



**Item:** Resolution 10048 to Levy and Assess Special Improvement Portage Meadows Maintenance District No. 1195

**From:** Judy Burg, Taxes and Assessments

**Initiated By:** Annual Assessment Process

**Presented By:** Melissa Kinzler, Fiscal Services Director

**Action Requested:** City Commission conduct public hearing and adopt Resolution 10048

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**Public Hearing:**

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

**Suggested Motion:**

1. Commissioner moves:

“I move the City Commission (adopt/deny) Resolution 10048.”

2. Mayor calls for a second, discussion, and calls for the vote.
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**Staff Recommendation:** Staff recommends the City Commission adopt Resolution 10048.

**Background:** In February 1977, Resolution 6913 created Special Improvement Maintenance District 1195 for the purpose of maintaining the Green Belt of the Portage Meadows Addition. The assessment covers the costs of materials, snow removal labor, water, mowing labor, fertilizer costs and labor, aerification labor, and tree pruning, which was part of the original Planned Unit Development.

The assessment also includes the costs of overhead and equipment usage for the Portage Meadows Green Belt. Assessments for each year may be reviewed on an annual basis and may be revised according to the following formula: cost plus ten percent (10%) divided by the total square feet of all of the lots within said district times the square feet of each lot. The City does not seek to “make” money from the assessment but rather to simply cover its cost. When the City does not cover its service costs, the result is a negative fund balance. The City cannot subsidize these services with the General Fund (through the Parks and Recreation budget).

An increase of approximately 24% has been recommended for Fiscal Year 2015 to cover operational costs associated with the Green Belt of the Portage Meadows Addition. A major factor in the increase was due to increased watering costs and prior fund balance deficits. The increase does not address the funding needs for repair or replacement of the current irrigation system. The Portage Meadows Assessment was last increased by 116% in FY 2011.

As part of the annual budget development and adoption procedures, the Special Improvement Portage Meadows Maintenance District Assessment Resolution must be submitted for City Commission action. A public notice and hearing is required prior to final passage of the assessment resolution.

**Concurrences:** Park and Receptions staff is responsible for the operational expenses of the Portage Meadows District Fund. Fiscal Services staff is responsible for assessing and collecting the revenues necessary to carry out the operations.

**Fiscal Impact:** Adoption of Resolution 10048 will allow the City to finance the cost of repairs and maintenance required each year in the Special Improvement Portage Meadows Maintenance District, which prevents the City from subsidizing home owners and losing money that will just cover operating costs with no capital expenditures.

#### ASSESSMENT ANTICIPATED

The anticipated assessment amount for Portage Meadows for the next fiscal year is \$58,079. This requested increase is approximately 24% and will be allocated amongst the 186 properties within the boundaries of Portage Meadows Maintenance District. The last requested increase to the assessment amount was in 2011. The assessment for Fiscal Year 2015 equates to a factor of \$0.069002 per square foot and will result in an annual assessment of \$310.58 for an average lot of 4,501 square feet (4,501 sq ft x 0.069002 factor = \$310.58.) This is an increase of \$59.30 for an average lot of 4,501 square feet.

**Alternatives:** The City Commission could choose to deny the adoption of Resolution 10048 or deny the assessment increase of 24%; however, the City agreed to provide the services when the land area was donated to the City. The proposed assessment will allow for the recovery of costs incurred providing those services.

Another option is for the residents to form an association to maintain the Portage Meadows Green Belt. While this would take a fair amount of legal review to determine the best method, it would be a way for the neighborhood to manage their own common areas.

Attached to this agenda report is a memorandum to former City Manager John Lawton, which encapsulates ongoing issues with maintenance in the Portage Meadows Green Belt.

