality, if he would've known that we signed a contract for \$41.70 mwh that that was going to be a very low price, I would have signed 250 MW of it. But times change. What he did say, was if Highwood Station was not built, they would ladder and diversify their contracts; they will ladder and diversify their portfolios; have a contract pool that had a cross-section of contracts with varying terms from varying sources, using varying resources, from wind to hydro to whatever we can get our hands on and try to make our best guess as to what those contracts would be with regard to price now and moving into the future. He had been at this business since 1979 and over that time, you win a few, you lose a few. There are a number of contracts he wishes he would have signed for longer times and there are some he wished he hadn't. They would make the best decision at that time. As a member of a cooperative, where there are other members in place, when we move beyond the Bonneville Power contracts, it would begin to pool the resources, you folks would share the same resources as the other members.

Mr. Gregori added that the transportation charges that someone pays for electricity has been and remains a regulated charge put into place by the Montana Public Service Commission. Your bill was divided into two parts – a supply charge and a delivery charge. The supply charge was regulated by the PSC, so there was not pancaking of supply charges with regard to your services. We do pay a separate transmission charge because transmission was part of delivery, but over the past period of months (simply by virtue of our load factors and the way we do with our power) we have actually saved a little bit on your transmission charge, so the bottom line was being in a co-op we share the good – we share the bad. We've enjoyed very good rates at Southern Montana since its inception. Central Montana enjoyed very good rates and we're hoping looking into the future that we'll be able to continue to provide you affordable electricity at a rate that was affordable and competitive; and we know by virtue of the fact that we are a co-op and there was not a 12-14% rate of return in there, we have the ability to drive that now.

Motion carried 5-0.

ORDINANCES/RESOLUTIONS

Res. 9696 and Ord. 2985, annexation and zoning for International Malting Company, LLC Addition, B1, L5 and the Abutting Segment of US Highway 87 . Accepted on first reading and set public hearing for November 6, 2007.

- 6A. RESOLUTION 9696 ANNEXES LOT 5, BLOCK 1, INTERNATIONAL MALTING COMPANY, LLC AND THE ABUTTING SEGMENT OF US HIGHWAY 87.**
- 6B. ORDINANCE 2985, ASSIGNS ZONING CLASSIFICATION OF I-2 HEAVY INDUSTRIAL DISTRICT TO LOT 5.**

Planning Director Ben Rangel reported that Montgomery Energy Partners of Austin, Texas proposes to build a natural gas powered electric generator facility along US Highway 87 north of Great Falls, near the malt processing plant. Mr. Rangel added Montgomery Energy was interested in annexing a 55 acre parcel and having it zoned for industrial use.

Mr. Rangel requested the Commission accept Resolution 9696, Intent to Annex, and Ordinance 2985 on first reading and to set public hearing for November 6th to consider assignment of City zoning and to consider a final annexation resolution and agreement at that time.

Commissioner Rosenbaum moved, seconded by Commissioner Beecher that the City Commission adopt Resolution 9696 and set the public hearing for November 6, 2007.

Motion carried 5-0.

Commissioner Hinz moved, seconded by Commissioners Jovick-Kuntz and Beecher that the City Commission accept Ordinance 2985 on first reading and set the public hearing for November 6, 2007, to consider adopt of Ordinance 2985.

Motion carried 5-0.

Ord. 2982, zoning for Lot 6A, Beebe Tracts (Big Sky Miniature Golf). Accepted on first reading and set public hearing for November 6, 2007.

- 7. ORDINANCE 2982, ESTABLISH CITY ZONING UPON LOT 6A, BEEBE TRACTS (BIG SKY MINIATURE GOLF). ESTABLISHES ZONING CLASSIFICATION OF C-2 GENERAL COMMERCIAL DISTRICT.**

Planning Director Ben Rangel reported that Rodney and Rose Borger have requested that their miniature golf business on 2nd Avenue North at 50th Street be annexed into the City in order to receive water and sewer services.

Mr. Rangel requested the Commission accept Ordinance 2982 on first reading and to set public hearing for November 6th to consider assignment of City zoning. At that time, they would also be asked to

adopt an annexation resolution.

Commissioner Jovick-Kuntz moved, seconded by Commissioner Hinz that the City Commission accept Ordinance 2982 on first reading and set a public hearing for November 6, 2007, to consider adoption of Ordinance 2982.

Motion carried 5-0.

Ord. 2983, zoning for the Minor Plat of Castle Pines Phase IV. Accepted on first reading and set public hearing for November 6, 2007.

8. ORDINANCE 2983, ESTABLISH CITY ZONING UPON THE MINOR PLAT OF CASTLE PINES PHASE IV. ASSIGNS ZONING CLASSIFICATION OF R-3 SINGLE-FAMILY HIGH DENSITY DISTRICT.

Planning Director Ben Rangel reported that Harold Poulsen was the property owner and developer of Castle Pines Addition.

He has received your approval for several phases of the subdivision, and was now ready to proceed with Phase IV, which consists of an additional 5 single family residential lots along 27th Avenue South near 15th Street.

Mr. Rangel requested the Commission accept Ordinance 2983 on first reading and to set public hearing for November 6th to consider assignment of City zoning. At that time, they would also be asked to adopt an annexation resolution.

Commissioner Hinz moved, seconded by Commissioners Rosenbaum and Jovick-Kuntz that the City Commission accept Ordinance 2983 on first reading and set a public hearing for November 6, 2007, to consider adoption of Ordinance 2983.

Motion carried 5-0.

Ord. 2986, zoning for Marks T and 1A, Sec. 15, T20N R3E (1400 14th Street SW). Accepted on first reading and set public hearing for November 6, 2007.

9. ORDINANCE 2986, ESTABLISH CITY ZONING UPON MARKS T and 1A, SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST (1400 14th STREET SOUTHWEST). ASSIGNS ZONING CLASSIFICATION OF C-2 GENERAL COMMERCIAL DISTRICT.

Planning Director Ben Rangel reported that in February of 2006, the City Commission adopted Ordinance 2930 regarding the annexation of parcels receiving water and/or sewer services, but located outside the city limits. The Commission has decided to annex these parcels to create a more coherent and consistent City boundary and to provide services more effectively to everyone in the City. It was also a matter of fairness to current City residents to make certain that those who use City services help to equally pay for the cost of providing them.

Mr. Rangel added there were a number of properties involved in this

annexation program. This agenda item and the next five agenda items were included in the program.

This agenda item involved a single-family residence along 14th Street SW owned by Casey and Lisa Schearer.

Mr. Rangel requested the Commission accept Ordinance 2986 on first reading and to set public hearing for November 6th to consider assignment of City zoning. At that time, the Commission would also be asked to adopt an annexation resolution at that time.

Commissioner Beecher moved, seconded by Commissioner Hinz that the City Commission accept Ordinance 2986 on first reading and set a public hearing for November 6, 2007, to consider adoption of Ordinance 2986.

Motion carried 5-0.

Ord. 2987, zoning for Mark I, Sec. 15, T20N R3E (1420 14th Street SW). Accepted on first reading and set public hearing for November 6, 2007.

10. ORDINANCE 2987, ESTABLISH CITY ZONING UPON MARK I, SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST (1420 14th STREET SOUTHWEST). ASSIGNS ZONING CLASSIFICATION OF R-1 SINGLE-FAMILY SUBURBAN DISTRICT.

Planning Director Ben Rangel that as noted with the previous agenda item, this was the next property proposed to be annexed under Ordinance 2930.

This item also involves a single-family residence along 14th Street SW owned by Steven and Kelley Grubb.

Mr. Rangel requested the Commission accept Ordinance 2987 on first reading and to set public hearing for November 6th to consider assignment of City zoning. At that time, the Commission would also be asked to adopt an annexation resolution.

Commissioner Jovick-Kuntz moved, seconded by Commissioners Hinz and Rosenbaum, that the City Commission accept Ordinance 2987 on first reading and set a public hearing for November 6, 2007, to consider adoption of Ordinance 2987.

Motion carried 5-0.

Ord. 2988, zoning for Marks J and J1, Sec. 15, T20N R3E (1500 and 1508 14th Street SW). Accepted on first reading and set public hearing for November 6, 2007.

11. ORDINANCE 2988, ESTABLISH CITY ZONING UPON MARKS J AND J1, SECTION 15, TOWNSHIP 20 NORTH, RANGE 3 EAST (1500 and 1508 14th STREET SOUTHWEST). ASSIGNS ZONING CLASSIFICATION OF C-2 GENERAL COMMERCIAL DISTRICT.

Planning Director Ben Rangel that this agenda item also involves property proposed to be annexed under Ordinance 2930.

It involves a single-family residence and a general service warehouse business along 14th Street SW owned by Eric and Lori Ellingson.

Mr. Rangel requested the Commission accept Ordinance 2988 on first reading and to set public hearing for November 6th to consider assignment of City zoning. At that time, the Commission would also be asked to adopt an annexation resolution.

Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission accept Ordinance 2988 on first reading and set a public hearing for November 6, 2007, to consider adoption of Ordinance 2988.

Motion carried 5-0.

Ord. 2989, zoning for Marks 7D and 7M, Sec. 9, T20N R4E (John's Mobile Home Court). Accepted on first reading and set public hearing for November 6, 2007.

12. ORDINANCE 2989, ESTABLISH CITY ZONING UPON MARKS 7D AND 7M, SECTION 9, TOWNSHIP 20 NORTH, RANGE 4 EAST (JOHN'S MOBILE HOME COURT). ASSIGNS ZONING CLASSIFICATION OF R-10 MOBILE HOME PARK DISTRICT.

Planning Director Ben Rangel reported that this agenda item also involves property proposed to be annexed under Ordinance 2930.

It involves a mobile home court along 2nd Avenue North and 42nd Street owned by Charles and Judith Ferguson.

Mr. Rangel requested the Commission accept Ordinance 2989 on first reading and to set public hearing for November 6th to consider assignment of City zoning. At that time, the Commission would also be asked to adopt an annexation resolution.

Commissioner Hinz moved, seconded by Commissioner Jovick-Kuntz, that the City Commission accept Ordinance 2989 on first reading and set a public hearing for November 6, 2007, to consider adoption of Ordinance 2989.

Motion carried 5-0.

Ord. 2990, zoning for Lots 19 and 19B, Park Highway Garden Tracts (Tolan Distributing). Accepted on first reading and set public hearing for November 6, 2007.

13. ORDINANCE 2990, ESTABLISH CITY ZONING UPON LOTS 19 AND 19B, PARK HIGHWAY GARDEN TRACTS, (TOLAN DISTRIBUTING). ASSIGNS ZONING CLASSIFICATION OF M-2 MIXED USE TRANSITIONAL DISTRICT.

Planning Director Ben Rangel reported that this agenda item also involves property proposed to be annexed under Ordinance 2930.

It involves a single-family residence and a bulk gasoline and oil sales business at the west end of the Northwest Bypass owned by Jack and Virginia Tolan.

Mr. Rangel requested to accept Ordinance 2990 on first reading and to set public hearing for November 6th to consider assignment of City zoning. At that time, the Commission would also be asked to adopt an annexation resolution.

Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission accept Ordinance 2990 on first reading and set a public hearing for November 6, 2007, to consider adoption of Ordinance 2990.

Motion carried 5-0.

Ord. 2991, zoning for Mark 11A, Sec. 3, T20N R3E (1001 and 1011 Northwest Bypass). Accepted on first reading and set public hearing for November 6, 2007.

14. ORDINANCE 2991, ESTABLISH CITY ZONING UPON MARK 11A, SECTION 3, TOWNSHIP 20 NORTH, RANGE 3 EAST (1001 AND 1011 NORTHWEST BYPASS). ASSIGNS ZONING CLASSIFICATION OF C-2 GENERAL COMMERCIAL DISTRICT.

Planning Director Ben Rangel reported that this agenda item also involves property proposed to be annexed under Ordinance 2930.

It involves a single-family residence and a log home sales and construction office on the Northwest Bypass owned by Andrew and Mildred Bohl.

Mr. Rangel requested to accept Ordinance 2991 on first reading and to set public hearing for November 6th to consider assignment of City zoning. At that time, the Commission would also be asked to adopt an annexation resolution.

Commissioner Rosenbaum moved, seconded by Commissioner Hinz, that the City Commission accept Ordinance 2991 on first reading and set a public hearing for November 6, 2007, to consider adoption of Ordinance 2991.

Motion carried 5-0.

Consent Agenda.
Approved as printed.

CONSENT AGENDA

15. Minutes, September 18, 2007, Commission meeting.
16. Total Expenditures of \$2,208,447 for the period of September 14-26, 2007, to include claims over \$5,000, in the amount of \$1,970,910.
17. Contracts list.
18. Grant list.
19. Correct public hearing date for Justice Assistance Grant.
20. Set public hearing for October 16, 2007, on Res. 9678, Cost Recovery at 826 2nd Avenue South.
21. Set public hearing for October 16, 2007, on Res. 9703, Cost Recovery at 1416 4th Avenue North.
22. Approve Change Orders SI-2 and SII-2 to Talcott Construction for a net deduction of \$153,208 for Mitchell, Jaycee and Water Tower Pool Rehabilitation, and authorize the City Manager to execute the documents. OF 1501
23. Approve the Addendum for the Municipal Golf Course Concessions Contract with K & M, Inc. to provide concession services at Eagle Falls Golf Club and Anaconda Hills Golf Course, and approve the City Manager to execute the addendum.
24. Approve the engineering services agreement with Thomas, Dean & Hoskins, Inc. in the amount of \$64,111 and authorized the City Manager to execute the agreement. OF 1126.9

Commissioner Beecher moved, seconded by Commissioner Jovick-Kuntz that the City Commission approve the Consent Agenda as presented.

Mayor Stebbins inquired if there was any comment from the public regarding the consent agenda.

Michael M. Witsoe, 2612 1st Avenue South, inquired whether the concessions were the people that had it before and noted people had said they had improved quite a bit.

Motion carried 5-0.

BOARDS & COMMISSIONS

25. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

CITY MANAGER**26. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.****Jim Sullivan Resignation.
Marty Basta
Appointment as Interim
Director.**

City Manager reported that the Park & Recreation Director, Jim Sullivan, had resigned. He had been here a little over a year and his last day would be October 5. Mr. Lawton continued that Mr. Sullivan had some business and personal issues in North Dakota that he has not been able to resolve and he needed to give full-time attention to those issues; and was unable to continue his appointment here.

Mr. Lawton noted in the little over a year since Jim has been here, the City has made some important progress on some very difficult issues, primarily the golf courses. Jim had been very influential along with Connie, Patty and the rest of the staff on setting the golf courses on a course to financial recovery. In addition the quality of the courses had improved and continued to improve. Mr. Lawton stated he was very pleased with that accomplishment. Mr. Sullivan had also been a very big part of the contracting procedure for getting the pools rehabilitated. Even though he had been here a short time, he had been able to have an impact and we appreciate that.

As of next Monday, Mr. Lawton appointed Marty Basta, Operations Branch Chief in Public Works. He was responsible for sanitation, for the streets, and certain other things over there. Mr. Lawton appointed him as the Interim Director until we figure out how we want to handle this situation. Marty is a long-term City employee, one of our strong leaders, and Mr. Lawton thought he would do a very good job. Patty would remain in her position as Deputy Director of the Department so we have plenty of continuity. Mr. Lawton had met with the other staff and thought they were looking forward to working with Marty and not missing a beat as this transition was made and continue progress in the important areas that we are working on. That would take place Monday. Mr. Lawton thought that we would continue and not lose any ground as we continue to improve our Park & Recreation programs.

