



Item: Public Hearing - Resolution 10111 to annex, Ordinance 3131 assigning City zoning, and the Improvement Agreement, all pertaining to CHS Inc., legally described as remainder tract of Certificate Of Survey 2466, known as Mark 4C, located in the SW¼ NW¼ of Section 3, Township 20 North, Range 4 East, Cascade County, Montana

From: Galen Amy, Planner II, Planning and Community Development

Initiated By: CHS Inc., Owner

Presented By: Craig Raymond, Director of Planning and Community Development

Action Requested: City Commission adopt Resolution 10111, Ordinance 3131, and approve the Annexation Agreement all pertaining to CHS Inc.

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 Motions: (Each motion to be separately considered)

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 10111 and (approve/deny) the Improvement Agreement, all pertaining to CHS Inc.”

and;

“I move that the City Commission (adopt/deny) Ordinance 3131.”

2. Mayor calls for a second, discussion, and calls for the vote after each motion.
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Recommendation:

At the conclusion of a public hearing held on May 12, 2015, the Planning Advisory Board recommended the City Commission approve annexation of the subject property addressed as 5325 10th Avenue North, and the Zoning Commission approved assigning a zoning classification of I-2 Heavy Industrial district upon annexation into the City, subject to fulfillment of the following Conditions of Approval:

1. The proposed project shall be developed consistent with the conditions in this report, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
2. Within two (2) years of the date of final City Commission approval, the applicant shall install a fire sprinkler system in the F-1 portion of the existing building.
3. A Storm Water Management Plan shall be developed to City standards and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits.
4. The applicant shall submit a completed Industrial Waste Water Questionnaire to the City Public Works Environmental Division and adhere to any resulting requirements therein.
5. An Improvement Agreement shall be prepared, executed and filed, containing terms and conditions for development of the subject property including, but not limited to, agreement by applicant to:
 - A. Install within two years of the date of final City Commission approval, the public improvements referenced in Paragraph 2 above.
 - B. Install boulevard trees on the north side of 10th Avenue North and install boulevard style sidewalk on the south side of 10th Avenue North.
 - C. Indemnify the City for any damages attributable to adverse soil or groundwater conditions.
 - D. Pay all applicable fees owed as a condition of annexation, as determined and agreed upon in the Improvement Agreement.

Public Notice for the Planning Advisory Board/Zoning Commission Public Hearing was published in the *Great Falls Tribune* on May 12, 2015. One citizen spoke in favor of the project and one citizen expressed concerns at the public hearing.

Ordinance 3131 to assign City zoning to the subject property was accepted by the City Commission on first reading on June 2, 2015. Notice of Public Hearing before the City Commission for the annexation and establishment of City zoning was published in the *Great Falls Tribune* on June 21, 2015.

Staff recommends approval of the proposed annexation and zoning of ±13.796 acres of unincorporated land, legally described above, herein referred to as subject property.

Background:

CHS Nutrition Great Falls currently produces approximately 70,000 tons of finished cattle, poultry, equine and pork feeds per year, averaging 6,400 tons per month, with 2,000 tons being bagged feed and the remainder going out in bulk truck. Most of the storage is in bagged feed with raw feed ingredients (molasses, mineral oil, canola oil, wheat and barley midds - a byproduct from the flour mills, like bran - corn and soy hulls) stored on site. There are internal, as well as 6 external, ingredient bins all numbering 1-67. The mill itself is 120 feet to the roof. CHS is expanding to accommodate the region's feed needs, covering an approximate 300 mile radius around the city. There are plans currently being developed for this area's growing needs. CHS is a cooperative committed to the needs of area farming and ranching communities.

The subject property is currently located in Cascade County and is zoned I-1 Light Industrial.

The property is located outside, but adjacent to, the City limits. North of the subject property is railroad right-of-way and a City I-2 Heavy Industrial district along River Drive. To the east across 57th Street North is Malmstrom Air Force Base, which operates in the County. Also in the County, to the west is an industrial corridor along 10th Avenue North. To the south, the subject property fronts 10th Avenue North, and the portion of the right-of-way abutting the subject property is in the City limits, as well as the Siebel Soccer Park.

Annexation Request

The applicant, CHS Inc., is requesting annexation of ±13.796 acres from Cascade County into the City of Great Falls for its existing CHS Nutrition operation as an agricultural livestock feed processing plant. The applicant is making the request in order to connect to the City water and sewer system.