**Attachments/Exhibits:** Resolution 10048  
Map of Portage Meadows Maintenance District No. 1195  
Legal Notice  
Memorandum: Portage Meadows Green Belt Maintenance

## RESOLUTION NO. 10048

### **A RESOLUTION LEVYING AND ASSESSING THE COST OF MAINTAINING THE GREEN BELT PARK OF PORTAGE MEADOWS ADDITION IN THE CITY OF GREAT FALLS ON ALL REAL ESTATE IN SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 1195 FOR THE FISCAL YEAR BEGINNING JULY 1, 2014 AND ENDING JUNE 30, 2015**

**WHEREAS**, the City Commission did create and amend Special Improvement Maintenance District No. 1195 by Resolutions 6913, 6980, and 8426 on February 15 and July 17, 1977, and July 16, 1991, respectively; and

**WHEREAS**, the City intends to continue maintaining the Green Belt Park of Portage Meadows Addition within Special Improvement Maintenance District No. 1195; and

**WHEREAS**, on July 15, 2014, the City Commission adopted Resolution 10080, Annual Budget Resolution, in which the estimated costs of such maintenance within Special Improvement Maintenance District No. 1195 was reflected as FIFTY-EIGHT THOUSAND SEVENTY-NINE DOLLARS (\$58,079); and

**WHEREAS**, in accordance with § 7-1-4127, MCA, notice was published setting forth that Resolution No. 10048 Levying and Assessing the Cost of Maintaining the Green Belt Park of Portage Meadows Addition in the City of Great Falls on all Real Estate in Special Improvement Maintenance District No. 1195 would be brought before the Great Falls City Commission for public hearing on August 5, 2014.

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

#### Section 1 – Maintenance Costs Assessed

The cost of care and maintenance in Special Improvement Maintenance District No. 1195, totaling \$58,079, be levied and assessed upon the properties in said district for the fiscal year ending June 30, 2015.

#### Section 2 – Maintenance Assessment Method

There are 186 properties contained within the boundaries of Portage Meadows Special Improvement Maintenance District No. 1195. The costs per property and the property list for Portage Meadows Special Improvement Maintenance District No. 1195 are set forth in the records of the City Clerk of the City of Great Falls. Said property is generally identified as each lot or parcel of land within Portage Meadows Additions #1, #2, and #3, excluding Blocks 4, 5, and 6 of Portage Meadows #1 Addition.

Assessments may be reviewed on an annual basis and the amount may be revised according to the following formula: cost plus ten percent (10%) divided by the total square feet of all of the lots within said district times the square feet of each lot. Costs shall be for expendable material, snow removal labor, water, mowing labor, fertilizer costs and labor, aerification labor, and tree pruning costs.

Section 3 – Assessment Due Date

Assessments are payable in two payments and will become delinquent at 5:00 o'clock p.m. on November 30, 2014 and May 31, 2015.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, this 5<sup>th</sup> day of August, 2014.

\_\_\_\_\_  
Michael J. Winters, Mayor

ATTEST:

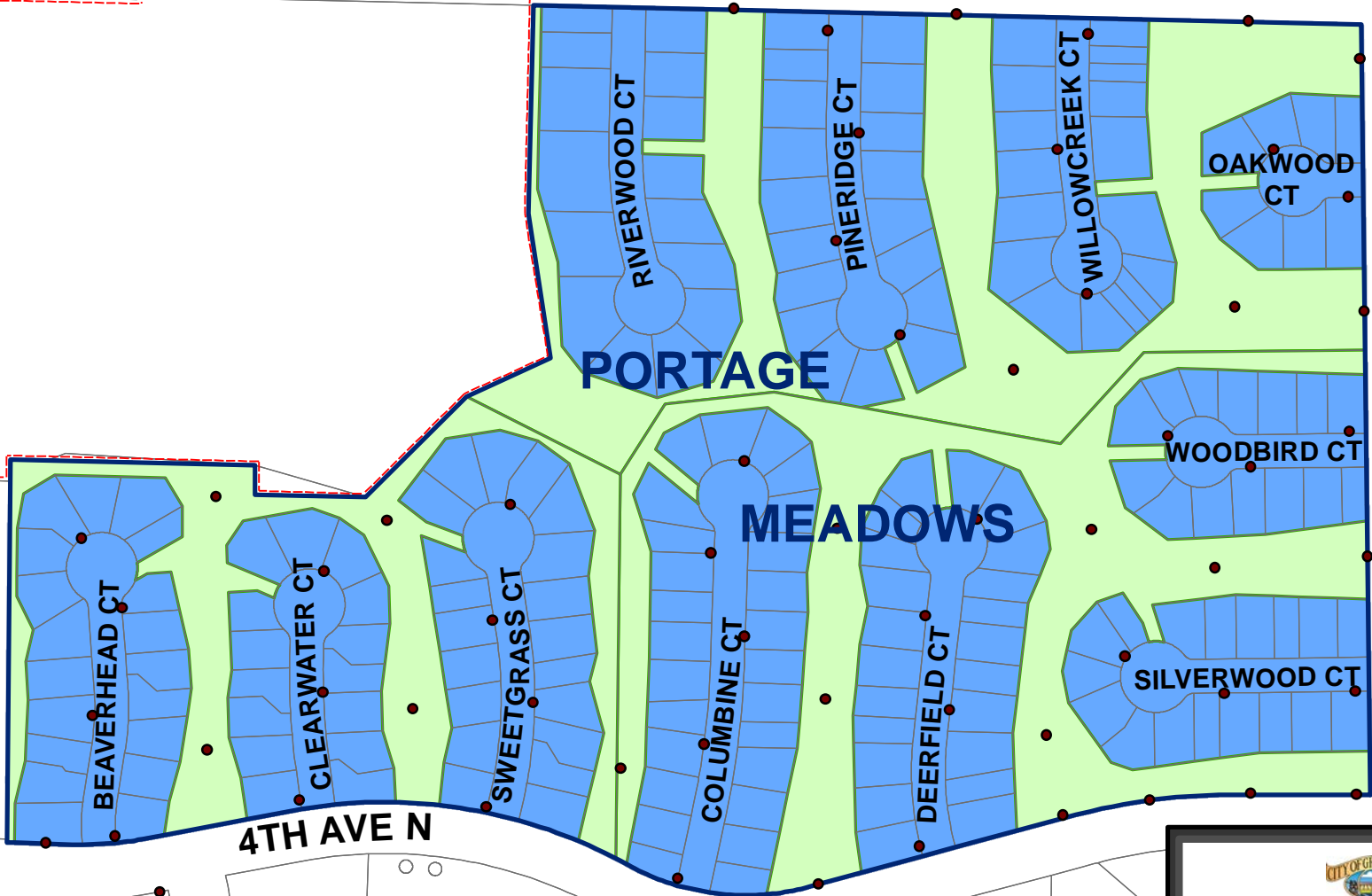
\_\_\_\_\_  
Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
Sara R. Sexe, City Attorney

# Portage Meadows Maintenance District No. 1195



46TH ST N

4TH AVE N

52ND ST N

  
City of Great Falls  
June 12th, 2014

-  City Limit Line
-  Light Poles
-  Green Belt Area
-  Portage Properties



This map is for reference only ... to comment please contact Jeff Hedstrom at 455-8437.

## PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN that Resolution 10048 – A Resolution Levying and Assessing the Cost of Maintaining the Green Belt Park of Portage Meadows Addition in the City of Great Falls on all Real Estate in Special Improvement Maintenance District No. 1195 for the Fiscal Year Beginning July 1, 2014 and Ending June 30, 2015 – will be brought before the Great Falls City Commission for public hearing in the Commission Chambers, Civic Center Building, 2 Park Drive South, Great Falls, Montana, on Tuesday, August 5, 2014, at 7:00 o'clock p.m. Any interested person may appear and speak for or against said Resolution 10048 or submit in writing any comments to the City Clerk prior to or during the Commission Meeting.

/s/ Lisa Kunz  
City Clerk

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DO NOT PUBLISH BELOW THIS LINE:  
Publication Dates: July 11 & 18, 2014

MEMORANDUM  
CITY-COUNTY PLANNING BOARD OFFICE

RECEIVED

AUG - 7 1992

CITY OF GREAT FALLS  
FINANCE

DATE: August 7, 1992  
TO: John Lawton, City Manager  
FROM: *JM*  
John Mooney, Planning Director  
SUBJECT: Portage Meadows Greenbelt  
Transfer of Park Land to Lot Owners

During the August 4, 1992, City Commission meeting, the hearing on Resolution No. 8499 pertaining to the annual assessment level for the Portage Meadows greenbelt maintenance was conducted. At the close of the consideration of the issue, the reoccurring subject of transferring title for the greenbelt area from the City to lot owners was raised by Commissioners and Portage Meadows property owners.