CITY COMMISSION**27. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Mayor Stebbins stated her personal thanks to Jim for getting the golf courses back on track. She had talked to a lot of golfers over the last couple of months and they had said the greens were in great shape and the course was good and it's looking good. Looking at some of the preliminary reports, it looked like we may be on the road to running in the black. She was very pleased with that. Mayor Stebbins added she laid that at Jim Sullivan's feet. He did a wonderful job of getting that back on track.

28. PETITIONS AND COMMUNICATIONS**Code of Ethics.**

Ed McKnight, 906 3rd Avenue North, noted that approximately six weeks ago he came up to ask the Mayor a question and requested the question be directed to Mr. Lawton. He indicated the Mayor declined. Earlier tonight somebody asked the Mayor a question, and requested the question be directed to some other employee here. He indicated the Mayor declined again. Mr. McKnight proceeded to read from the Code of Ethics where it says:

O. All officers or employees shall be sensitive and responsive to the concerns and questions of the public. Mr. McKnight continued that it also said:

No elected officer shall be prohibited from making an inquiry for information on behalf of a constituent.

Mr. McKnight thought that the Mayor could give him some of her guides that she read that gave her the authorization to refuse these requests.

Mayor Stebbins responded that she refused to allow the public to grill the staff. If he had a legitimate question or concern, he could take it up with that particular staff member and she encouraged him to do so.

Mr. McKnight asked then if she did in fact, when he asked that question to be directed to Mr. Lawton, say that it was not a legitimate question.

Mayor Stebbins responded that it may have been a legitimate question, but it may not be a legitimate time to ask it.

Mr. McKnight asked if it was her belief that when someone asked a legitimate question, and she declined, did that not violate the Code of Ethics?

Mayor Stebbins responded she didn't believe it did because staff doesn't always have everything right at their fingertips.

Mr. McKnight countered that the staff could just say they didn't know. Mr. McKnight pointed out he asked the Mayor to direct the question to staff, and she said no. He said she refused staff to say for themselves that they did not know. Mr. McKnight believed the Mayor was violating the Code of Conduct when she did that and stated he would not do that.

Public Comment Period.

Mary Jolley, 1910 2nd Avenue North, stated she did not attend the last City Commission meeting, but she did watch it on television. The Commission had a vote on extension of City services without annexation and the Mayor didn't ask if there were any comments from the public or questions before that vote. When the five minute rule was instituted, Ms. Jolley specifically asked if the Agenda item would have

a time for public comment and the Mayor said yes. Ms. Jolley noted the Mayor didn't have it then. She further stated that she was actually thinking of coming in and speaking in favor of that, so she was sure glad she didn't get out of bed that day.

HGS.

Kathleen Gessaman, 1006 36th Avenue NE, shared her point of view that on their recent NorthWestern Energy power bill, they calculated the price to be \$53.04/mwh so she was not too sure what Mr. Gregori was quoting from. Another point to remember was when a carbon tax was implemented by Congress, any energy that was coal-tagged will have a \$30-50/mwh tax on this. In the case of ECP all the power they will be selling was 100% coal-tagged. So that means this power could be between \$60-80/mwh. That was quite a significant number. Since we are now members of the SME co-op, Ms. Gessaman would like to recommend that perhaps the co-op could think about doing away with the HGS and look into decentralizing their power production and perhaps financing some smaller wind generators on the different co-op members' property and spread throughout the SME's service area. This extra power could fill the grids and it would be clean energy. We could use not only the wind but perhaps some other ground source heat, especially down in the Billings area. We could do that instead of working on something that was going to inevitably have a very high coal tax on it. In fact there was a very good summary of all these things from the Billings Outpost News.

Malmstrom APZ1 and APZ2.

Carol Fisher, 500 53rd Street South, was noting that on the news and she thought in the paper there have been some articles that they may be reopening the runway at Malmstrom. She also heard that the 400 ft stack of the Highway Generation Plant, there could be a conflict there. There have been numerous studies done. Ms. Fisher inquired whether there had there been anything brought up whether there would be a conflict with the stack and reopening of the runway.

Mayor Stebbins responded having been involved in this runway issue for some time, she can say right now that to the Air Force that runway does not exist. You walk into their office and they say we don't want to hear about the runway. She added we have done some studies on the APZ1 and APZ2 and she believed those were coming out Thursday and there was a public meeting and more information would be available there.

HGS.

John Hubbard, 615 7th Avenue South, noted his original question was for the SME lawyer on how they could ignore the Supreme Court's ruling to curb these kind of coal-fired generators from being built, because they are against the Clean Air Act. Apparently no one here knows what an order is, or who the Supreme Court is. No one knows what clean air is and no one knows what Global Warming is. The lawyer left out the door so he could not pose that question to her.

Mr. Hubbard shared his concern for the country. He asked also if they are not allowed to ask questions or “grill the Board.”

Mayor Stebbins reiterated individuals can ask as many questions as they like, but if they don't have the answer, you won't receive a definitive answer. It would be much better for individuals to contact staff during the day when they are in their office, with all the information at hand.

Mr. Hubbard noted this should be public access. He also asked if Mr. Lawton would take his \$5,500 desk with him when he retired.

Mayor Stebbins responded that the desk belongs to and stays with the City.

HGS.

Butch Hankins, Square Butte, Montana, stated he was a contractor presently working at Eddies Corner. He covers a lot of area, within 100 miles or so of Square Butte. Square Butte was actually about 60 miles east of here which was downwind. He continued that there are a lot of concerned citizens out there about this proposed coal plant. He knows everyone involved here was trying to do the best they can to preserve what we have, not just here in Great Falls but globally also. Most of the people he talks to are very concerned about what was about to happen to this great area. If there was any chance that we can do things absolutely the best of the best – that was what we need to do. We shouldn't settle for anything less than the absolute best. If it doesn't have to be coal, then he didn't think it should be. Maybe it could be something else. We're all in this thing together, we just need to look out for each other.

Electric City Power.

Ron Gessaman, 1006 36th Avenue NE, noted he had a couple of disconnected comments. When Mr. Gessaman reviewed the minutes approved tonight, he found it very interesting that both SME's lawyer and SME's General Manager were allowed to speak without providing their address. The Commission didn't allow anybody else to do that. How are those people allowed to speak and the same thing happened tonight when Mr. Gregori spoke, there wasn't any indication of his address. There were some of us that would like to know whether he lives in the Great Falls area.

Mr. Gessaman continued to say that the Commission was definitely a gullible lot. Mr. Gregori fed them a whole series of lines about the cost of his power. He proceeded to read two short statements from an email Mr. Gessaman received from Mr. Raney who was a PSC Commissioner. *ECP plans to offer electricity at cost-based rates. That means they buy it from some other entity and they resell it to you. How was that any different from what NorthWestern Energy does? NorthWestern Energy*

uses a highly trained staff to buy electricity from the market while mixing resources and contract links. NorthWestern Energy does not receive one dime of profit for providing electricity. The cost of electricity was passed directly to the customers with zero markup. ECP plans on a 3-5% markup for providing that service.

The second item says: NorthWestern Energy will continue to be the transmission and distribution company for both ECP and residential customers. ECP-acquired electricity will have to pay the same transmission and distribution costs as does NorthWestern Energy-acquired electricity. NorthWestern Energy, however, makes all of its money on transmission and distribution and none on the price of electricity because they are not allowed to mark the supply costs up. ECP must make its necessary return on the electricity it sells. Well guess what, so must SME. So they have a 2% markup, which automatically makes their power more expensive than NorthWestern Energy's. "If the PSC can recognize this, he didn't understand why the members of this City Administration and the members of this Commission cannot recognize that." Mr. Gessaman said he found it interesting that this Commission and this City Administration are more than willing to accept advice from people who have no skills whatsoever in this particular problem (referring again to Mr. Gregori). He stated Mr. Gregori hadn't been out in the market buying contracts until they started providing power to ECP, because he's always had his contracts from BPA. He certainly didn't dictate to BPA what the cost of power was. BPA dictated to Mr. Gregori how much he was going to pay for power. Mr. Gessaman opined that Mr. Gregori and his group have never operated a generation plant. They have absolutely no experience doing this and they are going to tell people like me how it's going to be done. He stated that was just ridiculous.

Mr. Gessaman made an additional comment that in review of City minutes, he happened to look at one set of minutes from October 7, 2003, which Mr. Lawton as the City Manager addressed the problem with power. Mr. Lawton pointed out that if this ECP group was established, the total additional cost to the City would be over \$300,000 annually. This was a direct quote from the minutes. That was pretty much what we are seeing. ECP was losing a couple hundred thousand every year. Mr. Lawton was foresighted in his prediction.

HGS.

George Golie, 316 20th Avenue South, noted we keep dwelling on the cost of electricity and encouraged those present to think about one thing. What was the incentive for NorthWestern Energy to secure an energy supply for us. He had been wondering because at \$58.00 if you are a resident right now, there was no incentive because it was a passed on cost. Compare that to the projected cost of electricity from the Highwood Generating Station. Granted the co-ops or SME have projected a price down in the \$40.00 range. The City of Great Falls has

hired their own independent consultant to take a look at the costs, and our projected cost was higher than that. The idea here was to supply businesses, taxpayers and 20 of us on the pilot program with a stable, competitive supply of electricity. That is our goal. Remember, it is cost-based power.

HGS.

Olaf Stimac Jr. works at 300 7th Street South, commented on the Environmental Impact Statement. The USDA and the DEQ selected an independent contractor with no ties to Southern Montana Electric and directed the contractor's preparation of the EIS in accordance with RDA Regulations. There were 26 options looked at. Out of the 26 (which included No Action Taken) the Highwood Station at the Salem site was chosen. On 4.1415 on the No Action Alternative, it was noted that other generation sources may be pre-existing and under the purview of less stringent, safety and emission regulations, the no action alternative could potentially be contributing to regional impact on human health and safety.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Hinz moved, seconded by Commissioner Beecher that the regular meeting of October 2, 2007, be adjourned at 8:45 p.m.**

Motion carried 5-0.

Mayor Stebbins

Acting City Clerk

ITEM: \$5000 Report
 Budget or Contract Claims in Excess of \$5000

PRESENTED BY: City Controller

ACTION REQUESTED: Approval With Consent Agenda

APPROVAL: _____

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

MASTER ACCOUNT CHECK RUN FOR OCTOBER 2, 2007	339,755.14
MASTER ACCOUNT CHECK RUN FOR OCTOBER 10, 2007	501,427.02
MUNICIPAL COURT ACCOUNT CHECK RUN FOR SEPTEMBER 28, 2007	64,984.50
MUNICIPAL COURT ACCOUNT CHECK RUN FOR OCTOBER 5, 2007	2,441.00
WIRE TRANSFERS FROM OCTOBER 3, 2007	40,659.82
WIRE TRANSFERS FROM OCTOBER 10, 2007	<u>87,736.84</u>
TOTAL: \$	<u><u>1,037,004.32</u></u>

GENERAL FUND

POLICE

NORTHWESTERN ENERGY	AUGUST CHARGES SPLIT	758.72
ICOP ADVANCING SURVEILLANCE	ICOP MODEL 20/20 IN CAR SYSTEMS	117,673.65

FIRE

NORTHWESTERN ENERGY	AUGUST CHARGES SPLIT	679.23
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PARK & RECREATION

NORTHWESTERN ENERGY	AUGUST CHARGES SPLIT	495.82
JOHNSON BROS CONTRACTING	MATERIAL GRINDING (SPLIT)	3,490.00

SPECIAL REVENUE FUND

SUPPORT & INNOVATION FUND

GREAT FALLS BUSINESS DISTRICT	AUG 2007 TAX DISTRIBUTION	6,998.20
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STREET DISTRICT

GREAT FALLS REDI MIX	ASPHALTIC CONCRETE	37,064.21
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SPECIAL REVENUE FUND CONTINUED

LIBRARY

NORTHWESTERN ENERGY	AUGUST CHARGES SPLIT	1,115.89
GAYLORD BROS INC	COMPUTER FURNITURE	15,356.43

NATURAL RESOURCE

JOHNSON BROS CONTRACTING	MATERIAL GRINDING (SPLIT)	3,490.00
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FEDERAL BLOCK GRANTS

GAIL ZARR	WINDOW REPLACEMENT DIMAURO	9,188.65
AGENCY ON AGING	FOOD PURCHASE FOR HOME DELIVERY	7,328.16
ABC SEAMLESS	SIDING FOR BIGLER RESIDENCE	14,422.00

CAPITAL PROJECTS

GENERAL CAPITAL

A TO Z MASONRY	FINAL PMT OF#1393.2 MORONY	8,250.00
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HAZARD REMOVAL

GORDON CONSTRUCTION	DEMO/CLEAN UP 1416 4TH AVE N	5,395.00
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ENTERPRISE FUNDS

WATER

NORTHWESTERN ENERGY	AUGUST CHARGES SPLIT	21,655.18
PHILLIPS CONSTRUCTION	OF1464 WATER MAIN REPLACEMENT	255,791.83

STORM DRAIN

HKM ENGINEERING	OF1476.1 STORM DRAIN EXTENSION	6,522.50
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SANITATION

NORTHWESTERN ENERGY	AUGUST CHARGES SPLIT	269.69
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ELECTRIC UTILITY

DORSEY & WHITNEY	LEGAL SERVICES ECPI	8,793.88
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SAFETY SERVICES

QWEST	SEPTEMBER CHARGES	6,153.02
NORTHWESTERN ENERGY	AUGUST CHARGES SPLIT	189.68

PARKING

NORTHWESTERN ENERGY	AUGUST CHARGES SPLIT	377.44
APCOA/STANDARD PARKING	OCT 2007 COMPENSATION DUE	18,508.67

ENTERPRISE FUNDS CONTINUED

SWIM POOLS

NORTHWESTERN ENERGY AUGUST CHARGES SPLIT 352.46

RECREATION

NORTHWESTERN ENERGY AUGUST CHARGES SPLIT 567.52

INTERNAL SERVICES FUND

HEALTH INSURANCE

BLUE CROSS BLUE SHIELD GROUP & HMO CLAIMS 9/25 TO 9/30 07 40,659.82
BLUE CROSS BLUE SHIELD GROUP & HMO CLAIMS 10/2 TO 10/8 2007 32,857.71
BLUE CROSS BLUE SHIELD DRUG CLAIMS SEPT 2007 56,194.79

FISCAL SERVICES

WATER RIGHTS SOLUTIONS WATER RIGHTS CONSULTING 9,465.00

INFORMATION TECHNOLOGY

CITY MOTOR CO INC OLDS SILOUETTE VAN 6,000.00

CENTRAL GARAGE

GREAT FALLS SCHOOL DISTRICT #1 PROCEEDS FROM AUG CITY AUCTION 5,254.48
CASCADE COUNTY CLERK & RECORDER PROCEEDS FROM AUG CITY AUCTION 17,111.19
MOUNTAIN VIEW COOP DIESEL FUEL 18,901.40

PUBLIC WORKS

NORTHWESTERN ENERGY AUGUST CHARGES SPLIT 705.38

FACILITY SERVICES

NORTHWESTERN ENERGY AUGUST CHARGES SPLIT 1,614.94

MUNICIPAL COURT

CITY OF GREAT FALLS FINES AND FORFEITURES 50,140.50
CASCADE COUNTY TREASURER COURT SURCHARGES 9,372.00

CLAIMS OVER \$5000 TOTAL: \$ 799,165.04

**CITY OF GREAT FALLS, MONTANA
COMMUNICATION TO THE CITY COMMISSION**

**AGENDA: 10
DATE: October 16, 2007**

ITEM: CONTRACT LIST
Itemizing contracts not otherwise approved or ratified by City Commission Action
(Listed contracts are available for inspection in the City Clerks Office.)