City of Great Falls Growth Policy

The proposed annexation is consistent with the overall intent and purpose of the 2013 City Growth Policy Update, especially supporting the Physical portions of the Growth Policy in relation to the reduction in unincorporated enclaves and maximizing existing infrastructure. Additional supportive Policies that this project is consistent with include:

Economic

Eco3.4.2 Promote a “business friendly” attitude and support the use of an ombudsman role in all facets of business development.

Physical - Land Use

Phy4.1.3 Create a balanced land use pattern that provides for a diversity of uses that will accommodate existing and future development in the City.

Physical - Efficient Infrastructure

Phy4.3.4 Ensure that new development does not increase the cost or adversely impact existing service levels or service delivery.

Physical - Growth Policy

Phy4.7.6 Encourage new development in areas contiguous to existing development in the City, where capacity exists or can be planned for. This type of growth is preferred in order to avoid the long-term cost to taxpayers of providing costly services in an inefficient way.

The subject property is contiguous with City limits and the proposed annexation is a logical and efficient extension of the City’s boundaries and service areas. The Growth Policy identifies that Great Falls embodies balanced, compatible growth, while at the same time identifies that there are 34 enclaves totaling 405 acres. The annexation of this property creates a 3.4% reduction in those enclaves. Thus, the Growth Policy strongly encourages annexation and development of these properties.

Rezone Request

The subject property is currently zoned I-1 Light Industrial in the County, and upon annexation into the City would be zoned I-2 Heavy Industrial zoning district. According to Title 17 - Land Development Code of the Official Code of the City of Great Falls (OCCGF), the I-2 zoning classification is intended to accommodate those activities associated with processing raw materials or other activities with potentially significant off-site impacts. Typically, the uses found in this district are not compatible with most types of non-industrial uses. The OCCGF

further provides the following definition for this specific land use:

"Industrial, heavy" means a place and/or building, or portion thereof, that is used or is intended for the following or similar uses: processing or manufacture of materials or products predominantly from extracted or raw materials; storage of or manufacturing processes using flammable or explosive materials; or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. The term includes motor vehicle assembly, oil refineries, textile production, sawmills, post and pole plants, log yards, asphalt and concrete operations, primary metal processing, and the like.

The land use of “industrial, heavy” aligns with the current operations of the CHS Nutrition facility, and the existing structures on the subject property are in compliance with the I-2 district development standards in relation to structure height, lot coverage, setbacks (see attached Development Standards). The eastern half of the property is undeveloped and any future expansion of the processing facility shall comply with the Official Code of the City of Great Falls (OCCGF) Title 17 - Land Development Code in regards to lighting, landscaping, parking lot improvements, signage, and the aforementioned development standards. Any future development will be reviewed and approved by the City under a separate application.

Due to the nature of this type of industrial use, the City Public Works Environmental Division has concerns about the manufacturing processes employed at the processing facility regarding what materials may end up being discharged to the sanitary sewer – either as part of the process, through cleaning activities or by accident. Therefore, the applicant shall submit a completed Industrial Wastewater Questionnaire for City review and shall adhere to any resulting requirements therein.

Neighborhood Council Input

The subject property is located in Neighborhood Council #4. The Council received information on the project on May 1 and May 8, 2015, via email. There was no vote by the Council as it was not heard at their regularly scheduled meeting. Staff received three phone calls with questions related to the project at the time the agenda report was written.

Improvements

Storm Water Management

Upon annexation, the applicant shall submit a Storm Water Management Plan and drainage report, in compliance with the City of Great Falls Storm Design Manual and City standards, to the City Public Works Department for review and approval prior to issuance of building permits. This Plan shall include installation of an onsite storm water detention pond that is piped to the 18-inch lined reinforced concrete storm water pipe in 10th Avenue North.

Street Improvements

No improvements to 10th Avenue North are required upon annexation because it was recently reconstructed by the Montana Department of Transportation (MDT) as part of the Northeast Bypass reconstruction. However, it is maintained by the City. 57th Street North is MDT right-of-way and is maintained by them as well. The applicant currently has two driveways to the property off of 10th Avenue North which shall be improved and paved to City standard. The

applicant will be required to install boulevard trees along 10th Avenue North. In order to best serve pedestrians, the applicant will install boulevard style sidewalk along the south side of 10th Avenue North, from the 10th Avenue North and 57th Street North intersection west to the equivalent of the western property line of the subject property.