The "greenbelt" area in the various phases of Portage Meadows is dedicated park land as provided on the various plats of phases of Portage Meadows. Over the past 15 years or so, the greenbelt, maintenance responsibilities, maintenance levels, assessment levels and related matters have become contentious issues consuming much Commission, staff and property owners time and effort.

During one of the more recent exercises to look at this issue and to try to develop a situation which was mutually acceptable to the City and the property owners, a matrix was developed identifying alternatives/options. Attached please find a copy of an August 24, 1990, memorandum, with attachments, including the matrix and other information.

A change from the present maintenance arrangement would not be impossible but could be difficult. It would be easier to turn over the maintenance responsibility to some other entity than it would be to transfer title of the dedicated park land. Complicating factors include the following:

- ◆ We are dealing with dedicated park land as dedicated on the various subdivision plats and as negotiated as part of a Planned Unit Development (PUD) review process. Many owners contend they bought in the PUD due in part to the park land and the greenbelt and to eliminate the greenbelt would be a breach of faith and contract on the City's part.
- ◆ Converting the park land to privately owned land would require the preparation of an amended plat enlarging the adjacent lot to encompass the abutting portion of former dedicated park. Preparation of the plat would be a time consuming, costly

August 7, 1992

process requiring participation and cost sharing of expenses by every lot owner. Failure of one, or only a few, to participate would kill the effort.

- ◆ Compromising the PUD concept could be a concern. Some of the lot owners in Portage Meadows remain firmly committed to perpetuation of the original design concept. This includes common open space, common access through and use of the open space, utilizing it as the primary pedestrian circulation system in the neighborhood, etc. Commitment to preserving the concept has often been expressed by some home owners during previous hearings and meetings involving rezoning or resubdivision proposals in Portage Meadows. We presume owners with this position would prevent elimination of the dedicated park and preparation of an amended plat.
- ◆ To the best of our knowledge, there is no singular entity existing, such as a homeowners association, with legal authority to represent all owners with which the City can negotiate and contract. Addressing the issue could involve dialogue with approximately 200 lot owners with differing aspirations, interests, financial positions, attitudes, support for any given proposal, etc. This could consume an inordinate amount of staff time when ultimately one or a few obstructionists could block consummation of some negotiated arrangement.
- ◆ Replatting of the area to eliminate the dedicated park and aggregate various park portions with abutting lots would be approaching the impossible. Such a plat would require the signature of every owner, lien holder and mortgage holder within the amended plat boundary.
- ◆ If the park land were to be sold, complying with City's Ordinance requirements in Chapter 3.12, O.C.C.G.F., as presently written and possible requirements in Montana Statutes could be very difficult. The following questions arise:

Would someone not adjacent to park land being offered for sale be allowed to acquire the land if that party were the highest bidder?

Could we be creating land locked nuisance parcels?

What if the most logical nearby lot owner refuses to submit an offer to buy or is out bid by a neighbor?

What parcel description can be used for a sales offer description without first having an amended plat?



August 7, 1992

What if parcels are created for the purpose of sale, then sold, and then subsequently have delinquent taxes on them requiring them to be put up for sale under statute?

What about the cost of removal of existing sidewalk, drainage and irrigation improvements?

- ◆ Numerous utilities exist in the greenbelt area including City water and sanitary sewer mains. The greenbelt provides for storm runoff and drainage. The present open space concept allows reasonable access for maintenance and repair of those utilities while subdivision and disposal of the greenbelt area would undoubtedly complicate such service tasks.

It is probably not feasible to pursue vacation and sale of the dedicated park land due to some of the reasons provided herein. It may, however, be possible to develop some other maintenance arrangement. Some concerns in this area, however, include the following:

- ◆ Creation of and perpetuation of a single entity with the ability, legal and financial authority and financial capacity to commit to a long term maintenance program.
- ◆ The legal and practical ability of some non-City entity to collect and manage proceeds from all property owners for each owner's proportionate share of the care of maintenance and operation. Obviously related to this is recourse by such an entity for non-payment by a lot owner.
- ◆ Protection of the City's interests for its ultimate obligation to be responsible for the dedicated park land.
- ◆ Conflict with, or amendment of, existing agreements and other documents between the City and Portage Meadows lot owners.