PRESENTED BY: Lisa Kunz, City Clerk

ACTION REQUESTED: Ratification of Contracts through the Consent Agenda

MAYOR'S SIGNATURE: _____

CONTRACT LIST

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	FUND	AMOUNT	PURPOSE
A	Public Works-Eng	Albert Kunesh	Immediate	515-3175-535-9319 Project 330609	\$33,000	Relocation of buildings on proposed easement right-of- way. OF 1458

**CITY OF GREAT FALLS, MONTANA
COMMUNICATION TO THE CITY COMMISSION**

**AGENDA: 11
DATE: October 16, 2007**

ITEM: GRANT LIST
Itemizing grants not otherwise approved or ratified by City Commission Action
(Listed grants are available for inspection in the City Clerks Office.)

PRESENTED BY: Lisa Kunz, City Clerk

ACTION REQUESTED: Ratification of Grants through the Consent Agenda

MAYOR'S SIGNATURE: _____

GRANTS

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	GRANT AMOUNT	CITY MATCH (INCLUDE FUND MATCH TO BE PAID OUT OF)	PURPOSE
A	Fire - GFFR	Montana Dept of Military Affairs/Disaster and Emergency Services	7/1/07 to 6/30/08	\$44,167	\$0.00	State Team Support ❖ Training ❖ Equipment ❖ Supplies ❖ Exercises and Outreach
B	Fire - GFFR	Federal Dept. of Homeland Security	1/1/07 to 12/31/07	\$20,000 CFDA No. 97.067 Grant No. 2006-GE- T6-0062	\$0.00	Repair and Maintenance of State HazMat Team equipment

AGENDA REPORT

DATE October 16, 2007

ITEM: PROFESSIONAL SERVICES AGREEMENT - 4TH AVENUE NORTHWEST IMPROVEMENTS, O. F. 1488

INITIATED BY: PUBLIC WORKS DEPARTMENT / ENGINEERING DIVISION

ACTION REQUESTED: APPROVE AGREEMENT

PRESENTED BY: JIM REARDEN, PUBLIC WORKS DIRECTOR

- - - - -

RECOMMENDATION: Approve the attached professional services agreement between the City of Great Falls and NCI Engineering Co. (NCI) for engineering services for the 4th Avenue Northwest Improvements, O. F. 1488.

MOTION: “I move the City Commission approve the attached professional services agreement in the amount not to exceed \$121,070.00 with NCI Engineering Co. for the 4th Avenue Northwest Improvements, O. F. 1488, and authorize the City Manager to execute the agreements.”

SYNOPSIS: City Staff has negotiated a professional engineering services contract (attached) with NCI to design the reconstruction and extension of 4th Avenue NW from 3rd Street NW to West Bank Park, along with an extension southwards towards the new Federal Courthouse. The project is needed to provide looped vehicle access to the new courthouse. Other benefits include formal, improved access to the south end of West Bank Park; reconstruction of 4th Avenue NW, which is currently in poor condition; upgrade to existing utilities; and improved access for current and future residents and businesses in the area. The driver for this project is the new Federal Courthouse.

BACKGROUND: Over the last couple of years, the federal government has gone through the process of selecting a site for a new courthouse to replace current facilities located in the downtown post office building. The need for better security, adequate room, and modern facilities are the primary reasons for the new courthouse. The approved site is located on private property immediately north of Central Avenue West on the west bank of the Missouri River. Construction of the new building is underway with completion scheduled for mid-2009.

The City has committed to assist the project by providing a second access to the courthouse via 4th Avenue NW. Fourth Avenue currently starts at 3rd Street NW and extends eastward about one block to serve the County Shops, Montana Specialty Mills, a bar and a residence. The condition of the roadway is poor. Fourth Avenue needs to be reconstructed to current standards; extended eastward across the railroad tracks; and turned south to connect with the courthouse

site. A new traffic signal is planned at 3rd Street NW, which will require coordination with the Montana Department of Transportation. A signalized railroad crossing will require permits and coordination with Burlington Northern Santa Fe Railroad. Construction must be coordinated with adjacent property owners, and right-of-way acquisition will be required. The current West Bank Park parking lot will need to be reconfigured. Environmental contamination under the Avenue must also be remediated.

The major financing for the project will be through a tax increment district. Additional funding will be from the water and storm drain funds. EPA grant funds are anticipated to cover environmental cleanup costs.

NCI was selected in accordance with the City's Architects Engineers Surveyors Selection Policy. An added advantage to the City is that NCI is also a member of the Courthouse design team, and thus familiar with the area and other construction underway. Optional services, which may be added upon City approval at a later date, include storm drain rehabilitation and construction phase services.

Attachments: Professional Services Agreement (2 originals)

File: 1488AReng1

**STANDARD AGREEMENT BETWEEN
OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THE AGREEMENT

THIS OWNER-ENGINEER AGREEMENT made this _____ day of October in the year TWO THOUSAND AND SEVEN (2007) BY AND BETWEEN The City of Great Falls, P.O. Box 5021, Great Falls, MT 59403-5021 the OWNER, and NCI Engineering Co. P.O. Box 6350, Great Falls, MT 59406-6350 the ENGINEER.

WITNESSETH: That whereas the OWNER intends to engage the ENGINEER to perform professional services for a Project known as City Office File 1488, Fourth Ave. N. W. Improvements, and hereinafter called the Project.

NOW, THEREFORE, THE OWNER and ENGINEER for the considerations hereinafter set forth agree as follows:

1. The ENGINEER shall provide professional services, including the preliminary design, final design, bidding and construction phase services for the Project in accordance with the Agreement and the Terms and Conditions of this OWNER-ENGINEER Agreement, which is attached hereto and hereby made a part of this OWNER-ENGINEER Agreement.

2. Project Description, Introduction and Assumptions
This exhibit describes the Consultant's Scope of Work for the City of Great Falls 4th Avenue Northwest Roadway Extension Project. Project specifics generally include the following:
 - A. Basic Scope of Work:
 1. Design of "standard" city roadway (4th Ave. N. W.) from east curb of 3rd. Street N. W. to a point across BNSF spur line in West Bank Park, up to connection of parking lot entrance of Federal Building as required. Typical section may include sidewalks both sides with outside boulevards. Parking may be allowed on one side only.
 2. Landscaping and irrigation of boulevards along referenced roadway.
 3. Design of Water Main in this referenced roadway, with connection in 3rd St. N. W.

4. Design of Storm Drain piping in this referenced roadway, as necessary to drain this roadway. Storm drain stubs may be placed to adjoining properties.
5. Design of curb cuts or intersection(s) along this roadway to serve adjacent properties.
6. Design of RR crossing to BNSF specifications, with signalized crossing arms as required.
7. Development of exhibits for roadway and water main crossing permits from BNSF.
8. Regulatory signing and striping for roadway, inclusive of warning, parking, stop, and yield signs.
9. Coordination with working group and public meetings to further define additional / optional work scope items. Scope is limited to 10 total coordination / public meetings.
10. Design and specifications for DEQ approved work plan for addressing and removing contamination under proposed roadway.
11. Coordination with County, working group, and DEQ relative to contamination removal.
12. Coordination, real estate appraisal, field surveys, deed exhibits, and three (3) Certificates of Survey for R/W acquisition for roadway, from adjoining private landowners and county.
13. Traffic Signal Warrant Study and Traffic Signal Design for T Intersection at 3rd. St. N.W. No west intersection entrance from the Fairgrounds is included in design. Electrical service for future commercial signing may be included in site electrical package.
14. West Bank Park Improvements, limited to gravel parking lot replacement with site grading, topsoil, dry land seed of disturbed areas, water main or service stubs, and electrical service stub for future amphitheatre events. No irrigation or formal landscaping is included.

B. Optional Scope of Work Items:

1. Design of existing storm drain pipe rehabilitation under referenced roadway if deemed necessary by OWNER
2. Signing other than regulatory.
3. Construction Phase Services

C. Items Excluded

1. Permit and review fees for state and local government agencies as well as BNSF RR.
2. Commercial or informational sign design.
3. Entrance from Fairgrounds onto 3rd. St. N. W.
4. Formal landscaping and irrigation of park land or roadway boulevard on east side of BNSF crossing.
5. Appraisal will exclude valuation of buildings on affected parcels, as no building acquisition is envisioned. It is assumed taking will be of undeveloped portions of affected parcels.
6. Expert Witness work is excluded from contract.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed that the ENGINEER shall furnish services and the OWNER shall make payment for same in accordance with the Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement the day and year first above written.

OWNER
CITY OF GREAT FALLS

ENGINEER
NCI ENGINEERING CO.

City Manager - John Lawton

Jake Neil, P.E., President

ATTEST: City Clerk - Lisa Kunz

ATTEST:

APPROVED FOR LEGAL CONTENT:
City Attorney - David Gliko

DATE:

TERMS AND CONDITIONS
for
PROFESSIONAL SERVICES

WITNESSETH:

OWNER and ENGINEER in consideration of their mutual covenants herein agree in respect of the performance of professional engineering services by ENGINEER and the payment for those services by OWNER as set forth herein.

SECTION A - BASIC SERVICES OF ENGINEER

The ENGINEER shall provide professional engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER'S professional engineering representative for the Project, providing professional engineering consultation and advice and furnishing customary engineering services incidental hereto.

1.0 After written authorization to proceed, Engineer shall complete the following:

- A. Design of "standard" city roadway (4th Ave. N. W.) from east curb of 3rd. Street N. W. to a point across BNSF spur line in West Bank Park, up to connection of parking lot entrance of Federal Building as required.
- B. Regulatory signing and striping for roadway
- C. Landscaping and irrigation of inside boulevards, between sidewalks and curbs.
- D. Design of Water Main in this referenced roadway.
- E. Design of Storm Drain piping as necessary to drain this roadway and provide stubs to adjacent properties.
- F. Design of curb cuts or intersection(s) along this roadway to serve adjacent properties.
- G. Traffic Signal Warrant Study and design of traffic signal at intersection of 3rd St. N. W.
- H. Design of RR crossing to BNSF specifications, with signalized crossing arms as required.
- I. Development of Exhibits and provision of technical support for BNSF roadway and water main crossing permits.
- J. Development of DEQ approved work plan, plans, and specifications for removal of contaminated soil under roadway.
- K. Coordination with DEQ, County, and City relative to contamination removal.
- L. Provision of real estate appraisal services for three (3) parcels, legal surveys, descriptions, and **exhibits** for R/W acquisition and / or roadway easements. Develop and file three (3) Certificates of Survey.
- M. Coordination with a working group and attendance at public meetings, up to 10 total meetings.
- N. West Bank Park gravel parking lot replacement, with dry land seed, topsoil, and site grading. No formal landscaping or irrigation is included in basic scope for this task.

TASK 1A Preliminary Design Phase

- 1A.1 Administer scoping meeting
- 1A.2 Complete topographic survey of project route.

- 1A.3 Prepare base drawings of project area
- 1A.4 Evaluate roadway routing alternatives
- 1A.5 Define preliminary location and cost estimates for water main and services, storm drains and stubs, and sanitary sewer stubs, RR Crossing
- 1A.6 Attend public and working group- meetings as required.
- 1A.7 Complete predesign report

DELIVERABLES:

- Preliminary design report, 10% design drawings, and construction cost estimates for basic work scope items.

TASK 2A Final Design and Bidding Phase

- 2A.1 Coordinate with working group, public, MDT, and DEQ.
- 2A.2 Confirm final design scope
- 2A.3 50% design submittal and construction cost estimate for basic work scope items as listed in article 1.0 above.
- 2A.4 Attend and administer design review and coordination meetings
- 2A.5 100% design submittal and construction cost estimate
- 2A.6 Prepare and reproduce bid documents
- 2A.7 Conduct prebid conference
- 2A.8 Administer bid advertisement, bid document distribution, bid tabulation, review and award including preparation of the bid advertisement for solicitation conforming to all State and Federal requirements.

DELIVERABLES:

- 50% design submittal
- 100% design submittal
- Final bid documents including CADD files and Word files on disk
- Bid tabulation and recommendations

SECTION B - OPTIONAL SERVICES OF ENGINEER

Upon written authorization by the OWNER, the ENGINEER shall provide optional professional engineering services for the Project as hereinafter provided.

Option 1: Design of existing storm drain pipe rehabilitation under referenced roadway if deemed necessary by OWNER

Option 2: Signing other than regulatory.

Option 3: Construction Phase Services

TASK 1 FOR OPTIONS 1 THROUGH 3: Preliminary Design Phase

- Administer scoping meeting, complete topographic survey prepare base drawings of new site and proposed facilities, complete predesign report.

- Deliverables for Task 1: Preliminary design report and construction cost estimates

TASK 2 FOR OPTIONS 1 THROUGH 3: Final Design and Bidding Phase

- Coordinate with working group, utility companies, review agencies, and property owner(s), finalize design and construction cost estimate
- Prepare and reproduce bid documents
- Conduct prebid conference, bid document distribution, bid tabulation, review and award including preparation of the bid advertisement.

DELIVERABLES FOR TASK 2, OPTIONS 1 THROUGH 3:

- 50% design submittal
- 100% design submittal
- Final bid documents including CADD files and Word files on disk
- Bid tabulation and recommendations

TASK 3 FOR BASE BID AND OPTIONS 1 THROUGH 3: Construction Phase

- 3B.1 Provide general project administration, coordination and oversight during the construction term
- 3B.2 Attend pre-construction conference with the Owner, contractor and subcontractors
- 3B.3 Schedule and administer construction meetings with the Owner and contractor.
- 3B.4 Perform field staking in the form of baseline and benchmark surveys, as necessary
- 3B.5 Provide a resident project representative during construction activities. Resident project representative will be responsible to:
 - a. Maintain a daily construction diary
 - b. Maintain records of all quantities, materials, equipment, and pay items related to project construction
 - c. Monitor contractor's time schedule in accordance with the contract
 - d. Review work for accuracy and completeness of installation
 - e. Review certified payrolls to ensure prevailing wages are paid
 - f. Direct extent OF contaminated soils removal via use of PID and analytical testing.
- 3B.6 Review shop drawing submittals
- 3B.7 Review and certify all contractor pay estimates and requests
- 3B.8 Coordinate and attend final project inspection with the Owner and contractor
- 3B.9 Perform all activities necessary to close-out the project, including start-up, training, payroll report review, final pay estimate, and final completion documentation
- 3B.10 Verify contractor's as-built information and submit "As-Recorded" drawings to

- the Owner including one set of reproducible documents (mylars)
- 3B.11 Prepare operations and maintenance manual
- 3B.12 Conduct year-end warranty inspection
- 3B.13 Deliverables for Task 3 base bid and optional items 1 through 5
- Daily field logs
 - Shop drawing review comments
 - Construction meeting minutes
 - Approved weekly payroll reports
 - Approved contractor's monthly application for payment
 - As-Recorded drawings in mylar and CADD format
 - Final approval and acceptance documentation
 - Operations and maintenance manual

SECTION C – OWNERSHIP OF DOCUMENTS

- 1.1 Upon receipt of compensation for such work product, all drawings, specifications, reports, and other work product of the ENGINEER for this Project shall become the property of the OWNER whether the Project is completed or not.
- 1.2 The ENGINEER shall provide the OWNER bid documents in the form of a CADD file on disk (AutoCAD), and the specification file on disk in Microsoft Word format.