Traffic Analysis

The subject property abuts 10th Avenue North on the south and 57th Street North on the east, with driveway access from 10th Avenue North. 10th Avenue North connects to 57th Street North, a major arterial, at a signalized intersection. No operational issues exist in either roadway, nor at the intersection.

CHS Nutrition employs on average 25 people that work in three shifts, and the existing operation produces an overall low volume of truck traffic related to the transportation of raw and processed feed materials. Upon annexation there will not be an increase to the traffic generated by the site, and future expansion of the facility is not anticipated to create a significant increase to traffic volumes in the area.

Utilities

Utility connection is very straightforward and convenient for the proposed annexation. All utilities that will serve the subject property are located in the 10th Avenue North right-of-way (see attached Utility Map). Thus, the applicant will connect service lines to the 12-inch water main and 21-inch sanitary sewer main upon annexation. The applicant shall also pay its proportionate reimbursement to the City for the existing water and storm water mains. There is no reimbursement due for the sanitary sewer main, which was installed for Malmstrom Air Force Base and was replaced under normal maintenance in 2004.

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

Fiscal Impact: Providing services is expected to be an additional cost to the City. Increased costs may be covered by increased tax revenues from improved properties.

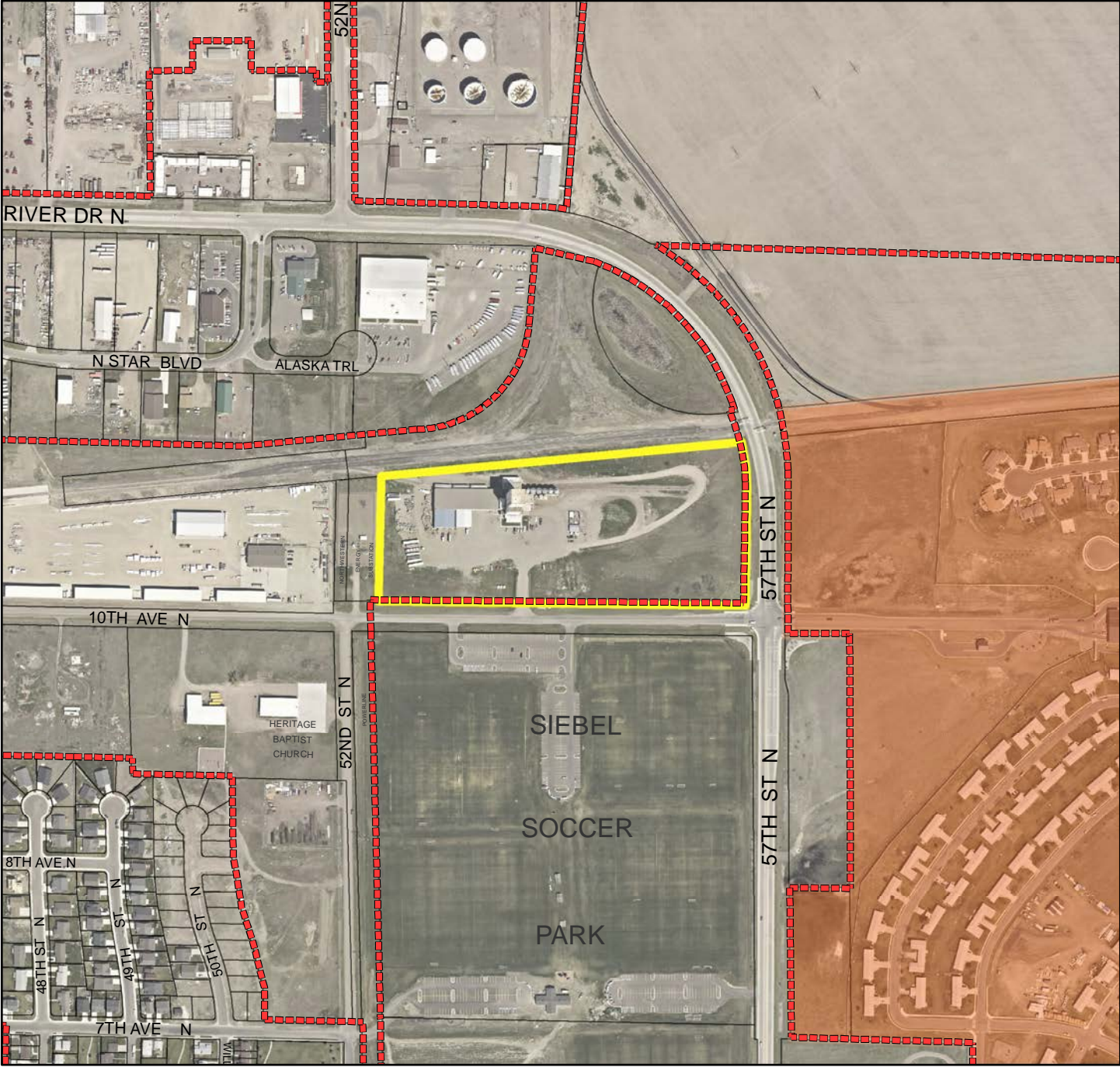
Alternatives: If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute.