The primary purpose of this memorandum is to acquaint the newer Commissioners with some of the facets of this subject and to refresh the memories of longer term Commissioners. If additional information is desired, please advise. Also, please advise if you would like to arrange any contact, dialogue or meetings with Portage Meadows homeowners/lot owners.

JM:jp

Attach: August 24, 1990, memo w/attach.

cc w/attach: Jerry Sepich, Park and Rec. Director  
Tim Magee, Finance Director  
Erl Tufte, DPW Director  
Cheryl Patton, C. D. Director  
Dave Gliko, City Attorney

J. L. 77

INTER-OFFICE MEMORANDUM  
CITY OF GREAT FALLS, MONTANA

TO: John Lawton, City Manager  
FROM: John Mooney, Planning Director  
SUBJECT: Portage Meadows Greenbelt

DATE: August 24, 1990  
REPLY BEFORE: \_\_\_\_\_

This memorandum is intended to provide background information concerning the Portage Meadows Greenbelt and some possible options in handling the situation.

The subdivision plats and annexations of the three phases constituting Portage Meadows Addition were approved by the City on August 24, 1976, June 21, 1977, and September 12, 1978, respectively. The greenbelt area provided on the subdivision plat of each phase was dedicated to the public as park land upon the filing of each plat. A Statement of Intent & Agreement (Annexation Agreement) between the City and the developer accompanied the annexation of each phase. Attached is a copy of Section VII.G. Greenbelt from the Agreement for Portage Meadows No. 3 Addition. The language in the Agreement for each phase concerning the greenbelt is essentially the same as that attached.

The Agreement allowed the developer (Owner) a great deal of latitude in designing and improving the greenbelt. At that time, the City Administration and the City Commission had a posture of encouraging this type of development. The developer was responsible for installation of the landscaping and walkway system and the cost of the sprinkler system, while the City's only responsibility involved installing the sprinkler system. The City was to accept responsibility of the maintenance of the greenbelt upon acceptance by the City of the improved portion of the greenbelt. The Agreement also provided for establishment of a maintenance district by the City to defray costs associated with maintaining the improved Greenbelt.

The original developer of Portage Meadows did substantially improve the greenbelts created in conjunction with Phases 1 and 2 which, after completion, were incorporated into Special Maintenance District No. 1195. Please see the attached map exhibit.

Starting in 1980, the local economy experienced a significant decline. The original developer, before making any greenbelt improvements in Phase No. 3, went into default and a local lending institution assumed ownership of the majority of the undeveloped lots in Phase No. 3.

John Lawton, City Manager

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Several years later, another developer purchased the vacant lots from the lending institution and in 1989 initiated creation of SID No. 1236 to improve the remainder of the greenbelt in Portage Meadows Addition. Upon completion of the improvements and acceptance by the City, it is anticipated this last phase of the greenbelt and abutting lots will be included in Special Maintenance District No. 1195. The current Portage Meadows annual assessment set by Resolution No. 8362 approved by the Commission on August 7, 1990 amounts to \$74.21 for a typical 4,300 sq. ft. lot in Portage Meadows Addition and it is probably misleading to talk about assessments for a 7,500 sq. ft. lot.

In response to suggestions and requests by Portage Meadows homeowners during the August 7, 1990 Commission meeting, our office has formulated the attached matrix identifying some alternatives or options in handling the greenbelt issues.

We understand input on the subject is also being provided by Tom Sullivan.

If, after you've had an opportunity to review all available material, you would care to further discuss this issue, please contact me.