SECTION D – COMPENSATION

1. **Basic Services - Preliminary Design, Design and Bidding Phase Services Compensation.** The OWNER shall compensate the ENGINEER for basic engineering services as described under Section A, at hourly rates and unit costs per Exhibits A and B, not to exceed \$121,070
- 1.1 ENGINEER shall submit monthly statements for Basic Services rendered and for Reimbursable Expenses incurred. OWNER shall make prompt monthly payments in response to ENGINEER'S monthly statements. All such statements may be audited by the OWNER, and the ENGINEER shall, upon request, furnish all files, field notes, accounting and payroll records, time sheets or any other documents to the auditor designated by the OWNER.
- 1.2 The Owner shall make timely payment within 30 days of receipt of invoice.

2. **Optional Services - Compensation.** The OWNER shall compensate the ENGINEER for OPTIONAL services per Exhibits A and B for a not to exceed amount of \$ 73,840. Efforts requested by the OWNER greater than those described herein will be negotiated between the OWNER and ENGINEER at the time of the request.
 - 2.1 ENGINEER shall submit monthly statements for Optional Services rendered and for Reimbursable Expenses incurred. All such statements may be audited by the OWNER, and the ENGINEER shall, upon request, furnish all files, field notes, accounting and payroll records, time sheets or any other documents to the auditor designated by the OWNER.
 - 2.2 Construction materials testing costs (such as for gravel gradations, concrete compressive strength, and other laboratory testing) shall be paid for directly by the Owner.
3. **Miscellaneous Cost Items**
 - 3.1 The OWNER will not pay percentage mark-up charges for reimbursable expenses except for work performed by pre-approved sub-consultants.
 - 3.2 The OWNER shall not be billed for fax charges, local telephone charges, or other normal office overhead items. Such expenses shall be deemed overhead and applied to the hourly rate schedule for Engineering Services.
 - 3.3 Long distance telephone, printing, postage, and mileage charges related to professional services performed by the ENGINEER are reimbursable. Actual billing records delineating such charges furnished by the long distance carrier or other appropriate documentation shall be maintained, and furnished to the OWNER upon request pursuant to Section D.1.2 above.

SECTION E - TIME OF SERVICES

1. **Anticipated Completion.** The ENGINEER shall commence work immediately upon receipt of a Formal Notice to Proceed. Preliminary design report submittals for basic services are anticipated to be complete approximately 75 days after written notice to proceed. Final bid documents are anticipated to be complete approximately 75 days after written approval of preliminary design report.
2. **Timetable Revision and Withholding Compensation.** If the ENGINEER does not complete the services specified above by the tentative dates, and such delays are not excused for unforeseeable reasons beyond the control of

the ENGINEER, then compensation for services rendered in accordance with Section B, *supra*, may be withheld by the OWNER until a revised timetable has been agreed upon by the OWNER and ENGINEER.

3. **Liquidated Damages.** Time is of the essence for performing engineering services provided under this Agreement. Therefore, for any delays beyond the tentative dates specified in subsection 1 above, the OWNER may elect to assess the ENGINEER liquidated damages, in lieu of actual damages, in the amount of \$ N/A per day. Such liquidated damages will not be assessed if the delays are excused for unforeseeable reasons beyond the control of the ENGINEER.

SECTION F - OWNER'S RESPONSIBILITIES

The OWNER shall do the following in a timely manner so as not to delay the services of the ENGINEER.

1. Provide all criteria and full information as to OWNER'S requirements for the Project, including design objectives, performance requirements, time schedules, and budgetary limitations.
2. Examine all studies, reports, sketches, cost estimates, drawings, plans, and specifications per Section A of this Agreement and report to the ENGINEER any changes desired.
3. Designate the OWNER'S representative to work with the ENGINEER with authority to transmit instructions, receive information, and define OWNER'S policies and decisions with respect to services covered by this Agreement.
4. Provide necessary access for the ENGINEER to enter upon the Project site for performance of the ENGINEER'S services under this Agreement.
5. Furnish to ENGINEER, as required for performance of ENGINEER'S Basic Services, the following:
 - 5.1 Previous data prepared by or services of others, probings and subsurface explorations, surveys, construction drawings, specifications, engineering reports and inspections of samples or materials, if available.
 - 5.2 Appropriate professional interpretations of all of the foregoing.
6. Give prompt written notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any deficiency in the Project or change to the site or scope of services which may substantially affect the ENGINEER'S performance of services under this Agreement.
7. Provide necessary legal advertising for public bid purposes.
8. Provide copies of as-built drawings, specifications, construction drawings,

and geotechnical data for project site.

9. Provide timely review of submittals, within 5 working days of receipt of submittal packages.
10. Coordinate and pay for bid advertisement with local newspaper.
11. Provide legal counsel as required for evaluation of contractor bid irregularities, bid protests, construction claims, etc.
12. Provide zoning modifications (if any), agency review fees and permit fees required for project construction.
13. Provide any necessary historical, cultural or environmental investigations.

SECTION G - ADDITIONAL SERVICES OF ENGINEER

1. **Services Requiring Authorization in Advance.** If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types included but not limited to those listed herein. These services are not included as part of Basic Services or Optional Services and will be paid for by OWNER on the basis of time and materials expended using the Rate Schedule attached as Exhibit 5.
 - 1.1 Services resulting from substantial changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER'S schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other unforeseeable causes beyond ENGINEER'S control.
 - 1.2 Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.
 - 1.3 Certificates of survey, easement acquisition, plats, and maps not required for the construction plans.
 - 1.4 Laboratory tests, material tests, pressure testing, asphalt tests, concrete tests or gradation tests.

- 1.5 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project.
 - 1.6 Any other additional services in connection with the Project requested by the OWNER not otherwise provided for in this Agreement.
2. **Redesign Services and Costs.** The ENGINEER is responsible for the accuracy of its professional services. In the event the ENGINEER is required to perform redesign services with respect to the accuracy of the Final Design Phase of the Project and such redesign services are due to the fault, error or omission of the ENGINEER (and not due to Additional Services requested by the OWNER or construction cost estimates), then such sums shall be provided without additional charges, reimbursable expenses, or mark-up except as specifically authorized in writing by the OWNER.

SECTION H - OTHER CONSIDERATIONS

1. Termination of Agreement.

- 1.1 The OWNER may terminate this contract at any time with or without cause by a notice in writing from the OWNER to the ENGINEER. Upon receipt of such notice, the ENGINEER shall, unless the notice directs otherwise, immediately discontinue further work.
- 1.2 If the contract is terminated without cause for the convenience of the OWNER, payment to the ENGINEER will be made promptly for Engineer's time and materials under the contract for which the work was actually performed, less any payments previously made.
- 1.3 If this contract is terminated for cause because of the failure on the part of the ENGINEER to fulfill his undertakings under this contract, the OWNER may take over the work and prosecute the same to completion by contract or otherwise, and the ENGINEER shall be liable to the OWNER for any excess cost occasioned to the OWNER.
- 1.4 In the event of termination under either 1.2 or 1.3 above, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the ENGINEER shall at the request of the OWNER become its property, and the ENGINEER shall be entitled to receive compensation for any satisfactory work completed on such documents and/or other materials.
- 1.5 In the event of termination for cause, the OWNER may withhold any monies due and payable to the ENGINEER as an offset against actual damages as determined by the OWNER and the OWNER shall have all other legal and equitable remedies at law which shall be cumulative.

2. Access to Records and Work In Progress.

The OWNER shall have the right to inspect the work in progress. These inspections are for the purpose of monitoring compliance with this Agreement and for evaluating the engineering plans and any needed amendments. The ENGINEER will maintain reasonable records of its performance, and allow access to these records by the OWNER.

3. Insurance Requirements. The ENGINEER hereby agrees to maintain liability and other insurance in effect during the term of this Agreement as follows:

3.1 Insurance required by ENGINEER:

- | | | |
|----|---|----------------------------|
| 1. | Workers Compensation | Statutory |
| 2. | Comprehensive General Liability,
Bodily Injury and Property Damage | \$1,000,000 per occurrence |
| 3. | Auto Liability Coverage
Combined Single Limit | \$1,000,000 per occurrence |

3.2 ENGINEER shall deliver certificates of insurance showing the required coverages indicated on or before the execution of this Agreement.

3.3 ENGINEER shall also maintain professional liability insurance to cover claims arising out of the performance of professional services under this Agreement. Such professional liability insurance shall be maintained in an amount not less than \$1,000,000 per occurrence. A certificate showing the above-referenced coverages shall be forwarded to the OWNER on or before the execution of this Agreement.

4. Governing Law. This Agreement shall be governed by the law of the State of Montana. The venue for any litigation concerning a dispute arising from this Agreement shall be Cascade County, Montana.

5. Entire Agreement. This Agreement is the sole and entire agreement between the parties, and supersedes all prior negotiations, representations, and customary relationships between the parties whether oral or in writing.

**EXHIBIT A
CITY OF GREAT FALLS O.F. 1488
ENGINEERING COST ESTIMATE**



NCI ENGINEERING CO.

Description	Principal \$130	Project Manager \$110	Project Engineer \$85	Secretary \$40	Survey Crew \$150	Construction Inspector \$70	Other Direct Costs	CAD Operator \$60	CAD Computer \$15	Total Cost
BASIC SERVICES										
TASK Basic Services of Engineer										
A Design of "standard" city roadway (4th Ave. N.W.)	2	8	24	4	6		\$500	48	48	
B Regulatory signing and striping for roadway	1	1	8	1				8	8	
C Landscaping and irrigation	1	2	4	1	2		\$2,000	4	4	
D Design of Water Main	1	8	24	4	6		\$500	24	24	
E Design of Storm Drain	1	8	16	4	4		\$200	12	12	
F Design of curb cuts or intersections	1	3	12					16	16	
G Traffic Signals Warrant Study and design	2	12	16	4	4		\$27,300	12	12	
H Design of RR crossing to BNSF specifications	1	8	24	4			\$200	24	24	
I Development of Exhibits for BNSF roadway and water main crossing permits	1	8	12	4			\$200	16	16	
J Development of DEQ approved work plan	1	12	24	8			\$300	24	24	
K Coordination with DEQ, County, and City	1	40	32	4			\$500	12	12	
L certificates of survey and real estate appraisal services for three parcels	1	8	40	2	24		\$17,000	40	40	
M Coordination with working group and attendance to public meetings	2	40	20	10			\$500	10	10	
N West Bank Park gravel parking lot replacement		4	12	1	2			16	16	
Subtotal design and bidding phase	2,080	17,820	22,780	2,040	7,200	0	\$ 49,200	15,960	3,990	\$121,070
OPTIONAL SERVICES										
TASK Optional Services of Engineer										
1 Design of existing storm drain pipe rehabilitation under referenced roadway		12	32	4	2		\$200	40.00	40	
2 Signing other than regulatory		4	24	2			\$100	24.00		
3 Construction Phase Services		40	80	16		600	\$7,000	16.00	16	
Sub-consultant Administrative Fee										
Subtotal, Clarifier & Gravity Thickener Coatings Construction Phase	0	6,160	11,560	880	300	42,000	\$7,300	4,800	840	\$73,840

TOTAL ESTIMATED PROJECT COST

\$194,910

NOTES:

1. Estimates based on full-time inspection for proposed 75 field day construction schedule.



SCHEDULE B

4509 North Star Blvd
PO Box 6350
Great Falls, Montana 59406
Phone: 406-453-5478
Fax: 406-453-2009

FEE SCHEDULE

January 1, 2007

HOURLY AND REIMBURSABLE CHARGES

(Subject to Change Periodically)

I. NCI ENGINEERING OFFICE/FIELD PERSONNEL RATES (PER HOUR)

A. Regular Time

1. Professional Engineers	
a. Principal.....	\$140.00
b. Environmental Engineers.....	\$80.00-\$110.00
d. Project Manager.....	\$95.00-\$115.00
e. Project Engineer.....	\$85.00-\$100.00
c. Design Engineers.....	\$75.00-\$95.00
f. Consultation/Studies.....	\$90.00-\$140.00
g. Expert Testimony/Witness/Preparation.....	\$200.00
2. Designer/CADD Technician.....	\$55.00-\$65.00
3. Drafter/CADD Technician.....	\$55.00-\$65.00
4. Seasonal Engineering Intern.....	\$36.00-\$45.00
5. Field Surveys.....	
GPS w/ATV.....	\$140.00
(topo surveys that are done entirely with the ATV with exception of setting up and checking control)	
GPS wo/ATV.....	\$125.00
(topo/legal surveys that are done entirely on foot)	
Total Station-Robotic	\$125.00
(topo/legal surveys that are done on foot using the robotic total station)	
Total Station – 2 Man	\$175.00-\$195.00
(topo/legal surveys that are done with the total station manually with two people)	
GPS Daily Rate	\$500.00
Survey without GPS OR Total Station	Individual rate + \$10/hour
(would include running levels, property corner search, manhole measure-ups, benchmark search, etc.)	
6. Professional Surveyor (office).....	\$85.00
7. Survey Technician (office).....	\$65.00
8. Field Construction Observation.....	\$65.00-\$100.00
9. Clerical/Word Processing.....	\$35.00-\$45.00
10. Support Staff.....	\$35.00-\$45.00

B. Overtime – Client authorized services on Saturdays, Sundays, Holidays, and weekdays over normal working hours = 1.4 x Regular Time (payment to employees is 1.5 x reg rate)

REIMBURSABLE COSTS*

A. Lodging & Subsistence (meals)		Cost + 10%
B. Mileage (Minimum \$35.00/day)		
Automobile	\$.55/mile
Truck/Van Mileage.....	\$.60/mile
C. ATV.....	\$	100.00/day
D. Filing Fees, Permits, Title Company Charges, Governmental Review Fees, Etc.....		Cost + 10%
E. Reproductions		
1. In House		
a. Bluelines.....	\$	2.50/sheet (10 & under)
	\$	1.50/sheet (over 10)
b. Plots (Vellum).....	\$	2.50/sheet
(Mylar).....	\$	8.50/sheet
c. Sepias.....	\$	6.00/sheet
d. Photocopies (8½ x 11 – b/w).....	\$.12/sheet
(8½ x 11 – color).....	\$.45/sheet
(11 x 17 – b/w).....	\$.15/sheet
(11 x 17 – color).....	\$.90/sheet
e. Covers (8½ x 11 – plastic/laminate).....	\$	1.00 each
(11 x 17 – plastic/laminate).....	\$	1.50 each
(Silver cover w/window – includes backs)	\$	2.00/set
(White cover stock – either front or back)	\$	1.00 each
2. Outside Services (repro.).....		Cost + 10%
F. Discs.....	\$	1.00 each
CDs.....	\$	1.00 each
G. Telephone/FAX.....		Cost + 10%
H. Postage.....		Cost + 10%
I. Deliver Charges.....		Cost + 10%
J. Outside Consultants.....		Cost + 10%
K. Densometer.....	\$	60.00/day
L. Other Supplies.....		Cost + 10%
M. CAD/Computer Time.....	\$	15.00/hour

NOTE: * Certain listed costs may not be reimbursable if included in the contract fee.
Verification should be made with the Project Manager if not specifically stated in the contract.