Attachments:

- Aerial Map
- Zoning Map
- Ordinance 3131
- Resolution 10111 with Attachment "A"
- Utility Map
- Development Standards
- Zoning Analysis
- Improvement Agreement

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Patty Cadwell, Neighborhood Council Coordinator
Susan Conell, Cascade County Planning Director, sconell@casadecountymt.gov
Matt Vogl, CHS Inc. Representative, Matt.Vogl@chsinc.com
Mark A. Coleman, Real Property Officer, MAFB, mark.coleman.2@us.af.mil

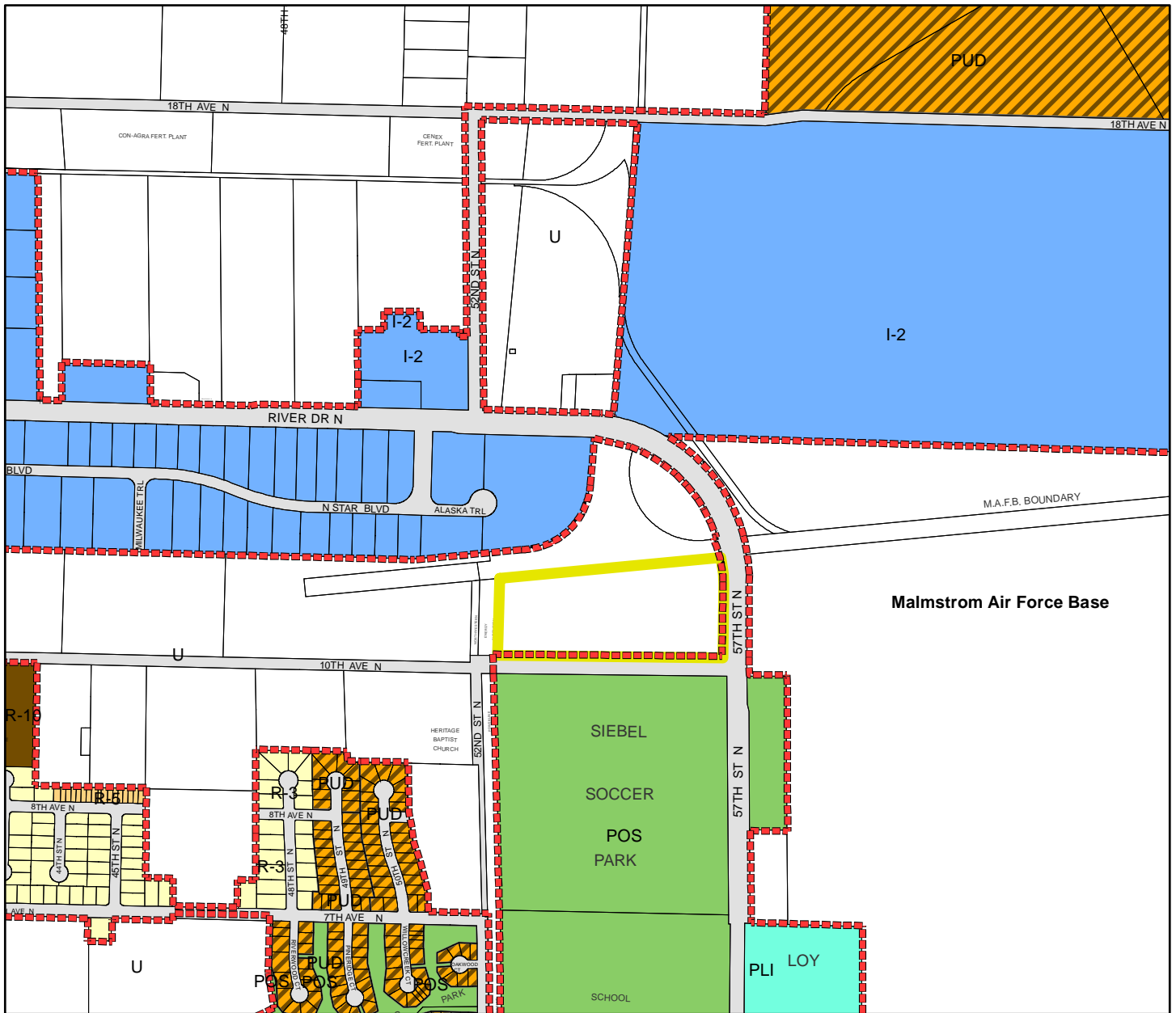
Aerial Map



- 5325 10th Avenue North
- City Limits
- Malmstrom Air Force Base
- Tracts of Land

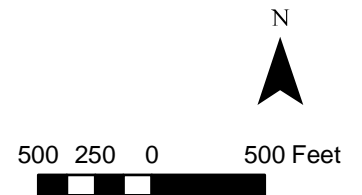


Zoning Map



Legend

- City Limits
- 5325 10th Avenue North
- Tracts of Land
- right-of-way
- ZONING**
- R-3 Single-family High Density
- R-5 Multi-family Medium Density
- R-10 Mobile Home Park
- PUD Planned Unit Development
- I-2 Heavy Industrial
- PLI Public Lands and Institutional
- POS Parks and Open Space
- U Unincorporated Enclave



CHS Inc.
Annexation & Zoning

ORDINANCE 3131

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF I-2 HEAVY INDUSTRIAL DISTRICT TO THE PROPERTY ADDRESSED AS 5325 10TH AVENUE NORTH, AND LEGALLY DESCRIBED AS REMAINDER TRACT OF CERTIFICATE OF SURVEY 2466, KNOWN AS MARK 4C, LOCATED IN THE SW¼ NW¼ OF SECTION 3, TOWNSHIP 20 NORTH, RANGE 4 EAST, CASCADE COUNTY, MT

* * * * *

WHEREAS, CHS Inc. is the owner of record and has petitioned the City of Great Falls to annex the subject property, consisting of ±13.796 acres, as legally described above; and,

WHEREAS, CHS Inc. has petitioned the subject property be assigned a City zoning classification of I-2 Heavy Industrial district, upon annexation to City; and,

WHEREAS, notice of assigning certain zoning classifications to said property was published in the *Great Falls Tribune* advising that a public hearing on this zoning designation would be held on the 7th day of July, 2015, before final passage of said Ordinance herein; and,

AND WHEREAS, following the public hearing, it was found and decided that 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 classification of said property be designated as I-2 Heavy Industrial district classification.