Attach:       Map Exhibit  
                  Excerpt from Annexation Agreement  
                  Matrix of Alternatives/Options

cc: Tom Sullivan, Park & Recreation Director

ALTERNATIVES/OPTIONS REGARDING  
PORTAGE MEADOWS GREENBELT

Alternative/Option Description	Pros	Cons	Comments
1. 'Do Nothing'	Adheres to the original theme of the PUD including a City maintained Greenbelt.	Would do nothing to appease some homeowners who feel they're being abused for expenses associated with Greenbelt.	
2. Portage Meadows homeowners create a homeowners association or maintenance association for purpose of Greenbelt maintenance.	Would eliminate need for and allow dissolution of City Special Maintenance District.	As Greenbelt would still be dedicated City park, could necessitate financial surety from homeowners or maintenance association for performance.	Homeowners or maintenance association could hire a contractor or do Greenbelt work themselves.
3. City maintain Greenbelt with general tax dollars as other City parks.	Result in cost savings to Portage Meadows homeowner, but increased burden to the general taxpayer.	By its design and function, maintenance of the Greenbelt is probably more costly than a typical City park. Would probably result in more complaints to City on quality and quantity of maintenance.	
4. City vacate dedicated Greenbelt and relinquish it to individual adjacent lot owners.	Eliminates public owned Greenbelt and corresponding maintenance by City or other entity.	Would destroy a major component of the original theme of the PUD. Eliminates park provision for residential development required by subdivision law. Would necessitate an extremely complicated Amended Plat and probable 100% concurrence by property owners.	This alternative is considered nearly impossible to accomplish due to amended plat requirements.
5. City relinquish dedicated Greenbelt to a single entity such as homeowner's association.	Removes City from ownership and maintenance responsibility associated with Greenbelt.		Disposal of City property without benefit of a public bid process is questionable.
6. City and Portage Meadows homeowners cooperate in a 'joint effort' to maintain Greenbelt.	Would reduce maintenance costs.	Coordinating maintenance efforts to be undertaken by nearly 200 homeowners on any "voluntary" basis could be a cumbersome task with the City probably still ultimately responsible.	
7. City lease Greenbelt to Homeowner's Association.	Removes City from maintenance responsibility and allows homeowners to determine extent of maintenance. May instill in homeowners a higher degree of pride and involvement with Greenbelt.	Would take significant effort in creating a homeowner's association. Association would need strong leadership or management to be effective. Association would need special tools to deal with any delinquent maintenance assessment.	Legal questions arise on handling those homeowners refusing to participate in an association.

1. OWNER shall dedicate to CITY that portion of SUBDIVISION denominated Portage Meadows Park, and hereinafter referred to as Greenbelt. The exact location of said Greenbelt is shown in the final plat. The walkways within the Greenbelt shall be located generally as reflected within the Preliminary Plans of SUBDIVISION. However, OWNER shall have the right to alter said locations with concurrence of the Department of Parks and Recreation of CITY to fit the land contours after the same have been finally established. No final landscaping plan shall be required of OWNER, but OWNER shall perform landscaping and locate the same under the supervision of the Department of Parks and Recreation of CITY.

2. IMPROVEMENTS. OWNER shall install in the Greenbelt Section of SUBDIVISION, grass, trees, shrubs, and sidewalks with said installation and location of said improvements to be under the supervision of the Department of Parks and Recreation of CITY. OWNER shall furnish, but not install, a sprinkler system for installation in the Greenbelt Section of SUBDIVISION. Walkways shall be a minimum of 5 feet in width. Walkways shall be constructed of concrete.

3. COST SHARE. OWNER shall be responsible for the material cost of the sprinkler system to be installed in the Greenbelt and shall be responsible for the cost of landscaping the said Greenbelt including the cost of grass seed and plantings including shrubs and trees, provided that OWNER's total cost for said improvements shall not be required to exceed \$17,500.00, and said cost may be less, if possible.

4. MAINTENANCE OF GREENBELT IMPROVEMENTS. OWNER shall be responsible for maintenance and upkeep, including the cost thereof, of the Greenbelt improvements prior to its acceptance by CITY. Upon acceptance by CITY of any portion of the Greenbelt, CITY shall be responsible for upkeep and maintenance, including the cost thereof, of said portion of the Greenbelt, said upkeep and maintenance to be equivalent to the upkeep and maintenance performed in other City Parks. The Portage Meadows Maintenance District shall become effective for those lots contiguous to a completed section of the Greenbelt upon the date on which said completed section of the Greenbelt is accepted by CITY, pursuant to the proposed ordinance to incorporate SUBDIVISION into Portage Meadows Maintenance District.