CITY OF GREAT FALLS, MONTANA

AGENDA # 13

A G E N D A R E P O R T

DATE October 16, 2007

ITEM: CONTRACT AWARD: GIANT SPRINGS STORM DRAIN OUTFALL
REHABILITATION, O.F. 1458

INITIATED BY: PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION

ACTION REQUESTED: CONSIDER BIDS AND AWARD CONTRACT

PRESENTED BY: JIM REARDEN, PUBLIC WORKS DIRECTOR

MOTION: "I move the City Commission award a contract in the amount of \$422,455.00 to Dick Anderson Construction for the Giant Springs Storm Drain Outfall Rehabilitation, O.F. 1458, and authorize the City Manager to sign the contract documents."

PROJECT TITLE: Giant Springs Storm Drain Outfall Rehabilitation - O.F. 1458

RECOMMENDED CONTRACTOR: Dick Anderson Construction

CONTRACT AMOUNT: \$422,455.00

ENGINEERS ESTIMATE: \$470,530.00

BUDGETED FUND: Storm Drain

START DATE: November of 2007

COMPLETION DATE: Spring 2008 (45 Calendar Days with winter delays)

PENALTY/INCENTIVE TERMS: Liquidated Damages - \$400/Day

SYNOPSIS: The project work scope includes construction of approximately 2,300 lineal feet of 42-inch to 54-inch diameter reinforced concrete pipe, seven manholes, rip rap outfall and surface restoration. The project is mostly located on the property owned by Albert Kunesh and lies immediately northeast of the City between Giant Springs State Park and 18th Avenue North. The natural drainage has experienced erosion due to the high volume of water that surges during storm events.

Seven bids were received (See attached Bid Tabulation Summary) on October 3, 2007. Dick Anderson Construction submitted the low bid. Storm drain funding is budgeted for the contract award amount.

BACKGROUND: 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 10th Avenue South on the south, 38th Street on the west, and 57th Street on the east. The existing outfall is located on the Kunesh property about 400 feet north of 18th Avenue North. The existing channel below the outfall had become unstable and has been eroding more rapidly in recent years. The City temporarily stabilized the outfall about 3 years ago to minimize further damage.

This project will extend the storm drain extension around the eroded channel. Installation of approximately 2,300 feet of 42-inch to 54-inch diameter concrete pipe will convey the storm water to the new discharge point near the BNSF Railway culvert located just above Giant Springs State Park.

Utility easements for the new storm drain alignment are being processed concurrently with this contract award.

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

Attachments: Bid Tabulation Summary

**CITY OF GREAT FALLS, MONTANA
AGENDA REPORT**

**AGENDA # 14
DATE October 16, 2007**

ITEM: Contract with the Montana Law Enforcement Testing Consortium

INITIATED BY: Captain Tim Shanks, Support Services Bureau, Police Department

ACTION REQUESTED: Sign the contract with the Testing Consortium

PRESENTED BY: Captain Tim Shanks, Support Services Bureau, Police Department

REVIEWED AND APPROVED BY: Chief Cloyd Grove

RECOMMENDATION:

Staff recommends signing the Interlocal agreement (contract) with the Montana Law Enforcement Testing Consortium.

MOTION:

To give the City Manager authority to sign the Interlocal agreement with the Montana Law Enforcement Testing Consortium.

SYNOPSIS:

The Montana Law Enforcement Testing Consortium (MLETC) administers a written and physical test in order to create a pool of qualified applicants for the position of entry-level peace officer. The MLETC will be conducting the joint testing in nine locations around the state three times a year. The initial fee calculation for each agency within the Consortium shall be at a rate of \$10.00 per sworn officer for acceptance into the Consortium; annual membership fee thereafter is \$1.00 per sworn officer. Sworn officer calculations are based on their 'full-strength' allocation at the beginning of each calendar year. The Consortium will be governed by the Interlocal agreements and the By-laws that were developed.

BACKGROUND:

In September, 2006 several local, county and state agencies gathered together to discuss a common theme of recruiting and retention of qualified applicants for law enforcement. During the discussion, it was determined that each agency had different hiring practices, testing and selection processes. It was decided the goal of the group would be to jointly coordinate the application process; share costs of administrating and testing; provide for consistency in the selection process; evaluate and revise the process as necessary to reflect the duties of the peace officer.

The Montana Law Enforcement Testing Consortium was formed. Interlocal agreements and By-laws were developed with the assistance of several Human Resource staff from various Cities as well as the Montana Municipal Insurance Authority. The MLETC was modeled similar to the testing Consortium for Firefighters.

The Montana Law Enforcement Academy will assist in the administering of the written test and physical fitness components. Members of the MLETC have committed personnel to assist with the testing process at each on site location throughout Montana.

The MLETC has developed a website that provides the applicant with the necessary information for testing with the Consortium.

Currently nine agencies have signed the Interlocal agreements with two or three in the process.

A G E N D A R E P O R T

DATE October 16, 2007

ITEM LABOR AGREEMENT: CITY OF GREAT FALLS/GREAT FALLS POLICE PROTECTIVE ASSOCIATION

INITIATED BY Linda Williams, Human Resources Manager

ACTION REQUESTED APPROVAL OF LABOR AGREEMENT

PRESENTED BY John Lawton, City Manager

RECOMMENDATION:

- - - - -

The recommendation is to approve the Labor Agreement between the City of Great Falls and the Great Falls Police Protective Association (PPA).

MOTION:

I move that the City Commission approve the Labor Agreement between the City of Great Falls and the Great Falls Police Protective Association, and authorize the City Manager to execute said Labor Agreement.

BACKGROUND:

The terms of the proposed agreement extend for a two year period, from July 1, 2007 through June 30, 2009.

The cost of living adjustments are 4% for year one and 3% for year two. A labor market analysis was conducted using agreed upon in-state comparators. Two market adjustments were needed to maintain the City's ability to remain competitive in attracting and retaining qualified and competent employees. The market adjustments will occur on January 1 of each year in the amount of 4% and 2% respectively.

Market adjustments over and above cost of living adjustments have been made from time to time to correct imbalances and to maintain a competitive salary structure for various employee groups. They are based on specific labor market analyses for certain positions. Market studies are often prompted by problems in hiring and retaining employees, a situation currently experienced in the Police Department.

The changes from the previous agreement are:

1. Article 1, Definitions
New Section 1.12 – Work Day
 A new section was added defining a work day as a period of (8) hours in accordance with MCA 39-4-107.

2. Article 4, Employee Rights
Section 4.2 – Protection of Employee Rights
Subsection d:
The language was changed in accordance with new policies and procedures related to the implementation of the National Commission on Accreditation for Law Enforcement (CALEA).
3. Article 8, Additional Duty
Section 8.1 – Overtime
Subsection e:
Language was changed to clarify how an employee is paid when called back to work.

Subsection g was added:
A new section was added to clarify how an employee is paid when required to attend local training and meetings.
4. Article 8, Additional Duty
Section 8.4 – Payment for Overtime
Subsection a:
Language was changed to clarify how and when compensatory time would be granted.
5. Article 9, Compensation:
Section 9.1 - Salaries
Base salaries were increased 4% effective 7/1/07, and 3% 7/1/08.

The salary schedule also reflects the two market adjustments 1/1/08 and 1/1/09 of 4% and 2% respectively.
6. Article 9, Compensation:
Section 9.2 – Longevity Pay
The language was changed to reflect only the current longevity amount.

New Section 9.8 – Field Training Officer Pay
Although officers had been receiving additional pay when assigned to train probationary police officers, the contract did not address the practice. Therefore, language was added stipulating how officers assigned to train probationary police officers will be compensated for the additional responsibility.
7. Article 11, Vacations
Section 11.1 – Vacation Credit
Language was changed and state law was referenced regarding employees having to work six calendar months before being credited with any accrued vacation leave.
8. Article 12, Sick Leave
Section 12.1 – Sick Leave Credits Earned
The relevant section of state law was reference, MCA 2-18-618.

Section 12.3 (9) – Use
The definition of “immediate family” was changed to include sister and brother for

consistency with City policy and other collective bargaining agreements.

Section 12.7 – Miscellaneous Sick Leave Provisions

Subsection c:

Language was changed to reflect minimum deductions of sick leave to fifteen (15 minute) increments.

Subsection d:

Language regarding maternity leave was clarified for normal deliveries, allowing up to six (6) weeks, not to exceed 240 hours, without medical documentation.

New subsection e:

Language was added addressing paternity leave, allowing up to forty (40) hours to be charged to sick leave.

Section 12.9 – Light Duty

Language was changed to address light duty assignments for both injuries and illnesses on and off duty.

9. Article 15, Other Leaves With Pay

Section 15.1 – Military Leave

Language was changed to clarify fifteen (15) days is the equivalent of 120 hours, and the relevant section of state law was referenced, MCA 10-1-1009.

10. Article 17, Health, Safety, Welfare and Other Insurance

Section 17.2 Health and Accident Insurance

The language was changed to ensure compliance with the City's Section 125 Plan, and contribution rates were changed to reflect City and employee contribution amounts during the term of the agreement.

Section 17.6

A new section was added regarding how safety concerns should be addressed.

11. Article 18, Allowances

Section 18.1 Uniforms and Equipment

Language regarding new hire uniform and equipment allowances was deleted. The intent is for the City to purchase the necessary uniforms and equipment for new hires.

Language was added stipulating the City will budget a minimum of \$5,000 for the full cost of replacement vests.

12. Article 24, Miscellaneous

Section 24.3 – Labor-Management Committee

Language was added to ensure the Labor-Management Committee will meet at least quarterly.

13. Article 26, Terms, Amendments and Modification of Basic Agreement

The article was changed to reflect the terms of the agreement, from 7/1/07 - 6/30/09.

A G R E E M E N T

BETWEEN

CITY OF GREAT FALLS, MONTANA

AND

GREAT FALLS POLICE PROTECTIVE ASSOCIATION

July 1, 2007 - June 30, 2009

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ARTICLE 1

DEFINITIONS

1.1 ASSOCIATION

The Great Falls Police Protective Association, or its designated representative.

1.2 BARGAINING UNIT

All sworn personnel of the Police Department of the City of Great Falls, Montana, except lieutenants, captains and the Chief of Police.

1.3 COLLECTIVE BARGAINING ACT

The Collective Bargaining for Public Employees Act, Section 39-31-101 through 39-31-409, MCA, 1979, as it exists, as of the date of this Agreement.

1.4 COMPENSATORY OR COMPENSATED TIME

The time off to which an employee, at his option, is entitled in lieu of cash payment as permitted by this Agreement.

1.5 DAY

The day for each employee shall be the twenty-four (24) hour period commencing at the beginning of his regularly-scheduled shift.

1.6 DEPARTMENT

The Municipal Police Department of the City of Great Falls, Montana.

1.7 EMPLOYEE

All members of the Bargaining Unit.

1.8 EMPLOYER

The Municipal Police Department of the City of Great Falls, Montana.

1.9 PRONOUN

Whenever used in this Agreement, each singular number or term shall include the plural, and the plural the singular, and the use of any gender shall include all genders.

1.10 SHIFT

The hours per day regularly scheduled for an employee to work.

1.11 WORK WEEK

An employee's work week shall consist of one calendar week and shall include no more than seven consecutive calendar days.

1.12 WORK DAY

In accordance with MCA 39-4-107, a period of eight (8) hours constitutes a day's work, unless specifically stated elsewhere in this contract.

ARTICLE 2

PURPOSE

In consideration of the mutual covenants herein recited, which have been established through collective bargaining procedures as provided for under Montana State statutes, this Agreement has as its purpose the promotion of harmonious relations between Employer and Association; the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, fringe benefits, officer safety and other conditions of employment.

ARTICLE 3

RECOGNITION

Employer recognizes Association as the sole and exclusive bargaining agent for all employees for the purposes set forth in this Agreement or in the Collective Bargaining Act.

ARTICLE 4

EMPLOYEE RIGHTS

4.1 NON-JEOPARDY AND RIGHT TO ORGANIZE

- a. It shall be the right of all employees to join and support Association for the purposes of negotiating with Employer, or its duly selected representative, with respect to the subjects of negotiation and to confer or consult on any other matters for the purpose of establishing, maintaining, protecting, and improving the standards of the Great Falls Police Department and to establish procedures which will facilitate and encourage settlement of disputes, pursuant to the Collective Bargaining Act. Employer agrees that it shall not deprive any employee of the rights conferred by this Agreement or the Collective Bargaining Act.
- b. No employee shall be discharged or discriminated against by Employer for upholding lawful Association activities.

4.2 PROTECTION OF EMPLOYEE RIGHTS

- a. Employer shall give reasonable support to employees in the discharge of their duties.
- b. No employee shall suffer any reduction in this base rate of pay or in any other benefits covered by this Agreement at the date hereof as a result of this Agreement.
- c. No employee shall be discharged or reprimanded, reduced in compensation, suspended or terminated without just cause; excluding, however, probationary employees.
- d. The Standards of the Department as of the effective date of this Agreement provides certain written policies and procedures for the commencement, receipt, handling and disposition of matters relating to discipline of employees as well as complaints against them. Matters relating to disciplinary procedures are set forth in Department Standards, "Disciplinary Procedures", encompassing Sections 590 through 596. Matters relating to complaints against employees are set forth in General Order 115 issued January 1, 1989, entitled "Complaints--Against Officers and Department", effective from and after January 1, 1989, encompassing Sections 115.01 through 115.08 inclusive of the Manual.

The Employer and Association agree that the referenced General Orders are hereby incorporated in this Agreement by this reference as if fully set forth herein and that no change may be made therein by Employer without such change first having been negotiated with and accepted by the Association.

4.3 HOLD HARMLESS

Employer shall provide insurance protection to defend and indemnify, if necessary, employees for claims, actual or alleged, made against them while acting within the course and scope of their employment, provided that such incidents, damages or acts are not caused by the willful violation of penal statutes, or acts of fraud or conduct contrary to the Manual of Department Procedures. In addition, Employer agrees to abide by all requirements of the laws of the State of Montana relating to its obligation to defend, indemnify and hold employees harmless while acting within the course and scope of their employment.

4.4 PERSONNEL FILES

- a. Employees shall have the right to review the contents of any personnel file maintained regarding them by Employer or any agent or representative of Employer. One copy of any material placed in an Employee's file shall be made available to him upon request.
- b. All items in any such file shall be identified as to source.
- c. The Employee shall have the right to answer any material filed and his answer shall

be placed in the same personnel file. The answer shall succinctly state the Employee's position and shall not be unduly lengthy or burdensome.