Section 3. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission or upon filing in the office of the Cascade County Clerk and Recorder the resolution annexing said property, as legally described above, into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

APPROVED by the City Commission on first reading June 2, 2015.

ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading July 7, 2015.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

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

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3131 in three conspicuous places within the limits of said City to-wit:

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

Lisa Kunz, City Clerk

(CITY SEAL)

RESOLUTION 10111

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF THE CITY OF GREAT FALLS TO INCLUDE REMAINDER TRACT OF CERTIFICATE OF SURVEY 2466, KNOWN AS MARK 4C, LOCATED IN THE SW¼ NW¼ OF SECTION 3, TOWNSHIP 20 NORTH, RANGE 4 EAST, CASCADE COUNTY, MONTANA, IN ACCORDANCE WITH THE PROVISION OF SECTION 7-2-4601, MONTANA CODE ANNOTATED; ALL AS SHOWN ON THE MAP ATTACHED HERETO MARKED ATTACHMENT "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:

Remainder Tract of Certificate Of Survey 2466, known as Mark 4C, located in the SW¼ NW¼ of Section 3, Township 20 North, Range 4 East, Cascade County, Montana, and consisting of ±13.796 acres,

all as shown on the map attached hereto marked Attachment "A" and by this reference made a part hereof and according to Certificate of Survey 2466; 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 owner of the hereinabove described property has submitted a petition to have the subject property annexed to the City of Great Falls; and,

WHEREAS, the City Commission 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 laws of the Montana Code Annotated, Title 7, Chapter 2, Part 46. Annexation by Petition, 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: "Remainder Tract of Certificate Of Survey 2466, known as Mark 4C, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3, Township 20 North, Range 4 East, Cascade County, Montana."