4.5 UNLAWFUL TERMINATION

Employer will not terminate nor separate an employee from his employment in an attempt to circumvent the provisions of this Agreement.

ARTICLE 5

ASSOCIATION RIGHTS

5.1 AFFIRMATIVE ACTION POLICY

Association agrees that this Agreement is subject to the Affirmative Action Policy of Employer and that cooperation will be given to ensure that no individuals shall be discriminated against with respect to compensation, hours or conditions of employment because of race, color, religion, sex, national origin or public assistance status.

5.2 MEMBERSHIP

All employees covered by this Agreement who are or become members of the Association on or after the effective date of this Agreement shall maintain their membership in good standing with the Association.

5.3 REPRESENTATION FEE

- a. Membership in the Association shall be separate, apart and distinct from assumption by each employee of his equal obligation to supply the financing of the cost of collective bargaining from which the employee receives benefits equal to those received by Association members. It is recognized that the Association is required both under law and under this Agreement to represent all of the employees in the bargaining unit fairly and equally without regard to whether or not an employee is a member of the Association. Inasmuch as the terms of this Agreement have been made for all employees in the bargaining unit and all employees derive benefit thereunder, each employee in the bargaining unit shall as provided in this subsection assume his fair share of the obligation along with the grant of benefits contained in this Agreement.
- b. Any employee who is not a member of the Association or who does not make application for membership within thirty (30) days from the date of his attainment of the rank of Police Officer, shall as a condition of employment, pay as a representation fee to the Association, and amount equal to the Association dues.

- 1) The Association will certify to Employer, the current rate of Association

membership dues.

- 2) Requests for initiating deductions for the personal representation fee shall be submitted on a form signed by the employee within the above-defined thirty (30) day period.
 - 3) Deductions shall be under the same conditions and schedules as the deductions for Association membership dues prescribed in Article 5.4 of this Agreement.
- c. In the event that an affected employee does not pay the representation fee directly to the Association, or authorize such payment through the payroll deduction plan, Employer, upon notification from the Association, shall immediately cause the termination of employment of such employee unless it has been established that said employee is a member of a bona fide religious sect, or division thereof, whose established and traditional tenets or teachings oppose a requirement that a member of such sect or division thereof join or financially support any labor organization.
- 1) Employees who qualify under the religious sect or division thereof classification of this section shall be governed by the provisions of MCA Section 39-31-204.
 - 2) The parties expressly agree that the failure of any employee to comply with the provisions of this article is just and reasonable cause for discharge from employment, and any employee (not otherwise exempt as allowed herein) shall be discharged for such failure upon the expiration of said thirty (30) days.
 - 3) The Association shall indemnify the City and any department of the City and hold it harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any action taken by the City or any action taken by the City or any department of the City for the purpose of complying with the provisions of this Article.
- d. The provisions of this subsection 5.3 shall not apply to any existing employee who is not a member of the Association, but shall apply to all current members thereof and all future employees.

5.4 DUES ASSIGNMENT AND PAYROLL DEDUCTION

- a. Payroll deductions shall be made by Employer for Association membership dues and for the representation fee.
 - 1) Deductions for Association membership dues or for representation fees shall be initiated by submitting to Employer a written authorization therefor signed by each individual employee wishing to effect such deductions. Said deductions shall continue in effect from year to year pursuant to such written authorization unless revoked by written notice by the employee to Employer and to Association during the calendar month of July of any year.
 - 2) Employer shall deduct in equal installments, such dues from each regular salary check of all employees whose authorizations are on file with Employer.
 - 3) All monies deducted by Employer for Association membership dues and personal

representation fees shall be remitted to the Treasurer of the Association within five (5) working days.

5.5 ASSOCIATION BULLETIN BOARDS

Employer agrees to provide suitable space for the Association Bulletin Boards. Postings by the Association on such boards is confined to official business of the Association.

5.6 ASSOCIATION BUSINESS

Employer recognizes a negotiating committee from the Association not to exceed five (5) members and a grievance committee not to exceed one (1) member. Time spent by the negotiating committee in bargaining on terms and conditions of the contract, as well as other necessary negotiation business, shall be without loss of regularly scheduled time or pay. Discussions with the grievance committee shall also be conducted without loss of regularly scheduled time or pay.

5.7 INFORMATION

Employer recognizes the necessity for the Association to have possession of information to maintain the Agreement and prepare for negotiations.

Therefore, one (1) copy of the materials listed below will be furnished the Association by Employer at no cost within ten (10) days of the receipt of a request therefor, provided such materials are available.

- a. General fund budgets - preliminary and final.
- b. Annual report of Employer setting forth actual receipts and expenditures.
- c. Administrative regulations.
- d. Names, addresses, rank, and general payroll classification of employees in a particular rank.
- e. Any information, statistics and records relevant to negotiations, or necessary for proper enforcement of the terms of this agreement.

The Association, upon written request to Employer, shall also be furnished information or access to information that is of a public nature and is available. For such information Employer may charge the Association for the cost of preparing or providing copies thereof.

ARTICLE 6

SENIORITY AND REDUCTION IN FORCE

6.1 SENIORITY

Seniority means an employee's length of continuous service with the Department since the date of hire, and shall be computed from the date the employee began such service.

- a. To be absent from the job due to layoffs will be considered lost time for the purpose of seniority; however, in the event of reemployment under Article 6.2 of this Article, previous service shall count towards seniority.
- b. To be absent from the job due to a voluntary leave of absence without pay that exceeds fifteen (15) days will be considered lost time for the purpose of seniority unless the employee worked one hundred (100) hours or more in any calendar month(s) during which the leave occurred; however, previous service upon return to work is counted toward seniority.
- c. To be absent from the job due to involuntary active military leave will not affect seniority. Such time spent in military service will count towards seniority.
- d. Employer shall post a seniority roster on December 1 and June 1 of each year. Employees may protest their seniority designation through the grievance procedure if they have cause to believe an error has been made.
- e. Absences due to injury in the line of duty shall be considered as time worked for the purposes of determining seniority and granting of any benefits covered by this Agreement.

6.2 REDUCTION IN FORCE

- a. A Reduction in Force and the term "layoff" as used herein shall be separate and distinct from the terms resignation, retirement and dismissal, and shall mean the loss of an employee's employment with Employer which is the result of any reason other than resignation, retirement or dismissal.
- b. In the event that Employer anticipates that a layoff of employees is to take place, Employer will provide Association with written notification which will include the positions proposed to be affected, the proposed schedule of implementation, and the reasons for the layoff. Said notification shall be at least thirty (30) calendar days before the official action is to be taken. Upon Association request, Employer will make available to Association any data requested which pertains to the layoff determination. Any employee who is to be placed on layoff will be so notified in writing, by certified mail, at least thirty (30) days prior to the effective date of the layoff. The Association will be provided with a listing of the employees being notified of the layoff.
- c. Layoffs caused by Reduction in Force shall be in order of seniority; that is, the employee last hired shall be the first released.

- d. No full-time employee shall be laid off while temporary or part-time employees are servicing in the bargaining unit.
- e. All recalls to employment shall likewise be in order of seniority; that is, the last employee released as a result of a Reduction in Force shall be the first rehired, provided the employee is able to meet the physical requirements of the job. The Employer shall notify in writing such employees to return to work and furnish the Association with a copy of such notification. It shall be the employee's responsibility to maintain a current address on record with the Employer for the purpose of such notification. An employee who is notified to report to duty, but fails to notify Employer within fourteen (14) calendar days of his intention to return to work, shall be considered as having forfeited his right to reemployment.
- f. Layoffs and subsequent recall shall not be considered as a new employment affecting the status of previous employees, nor shall it require the placement of reemployed personnel in a probationary status.

ARTICLE 7

HOURS OF WORK

7.1 HOURS OF DUTY

The working year shall normally be two thousand eighty (2,080) hours. The regularly scheduled working hours for employees shall be forty (40) hours per week, except for the patrol division that presently works nine (9) and ten (10) hour shift patterns.

7.2 WORK SCHEDULE

The hours of work each day may consist of an eight (8) hour shift which will include thirty minutes for a meal and two fifteen-minute rest breaks midway through the first part of the shift and midway through the second part of the shift.

The hours of work each day may consist of a nine (9) hour shift which will include forty-five minutes for a meal and one twenty minute rest break.

The hours of work each day may consist of a ten (10) hour shift which will include sixty-five minutes for a meal and one twenty minute rest break.

7.3 SHIFT CHANGE

The City will notify an employee of a change in a normally scheduled shift as soon as possible in order to minimize any inconvenience the change may cause.

ARTICLE 8

ADDITIONAL DUTY

8.1 OVERTIME

- a. Except as otherwise specifically provided in this Article, employees shall be paid at the rate of time and one-half for all hours worked in excess of a regularly scheduled work shift, and for all hours worked on days off.
- b. Overtime shall be computed to the nearest quarter (1/4) hours starting one minute after the quarter hour begins and extending to the full quarter hour.
- c. Holidays, sick leave, vacation or compensatory time taken during the work week will be considered as time worked when computing overtime.
- d. Employees shall not be required to suspend work during regular schedule hours to prevent overtime accumulation.
- e. An employee called back to work, not as an extension of the regular shift, shall be credited with a minimum of four (4) hours as straight time, or time and one-half, whichever is greater.
- f. No overtime shall be paid for travel time to and from the job.
- g. An employee required to attend local training and meetings, not as an extension of the regular shift, shall be credited with a minimum of four (4) hours as straight time or time and one-half, whichever is greater.

8.2 STANDBY

Employer and the Association agree that the use of standby time shall be minimized consistent with sound law enforcement practices, and the maintenance of public safety. Standby assignments shall be for a fixed predetermined period of time not to exceed eight (8) hours. Employees formally placed on standby status shall be compensated on the basis of four (4) hours straight time pay for eight (8) hours of standby or fraction thereof. If the employee is actually called back to work, normal overtime rules shall apply in addition to the standby premium.

8.3 COURT APPEARANCE

In the event that any court appearance before any judicial or administrative body is required, excluding those occurring during regularly scheduled hours or days, the employee shall be paid for a minimum of four (4) hours at the straight time rate. If such court appearance is on a scheduled day off, the four (4) hour minimum will be paid at the time and one-half rate.

8.4 PAYMENT FOR OVERTIME

Except as provided in this paragraph, employees may accumulate overtime hours worked without restriction. Each employee shall have the right, at his sole discretion, to elect to receive payment for his overtime work on a cash or compensatory time basis; provided, however, that the maximum amount of compensatory time that can be accumulated shall be one hundred sixty (160) hours. Any hours in excess thereof shall be paid in cash to any such employee. No more than forty (40) hours overtime pay may be requested at one time by any employee.

- a. The dates when employee's accumulated compensatory time shall be granted shall be determined by the Chief of Police or his duly authorized officer.
 1. Abide by current standards as set forth in the Fair Labor Standards Act (FLSA);
 2. If manning is limited and it is necessary to post an overtime spot for a compensatory day request, two (2) weeks notice must be given. If the overtime slot is unfilled one (1) week in advance of the requested day off, it will be denied unless agreed upon by both parties.
 3. Granting a compensatory time request when it conflicts with a pre-approved vacation will be at the discretion of the Shift Supervisor.

8.5 COMPENSATION FOR TRAINING

- a. Employer agrees to compensate each employee as provided in Article 8.1(a) for all overtime earned as a result of attendance at local in-service training schools and seminars. Compensation shall be by cash payment or compensatory time as provided in Article 8.4 above.
- b. For attendance at in-service training schools, seminars or other meetings authorized by Employer outside the City of Great Falls, Montana, each employee shall be entitled to the per diem allowances provided in MCA Section 2-18-501(1)(b), (4), (5) and (8). In addition, each employee who is required to use personal transportation for travel in the performance of assigned duties shall be reimbursed at the rate established by Montana law (MCA 2-18-503).

8.6 COMPENSATION FOR ASSIGNMENT TO HIGHER RANK

If any employee is assigned a position normally reserved for an employee of a rank higher than Master Police Officer for a period of four (4) hours or more, that employee assuming that position shall be paid as if he actually held the assumed rank.

8.7 PYRAMIDING

There shall be no pyramiding of overtime pay except as expressly permitted by this Agreement.

ARTICLE 9

COMPENSATION

9.1 **SALARIES**

The base monthly salary, from first date of employment, for each class of employee covered by this Agreement shall be as follows: The City proposes to change the pay period from semi-monthly to bi-weekly, if every other unit agrees to the change.

BASE SALARY

RANK	<u>July 1, 2007</u> (4% increase)	<u>Jan. 1, 2008</u> (4% market adjustment)	<u>July 1, 2008</u> (3% increase)	<u>Jan 1, 2009</u> (2% market adjustment)
Probationary Police Officer	\$2,963	\$3,081	\$3,173	\$3,237
Police Officer	\$3,073	\$3,196	\$3,292	\$3,358

9.2 **LONGEVITY PAY**

Longevity shall be paid from the first date of employment as a sworn officer of Employer. Compensation therefor shall be at the rate of sixteen dollars and fifty cents (\$16.50) per month. Longevity pay increases shall become effective upon each employee's anniversary date of employment.

When an Officer of the Great Falls Police Department attains his 17th year anniversary with this Department, his accumulated longevity will be placed on his base salary. This longevity will be at the rates negotiated in this contract, and shall not exceed \$16.50/month/year of service, not to exceed an accumulated total of \$330.00.

The formula for computing each employee's rate of pay shall be as follows:

Police Officer = base plus longevity
Senior Police Officer = base X's % plus longevity
Master Police Officer = base X's % plus longevity
Sergeant = base X's % plus longevity

X% = Senior Police Officer 15%
Master Police Officer 22%
Sergeant 35%

9.3 SHIFT PREMIUM

An employee who shall be employed for what is commonly referred to as the "afternoon shift" shall receive an additional 35¢/hr. in addition to other salary payments, and any employee who shall be employed for what is commonly known as "night shift" shall receive an additional 50¢/hr. in addition to other salary payments. In each case such additional compensation shall apply only to the hours during which the employee, in a given pay period, is actually serving on the "afternoon shift" or the "night shift" as the case may be.

9.4 PROMOTIONS AND ROTATIONS

Eligibility for placement as a probationary police officer and advancement to the rank of Senior Police Officer or promotion to Master Police Officer or Sergeant will be set in Department Policy. Master Police Officer and Sergeant will be identified as a promotion for purposes of seniority. Rotations will also be in accordance with Department Policy.

Any change to this policy shall include or involve the Labor-Management Committee.

9.5 RATE OF COMPENSATION--LENGTH OF SERVICE

Upon satisfactory completion of one (1) year of service on the Department as a Probationary Police Officer, an employee shall be paid at a minimum rate of a Police Officer. Upon satisfactory completion of one (1) year of service on the Department as Police Officer, an employee shall be paid at a minimum rate of a Senior Police Officer.

9.6 INVESTIGATIVE PAY

Employees assigned to the Detective Division for a period longer than six (6) months will receive an additional \$25.00/month.

9.7 HIGH RISK UNIT PAY

Employees assigned to the High Risk Unit for a period longer than six (6) months will receive an additional \$30/month.

9.8 FIELD TRAINING OFFICER PAY

Employees assigned to perform the function of Field Training Officer (FTO) will receive \$100.00 for the 1st Phase, \$75.00 for the 2nd Phase, \$75.00 for the 3rd Phase, and \$50.00 for the 4th Phase of the Probationary Officer's training. If an extension of the training is necessary, the officer assigned as the FTO will receive \$40.00.

9.9 DEATH OF EMPLOYEE

In the event of death of an employee, all sums payable under the terms of this Agreement to the employee, had he survived, including unused sick leave as provided by state law, final

pay, vacation and compensatory time shall be paid to the employee's beneficiary designated on a form provided by Employer, or to his estate in the absence of any such designation by employee. The designation of a beneficiary by an employee shall have the same force and effect as if the same disposition had been made by Will by the employee.

The employee, his estate, his designated beneficiary, and any successors and assigns shall indemnify and hold the Employer harmless from any and all claims, demands, or liability arising out of the disbursement of such sums to the designated beneficiary, or in lieu thereof, employee's estate.

ARTICLE 10

HOLIDAYS

10.1 **SCHEDULED HOLIDAYS**

Employees shall be granted the following holidays:

- a. New Year's Day, January 1;
- b. Martin Luther King Day, 3rd Monday in January;
- c. Lincoln's and Washington's Birthday, 3rd Monday in February;
- d. Memorial Day, last Monday in May;
- e. Independence Day, July 4;
- f. Labor Day, first Monday in September;
- g. Veterans' Day, November 11;
- h. Thanksgiving, fourth Thursday and Friday in November;
- i. Christmas, December 25;
- j. Every day declared a legal holiday by the City Commission;
- k. Every day in which a general election is held throughout the State of Montana;
- l. A personal holiday to be taken within the calendar year earned. Requires prior approval of supervisor. If request is denied, the employee will be paid at the time and one-half rate.

10.2 **COMPENSATION FOR WORKING HOLIDAYS**

Employees required to work on a holiday will be paid at one and one-half (1½) times in addition to their regular rate of pay or an additional twelve (12) hours for an eight (8) hour shift, thirteen and one-half (13.5) hours for a nine (9) hour shift, and fifteen (15) hours for a ten (10) hour shift, will be compensated time granted to the employee by the employee submitting in writing to his/her immediate supervisor for one of the following.

- a. Pay at the negotiated rate of pay.
- b. Compensatory time to be taken at a time mutually agreed upon by the employee and supervisor.

10.3 **COMPENSATION FOR HOLIDAYS FALLING ON DAYS OFF**

Observed holidays which fall on the employee's regularly scheduled day off shall be

compensated for on a straight time basis, either by accumulation of compensatory time or by receiving a regular day's pay, at the discretion of the employee, as defined and limited in Article 8.4.

10.4 COMPENSATION FOR HOLIDAYS FALLING ON VACATIONS AND SICK LEAVE

Holidays, including those allowed in lieu of the actual holiday, occurring while an employee is on a paid sick leave or a paid vacation shall be earned by the employee and not charged as sick leave or vacation.

ARTICLE 11

VACATIONS

11.1 VACATION CREDIT

Each employee is entitled to and shall earn annual vacation leave credits from the first date of employment. For calculating vacation leave credits, two thousand eighty (2080) hours (52 weeks times 40 hours) shall equal one (1) year. Proportionate vacation leave credits shall be earned and credited at the end of each pay period; provided, however, employees shall not be entitled to any vacation leave with pay until they have been continuously employed for a period of six (6) calendar months. See Montana Code Annotated 2-19-611. Vacation leave credit shall be earned in accordance with the following schedule:

- a. From first date of employment through ten (10) years of employment at the rate of one hundred twenty (120) hours (the equivalent of fifteen (15) eight (8) hour working days) for each year of service;
- b. After ten (10) years through fifteen (15) years of employment at the rate of one hundred forty-four (144) hours (the equivalent of eighteen (18) eight (8) hour working days) for each year of service;
- c. After fifteen (15) years through twenty (20) years of employment at the rate of one hundred sixty-eight (168) hours (the equivalent of twenty-one (21) eight (8) hour working days) for each year of service;
- d. After twenty (20) years of employment at the rate of one hundred ninety-two (192) hours (the equivalent of twenty-four (24) eight (8) hour working days) for each year of service.

11.2 SEPARATION FROM SERVICE OR TRANSFER TO OTHER DEPARTMENT-CASH FOR UNUSED VACATION LEAVE

An employee whose employment with Employer is terminated shall be entitled upon the date of such termination to cash compensation at his then effective rate of pay then in effect for unused accumulated vacation leave; provided, however, if an employee transfers

between agencies of the Employer, there shall be no cash compensation paid. In the event of such a transfer the receiving agency shall assume the liability for accrued vacation credits of the employee.

11.3 ACCUMULATION OF LEAVE

Vacation leave credits may be accumulated to a total number of days not to exceed two (2) times the maximum number of days earned annually as of the last day of any calendar year. Excess vacation leave credits shall not be forfeited if taken within ninety (90) calendar days from the last day of the calendar year in which the excess was accrued.

11.4 LEAVE OF ABSENCE WITHOUT PAY

An employee may not accrue annual leave credits while in a leave without pay status.

11.5 CHARGES AND CREDITS

Vacation charges and credits shall be charged to the time actually used.

11.6 LEAVES OF ABSENCE

Leave of absence without pay may be used to extend regular vacation, with the prior approval of Employer or its designated representative.

11.7 VACATION DETERMINATION

Vacation shall be determined on the basis of seniority preferences by division and rank.

ARTICLE 12

SICK LEAVE

12.1 SICK LEAVE CREDITS EARNED

Each employee is entitled to and shall earn sick leave credits from the first date of employment. For calculating sick leave credits 2080 hours (52 weeks x 40 hours) shall equal one (1) year. Proportionate sick leave credits shall be earned and credited at the end of each pay period. Sick leave credits shall be earned at the rate of twelve (12) working days for each year of service without restriction as to the number of days which may be accumulated. See Montana Code Annotated 2-18-618.

12.2 QUALIFICATION

An employee may not accrue sick leave credits while in a leave without pay status. Employees are not entitled to be paid sick leave under the provisions of this Agreement until they have been continuously employed for ninety (90) days. Upon completion of the qualifying period, the employee is entitled to the sick leave credits the employee has earned.

12.3 USE

Employee shall be allowed to use earned and accumulated sick leave credits for absences from duty without loss of pay due to any one or more of the following:

- 1) Illness;
- 2) Injury;
- 3) Medical disability;
- 4) Maternity-related disability, including prenatal care, birth, miscarriage, abortion and/or other medical care for either employee or child;
- 5) Quarantine resulting from exposure to contagious disease;
- 6) Medical, dental or eye examination or treatment;
- 7) Care of or attendance to immediate family member for any of the above;
- 8) Care of or attendance to other relative for any of the above at the discretion of the Chief of Police or his designee;
- 9) When there is a death in the immediate family, employee may use up to five (5) days of accumulated sick leave for bereavement leave.
 - a. Immediate family is defined as employee's spouse and any member of employee's household, or any parent, child, sister, brother, grandparent, grandchild, or corresponding in-law.

12.4 ELIGIBILITY

Employees are required to follow the following three steps in order to be eligible for use of sick leave:

- a. Report one (1) hour prior to the beginning of the shift to the shift commander on duty or immediate supervisor the reason for absence.
- b. If the absence is for more than one (1) day in length, the employee must keep the shift commander on duty or immediate supervisor informed of the status of the condition.
- c. Employees who claim sick leave when physically and mentally fit unless under specific provision of this Agreement shall be subject to disciplinary action.
- d. If required by Police Chief, employees must submit a proper medical certificate for any absence charged to sick leave.

12.5 TERMINATION OF EMPLOYMENT

An employee whose employment is terminated is entitled to a lump-sum payment equal to one-fourth (1/4) of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave shall be computed on the basis of the employee's salary or wage at the time

his employment is terminated. Accrual of sick leave credits for calculating the lump-sum payment provided for in this subsection begins July 1, 1971, and the payment therefore shall be the responsibility of Employer; provided, no employee forfeits any sick leave rights or benefits he had accrued prior to July 1, 1971. However, where an employee transfers between agencies within Employer's jurisdiction, he shall not be entitled to a lump-sum payment. In such a transfer the receiving agency shall assume the liability for the accrued sick leave credits earned after July 1, 1971, and transferred with the employee.

12.6 RE-EMPLOYMENT

An employee who receives a lump-sum payment pursuant to this Agreement and who is again employed by Employer thereof shall not be credited with any sick leave for which he has previously been compensated.

12.7 MISCELLANEOUS SICK LEAVE PROVISIONS

- a. Sick leave charges in excess of earned sick leave credits may be charged to earned and available annual leave or leave without pay at the employee's option.
- b. Sick leave charges and credits shall be charged to the actual time used.
- c. Medical appointments may be charged to sick leave provided the minimum time charged is not less than one-quarter ($\frac{1}{4}$) hour. Each absence shall be reported separately and authorized in advance by the employee's supervising officer.
- d. Maternity leave may be charged against sick leave credits up to six (6) weeks, not to exceed 240 hours, without medical documentation.
- e. Paternity leave may be charged against sick leave credits up to forty (40) hours regardless of the shift.
- f. Illness that occurs during an employee's vacation shall be charged to sick leave. Any holidays that fall during a period that an employee is on sick leave will be charged as a holiday and shall not be charged to sick leave.
- g. Sick leave credits will be used on a first earned, first charged basis.
- h. In the event an employee becomes incapable of performing the duties of his regular classification through illness or injury, Employer may transfer the employee, with the employee's consent, without loss of pay to a position for which he is qualified provided the change can be accomplished without displacing another employee.

12.8 SICK LEAVE DONATIONS

Sick leave utilized must not exceed the amount accrued by the employee. If an employee is ill and has exhausted his/her sick leave credits, and needs more time away from work, he/she may utilize his/her accrued annual leave. Members of the Association may donate eight (8) hours of sick leave

to any City employee on an individual basis. Requests for donations must be approved by management. Maximum employee can receive or donate is one hundred-twenty (120) hours in a calendar year.

12.9 LIGHT DUTY

The department will endeavor to modify duty assignments consistent with documented medical restrictions for employees who have experienced work-related injuries. Ordinarily light duty for a work-related injury will be granted for a one year period from the first day of light duty per injury; however, it generally will not be approved beyond the one year limitation.

The department will also attempt to provide light duty to employees injured off duty; however, personnel with duty related injuries take precedence. The Chief of Police may grant ninety (90) days of light duty in a non-duty related injury or illness. Any extension must be placed in writing, recommended by a supervisor and approved by Human Resources. If the request is not approved, the officer may appeal the decision to the City Manager. These decisions will be based upon the circumstances involved, available positions, and alternative resources available to the employee.

This section shall not be construed as a guarantee of a specific form of accommodation nor shall accommodation in one case establish a precedent for similar or dissimilar circumstances.

ARTICLE 13

FAMILY AND MEDICAL LEAVE

The Family and Medical Leave Act of 1993 entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave in any twelve (12) month period for specified family and medical reasons.

13.1 LEAVE ENTITLEMENT: Up to twelve (12) weeks of leave may be taken in any twelve (12) month period. This is computed as twelve (12) months measured forward from the first date leave is used.

13.2 USE: Reasons for taking leave: Unpaid leave must be granted for any of the following reasons:

- a. To care for the employee's child after birth, or placement for adoption or foster care;
- b. To care for an immediate family member (spouse, child or parent) with a serious health condition (does NOT include in-laws); or,
- c. To take medical leave when the employee is unable to work because of a serious health condition.

13.3 SUBSTITUTION OF PAID LEAVE

- a. If leave is taken for the birth, adoption or foster placement of a child (not medical purposes), the employee can choose or the City can require the employee to use all paid vacation leave or compensatory time before taking unpaid leave.
- b. If the leave is taken for the serious illness of an eligible family member or the employee, the employee can choose, or the City can require the employee to use all paid sick leave and compensatory time before using unpaid leave. If the employee chooses, he/she may also use paid vacation leave before taking unpaid leave.

- c. It is the responsibility of the City to designate leave, paid or unpaid, as FMLA-qualifying, based on information provided by the employee. In no event may such designation be made after leave is concluded, or based on information other than that provided by the employee.

13.4 INTERMITTENT LEAVE AND REDUCED HOURS

- a. FMLA leave can be taken intermittently, in less than full day increments. Reduced hour schedules also require the approval of the Police Chief.

13.5 APPLYING FOR FMLA LEAVE: Employees seeking to use FMLA leave must complete a FMLA Request Form and may also be required to provide:

- a. 30-day advance notice of the need to take FMLA leave when the need is foreseeable, or as soon as possible if the need is not foreseeable, usually within one or two working days of learning of the need for leave;
- b. Medical certification to support a request for leave because of a serious health condition affecting the employee or an immediate family member;
- c. Second or third medical opinions and periodic recertification, at the City's expense;
- d. Periodic reports during FMLA leave on the employee's status and intent to return to work; and,
- e. A "fitness for duty" certification to return to work.

13.6 BENEFITS WHILE ON FMLA LEAVE

- a. HEALTH INSURANCE: The City is required to maintain group health insurance coverage for the employee on FMLA leave on the same terms as if the employee had continued to work. If employees are required to contribute a portion towards the health premium, he/she will be required to pay their share while on FMLA, if in a leave without pay status.
- b. ACCRUALS: If the employee is in a leave without pay status, he/she will not accrue sick leave, vacation leave, compensatory time, or holidays.

ARTICLE 14

MATERNITY LEAVE

14.1 POLICY

It shall be unlawful for Employer or its agent:

- a. To terminate a woman's employment because of her pregnancy;
- b. To refuse to grant to the employee a reasonable leave of absence for such pregnancy;
- c. To deny to the employee, who is disabled as a result of pregnancy, any compensation to which she is entitled as a result of accumulation of disability or leave benefits accrued pursuant to plans maintained by Employer or this Agreement; provided that Employer may require disability as a result of pregnancy to be verified by medical clarification that the employee is not able to perform her employment duties;
- d. To require that an employee take a mandatory maternity leave for an unreasonable length of time.

14.2 REINSTATEMENT

Upon return at the end of her maternity leave, such employee shall be reinstated to her original job, if available, or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits and other service credits.

ARTICLE 15

OTHER LEAVES WITH PAY

15.1 **MILITARY LEAVE**

Any employee who is a member of the organized National Guard of the State of Montana or who is a member of the organized or unorganized reserve corps or forces of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, shall be given leave of absence with pay, after six (6) months of employment, the minimum number of days required to fulfill his 15 day/120 hour military service obligation. Such absence shall not be charged against vacation leave credits earned by the employee. Under the terms of this contract refer to State Law, currently MCA 10-1-1009.

15.2 **JURY SERVICE AND SUBPOENA**

Each employee who is under proper summons as a juror or witness shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Such fees shall be applied against the amount due the employee from Employer. However, if an employee elects to charge the time against annual leave, he shall not be required to remit the fees to Employer. In no instance is an employee required to remit to Employer any expense or mileage allowance paid by the court. Employees shall not lose cumulative benefits because of such service.

15.3 **BEREAVEMENT LEAVE**

With the approval of the Chief of Police or a duly authorized officer, employees may be granted leave, not to exceed four (4) hours to attend the funeral of a member of the Department.

ARTICLE 16

LEAVES WITHOUT PAY

16.1 **ELIGIBILITY**

All employees are entitled to take a leave of absence without pay for good and sufficient reasons with prior approval of the Chief of Police and the City Manager.

16.2 **REQUESTS**

Requests for leave of absence without pay shall be submitted in writing by the employee to the supervising officer.

16.3 **DURATION**

The length of leave without pay will be determined on an individual basis and based on the circumstances involved.

ARTICLE 17

HEALTH, SAFETY, WELFARE AND OTHER INSURANCE

17.1 INDUSTRIAL ACCIDENT INSURANCE

Employer shall carry Industrial Accident Insurance on all employees. Each employee must within sixty (60) days, report in writing to Employer any injury in the course of employment. Failure to do so may result in the loss of benefits.

17.2 HEALTH AND ACCIDENT INSURANCE

The Employer agrees to provide non-occupational health and accident insurance coverage for each insurable regular employee and insurable dependents thereof immediately following the period of exclusion provided by the terms of the master policy.

A City health insurance contribution in the amount listed below will be added to the employee's gross pay. This portion of the employee's gross pay is hereinafter referred to as the "Contribution."

As part of this collective bargaining agreement, employees are required to participate in the city's health insurance plan on either a pre-tax or post-tax basis. If an employee elects to participate on a pre-tax basis, the employee shall authorize a payroll deduction from the employee's gross pay equal to the City's contribution. This deduction from the employee's gross pay will be paid into a fund maintained to provide health benefits for eligible employees.

If an employee elects to participate on a post-tax basis, the Contribution shall be taxable income to the employee and the employee shall authorize the payment of the Contribution value, after its deemed receipt, toward the employee's health insurance.

It is hereby acknowledged that both employee and employer retirement contributions will be required on this additional gross income, causing a decrease to the net income of the employee. It is also the intent of the employees and the City that the Contribution be excluded from the determination of the employee's "regular rate" of compensation as that phrase is defined under 29 U.S.C. § 207(e)(4). In the event that any subsequent law, court, arbitrator, or other lawful authority determines that the inclusion of the City's health insurance contribution in the employee's gross pay should be included in overtime compensation calculations, then the parties agree that there will be a corresponding adjustment to the affected hourly rate, pay or benefit to carry out the intent of this provision. The intent of such adjustment will be to result in the least net financial effect on both the employee and the employer.

*The City's contribution of the composite rate will increase with future increases to the composite rate.

The CITY agrees to contribute the following amounts, not to exceed ninety (90) percent of the premium beginning 7/1/07, for each eligible employee covered by this Agreement into the City's Health Insurance Plan. Any additional premium charges after 7/1/07 and all increases in premiums for the duration of this Agreement will be shared to maintain the City's 90 (ninety) percent contribution of the total premium and the employee's contribution of 10%.

Type of Coverage	7/1/07		7/1/08	
	City Composite Contribution	Employee	City Composite Contribution	Employee
Employee	\$712	\$16	\$819	\$ 23
Employee & Spouse	\$712	\$72	\$819	\$ 84
Employee & Child(ren)	\$712	\$69	\$819	\$ 79
Family	\$712	\$95	\$819	\$110

- a. The City reserves the right to add to the benefit plan in effect prior to August 1, 1988, with no obligation to negotiate, and retains the right to delete or modify any or all the added benefits with no obligation to negotiate.

Effective 7/1/97, the City reserves the right to add to, delete from, or modify the benefit plan, with no obligation to negotiate, and retains the right to delete or modify any or all of the added benefits with no obligation to negotiate.

- b. The City shall be at liberty to make an independent selection of the insurance carrier, including the option of partially or fully self-funding with no obligation to negotiate.

17.3 HEALTH DEATH BENEFIT

If an employees is "killed in the line of duty", the City agrees to pay the health insurance premium for dependents who are on the plan at the time of his/her death for twelve (12) months. The determination as to whether or not an employee was "killed in the line of duty" will be made by the City's workers' compensation carrier.

17.4 UNEMPLOYMENT INSURANCE

Employer shall carry unemployment insurance on all employees as required by law.

17.5 INSURANCE CONTRACTS

All requirements and insurance benefits shall be subject to the provisions of the policy issued by the carrier. Written benefit provisions shall be provided to each employee. Benefits shall continue until the last day of the final month of employment.

- 17.6 The City shall continue to provide safe working conditions and equipment. Safety concerns should be handled at the lowest supervisory level possible. All safety concerns will be brought to the attention of the Bureau Chief. If no solution can be found, then the concern should be addressed through the Chain of Command. If the issue is still not resolved, then the issue will be brought to the Labor Management Committee.

ARTICLE 18

ALLOWANCES

18.1 UNIFORMS AND EQUIPMENT

- a. The Employer agrees to budget annually a minimum of \$5,000 for the full cost of replacement of personal body armor, to be purchased by management.

18.2 LOST OR STOLEN PERSONAL PROPERTY

Employer will repair or reimburse employees up to a maximum of Three Hundred Dollars (\$300.00) for any clothing or other personal property damaged or destroyed as a result of accident or vandalism or assault and/or battery upon the employee suffered in the course and scope of employment during assigned duty hours. A written notice of the loss or damage must be filed by the employee with his immediate supervisor immediately within the work shift, but no more than five (5) days after the occurrence of the damage or loss or the claim will be forever waived. Receipts for repair or the appraisal of value shall be submitted when reimbursement is requested. There shall be no reimbursement for loss or theft of cash.

ARTICLE 19

SHIFT TRADING

19.1 POLICY

Consistent with the reasonable operational requirements of the police service to maintain public health and safety, it shall be the policy of the department to permit employees to trade shifts, or a portion thereof, providing no overtime compensation will be paid by Employer and that persons exchanging will be of the same ability or be fully qualified to perform the duties of the rank involved in the trade.

19.2 REQUESTS

When requested in advance, shift trading of one (1) shift or less may be approved by the Shift Commander. Shift trading in excess of one (1) shift shall require the prior approval of the Chief of Police.

19.3 OTHER EMPLOYMENT

No days exchanged shall be for the purpose of other employment.

ARTICLE 20

MANAGEMENT RIGHTS

In addition to State law, Employer retains the full and unrestricted right to operate and manage all manpower, facilities, methods and equipment, to establish functions and programs, make and enforce all rules and regulations; to plan and set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structures; to select, direct, assign, control and determine methods, means, organization and number of personnel; to establish work schedules, assign overtime, and to perform any inherent managerial functions not specifically limited by this Agreement. Any term and condition of employment not specifically established or modified by this Agreement shall remain solely within the discretion of Employer to modify, establish, or eliminate.

ARTICLE 21

GRIEVANCE PROCEDURE

21.1 DEFINITIONS

- a. Grievance - any dispute which may arise over the application, meaning, or interpretation of this Agreement. An alleged grievance shall be evidenced by a signed, written complaint stating in general terms the nature of the grievance, the facts on which it is based, and the remedy requested.
- b. Aggrieved party - the employee or employees or the Association asserting the grievance.
- c. Parties of interest - the employee or employees or Association asserting the grievance, any person or persons assisting in processing the grievance, any person or persons who might be required to take action or against whom action might be taken in order to resolve the grievance.

21.2 PURPOSE

- a. The purpose of this procedure is to secure, at the lowest possible level, and in an atmosphere of courtesy and cooperation, equitable solutions of grievances which may arise.
- b. Nothing contained in this Article of this Agreement shall be construed to prevent any employee from discussing a problem with Employer and having it adjusted, provided that any resolution of the problem shall be consistent with terms of this Agreement.

21.3 RIGHTS TO REPRESENTATION

The aggrieved party may, at his option, be present at all meetings and hearings and may be represented at all meetings and hearings at all levels and stages of the grievance procedure by an Association representative.

21.4 TIME LIMITS

All time limits shall consist of working days. The time limit specified may be extended by written, mutual consent.

21.5 PROCEDURE

- a. STEP I Within ten (10) days of the occurrence of the grievance, or within the (10) days of the time that the aggrieved party becomes aware of the occurrence of the grievance, or with reasonable diligence should have become aware of the occurrence of the grievance, the aggrieved party shall present his immediate supervisor with the signed, written complaint and an attempt to resolve the grievance through informal discussion shall be made.
- b. STEP II - If the grievance is not resolved at Step I, the decision may be appealed to the Chief of Police within ten (10) days of the decision at Step I or within then (10) days of the date of

the meeting at Step I in the event no decision has been rendered. The Chief of Police or his designee shall meet with the aggrieved party, Association representatives, and other parties of interest within the (10) days to discuss and attempt to resolve the grievance. The decision of the Chief of Police shall be issued in writing to the aggrieved party and to the Association no later than ten (10) days following said meeting.

- c. STEP III - If the grievance has not been resolved at Step II, the decision may be appealed to the City Manager for consideration within ten (10) days of the receipt of the decision at Step II or within ten (10) days of the date of the meeting at Step II in the event no decision has been rendered. Said appeal may be taken by filing a written request therefore with the City Manager. The City Manager shall notify the aggrieved party and the Association if he deems it necessary to meet with them. If a meeting is not held, the City Manager shall render a decision in writing within 15 days. If a meeting is held, the City Manager shall render a decision in writing with 10 days.
- d. STEP IV
- 1) If the grievance remains unresolved at the conclusion of Step III, the grievance may be submitted by the aggrieved party, the Association or Employer for binding arbitration, provided that written notice of the request for submission is delivered to the opposing party within twenty (20) days of the receipt of the decision at Step III or within thirty (30) days of the date of the Step III meeting in the event no decision has been rendered.
 - 2) If the parties cannot agree as to an arbitrator within seven (7) days from the date of notification that arbitration will be pursued, the Board of Personnel Appeals shall be called upon to submit a list of five (5) names of arbitrators. Within seven (7) days of the receipt of the list, the parties shall select an arbitrator by striking two names from the list in alternate order, and the name thus remaining shall be forwarded to the board of Personnel Appeals. The Board of Personnel Appeals shall notify the arbitrator of his selection. The date of the arbitration hearing shall be arranged by the arbitrator in consultation with the Employer and the Association. Within thirty (30) days of the date the hearing is closed, the arbitrator shall make an award unless other time limits are required of the arbitrator.
 - 3) Rules of procedure to govern the hearing shall be fixed by the arbitrator, and the award, when signed by the arbitrator and submitted to the Association and to the Employer within the prescribed time limits, shall be final and binding and shall be subject to rulings in a court of competent jurisdiction.
 - 4) The arbitrator shall have no power to add to, subtract from, or alter or vary in any manner the express terms of this Agreement, nor imply any restriction or burden against either party that has not been assumed in this Agreement. The arbitrator shall consider and decide only the specific issue(s) submitted by the parties and shall have no authority to make a decision on any other issue not so submitted. The arbitrator shall be without power to render any decision which is contrary to or inconsistent with or which modifies or varies in any way applicable rules, laws or regulations, except to the extent that this Agreement supersedes any such rule, law or regulation. No single monetary award by the arbitrator shall exceed the sum of \$400.00 and no collective

monetary award by the arbitrator shall exceed the sum of \$1,000.00, except any such award related to required, essential uniform items damaged or destroyed in the performance of necessary services while on duty. The arbitrator shall in no way comment on the amount of award except to specify the amount.

- 5) The fees and expenses of the arbitrator shall be shared jointly and equally by the Association and Employer. Neither party shall be required to pay any part of the cost of a stenographic record without its consent.

21.6 MISCELLANEOUS

- a. The aggrieved party and his immediate supervisor may agree in writing that Step I of the procedure may be bypassed and the grievance processed at Step II.
- b. Grievance meetings and hearings shall be conducted at a time that will provide an opportunity for the aggrieved party and all parties of interest to be present. When scheduled meetings or hearings are held during regularly scheduled duty hours, persons required to participate in the meeting or hearing shall be excused without loss of pay or other benefits.
- c. Reprisals shall not be taken against any person by reason of participation in the grievance process.
- d. Except such matters as would otherwise constitute apart thereof, all documents, communications, and records dealing with the processing of a grievance will be filed separately from the personnel files of the participants and shall be treated as confidential material. These materials shall not be reviewed for decisions regarding reemployment, promotion, assignment or transfer.
- e. The established grievance procedure shall be utilized to resolve grievances.
- f. Any claim or grievance filed prior to the expiration of this agreement shall be processed through the grievance procedure until resolution.

ARTICLE 22

PHYSICAL EXAMINATIONS

22.1 REQUESTS BY EMPLOYER

If Employer requests a mental or physical examination to determine job fitness, the employee will be provided a physical by a physician at no cost to the employee.

ARTICLE 23

SAVINGS CLAUSE

Should any Article, section, or portion thereof of this Agreement be held unlawful or invalid by any court or board of competent jurisdiction, such decision shall apply only to the specific Article,

section, or portion thereof directly specified in the decision. Upon issuance of such a decision, the parties agree to negotiate immediately a substitute for the invalidated Article, section or portion thereof.

ARTICLE 24

MISCELLANEOUS

24.1 **AGREEMENT AND STANDARDS**

- a. This Agreement constitutes the full and complete agreement between the parties.
- b. Mutually recognized benefits now received by employees not covered by the terms of this Agreement or in excess of the minimums set forth herein shall remain in full force and effect, except in the event that the continuation is beyond the power and authority of Employer.
- c. No employee shall be bound by any provision, rule, regulation, express or implied, except as written in this Agreement or other written policy of Employer, or by action of the Legislature of the State of Montana.

24.2 **MONTANA STATE LAW**

The parties hereto recognize that the Police Department of the City of Great Falls is subject to the laws of the State of Montana that pertain to police departments in cities of the first and second class. In the event that this Agreement conflicts with the laws of the State of Montana, that portion of the agreement shall be null and void and without effect.

24.3 **LABOR-MANAGEMENT COMMITTEE**

A Labor-Management Committee shall be formed and consist of three (3) members from the Association and three (3) from the Employer. The Committee will meet on a quarterly basis or more often as needed. Any subject of concern to either the Association or Employer may be presented to this Committee.

- a. The City Manager may adopt procedures as part of the Rules and Regulations of the Police Department after review and consideration by the Labor-Management Committee, except that such procedures shall be subject to the terms and conditions of this Agreement.

24.4 **DISTRIBUTION**

This Agreement shall be printed at the expense of Employer and six (6) copies thereof shall be delivered to the Association within thirty (30) calendar days of ratification by the parties.

ARTICLE 25

TERMS, AMENDMENTS AND MODIFICATION OF BASIC AGREEMENT

25.1 **TERM**

This Agreement shall be effective as of July 1, 2007, and shall remain in full force and effect until the 30th day of June, 2009.

25.2 REOPENING

This Agreement shall be automatically renewed and will continue in full force and effect for an additional period of one (1) year unless either party hereto shall notify the other in writing, no later than May 1, 2009, of its desire to amend, modify, supplement, or add to any provisions of this Agreement and to negotiate over the terms thereof. In such event bargaining shall commence no later than June 1, 2009.

IN WITNESS WHEREOF, the Association and Employer have caused this Agreement to be executed in their names by their duly authorized representatives at Great Falls, Montana, this ____ day of _____, 2007.

FOR THE CITY OF GREAT FALLS:

FOR THE GREAT FALLS PPA:

City Manager

President

ATTEST:

City Clerk

(SEAL OF CITY)

REVIEWED FOR LEGAL CONTENT:

City Attorney