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 tract 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 7th day of July, 2015.

Michael J. Winters, Mayor

ATTEST:

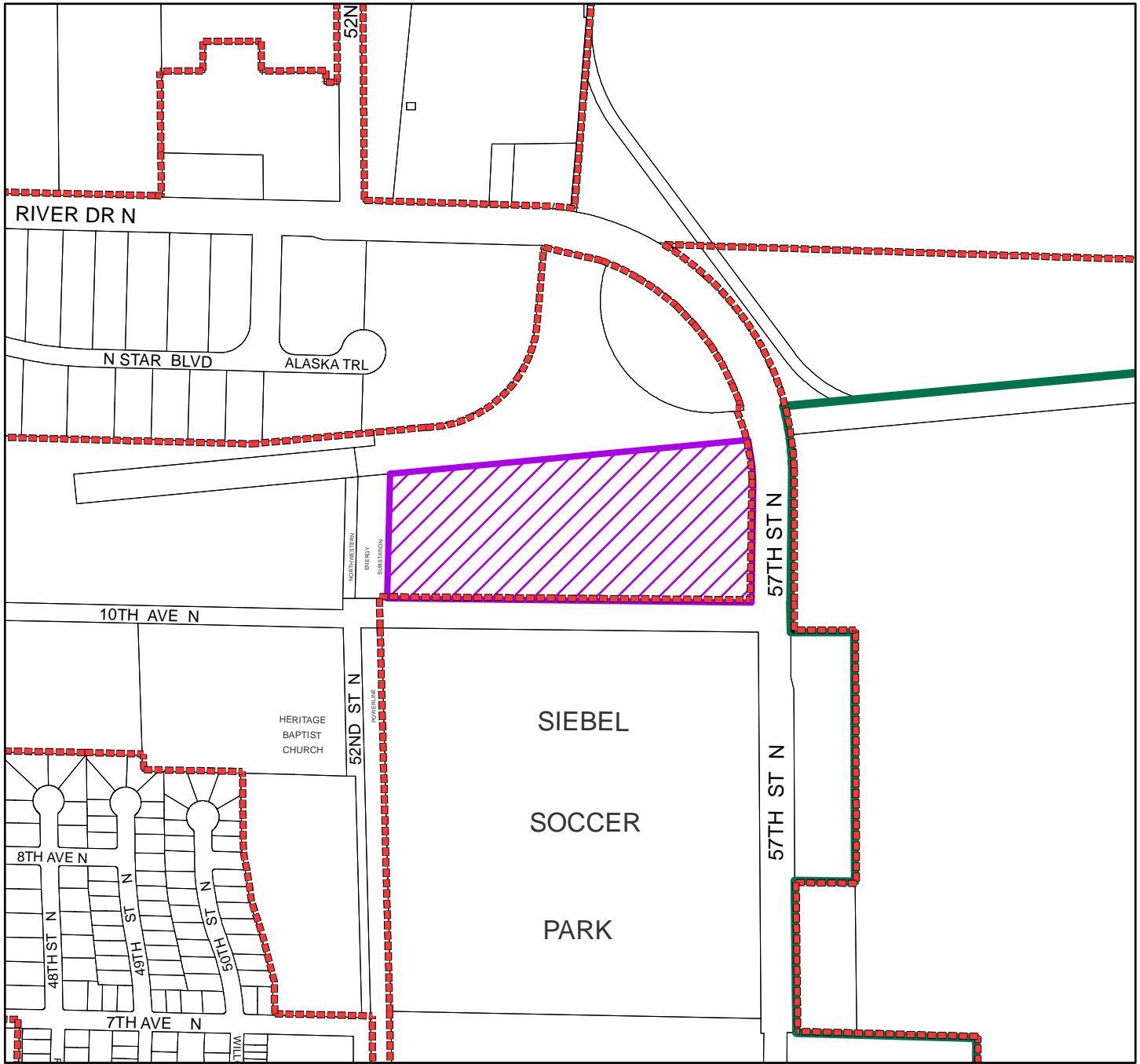
Lisa Kunz, City Clerk





(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

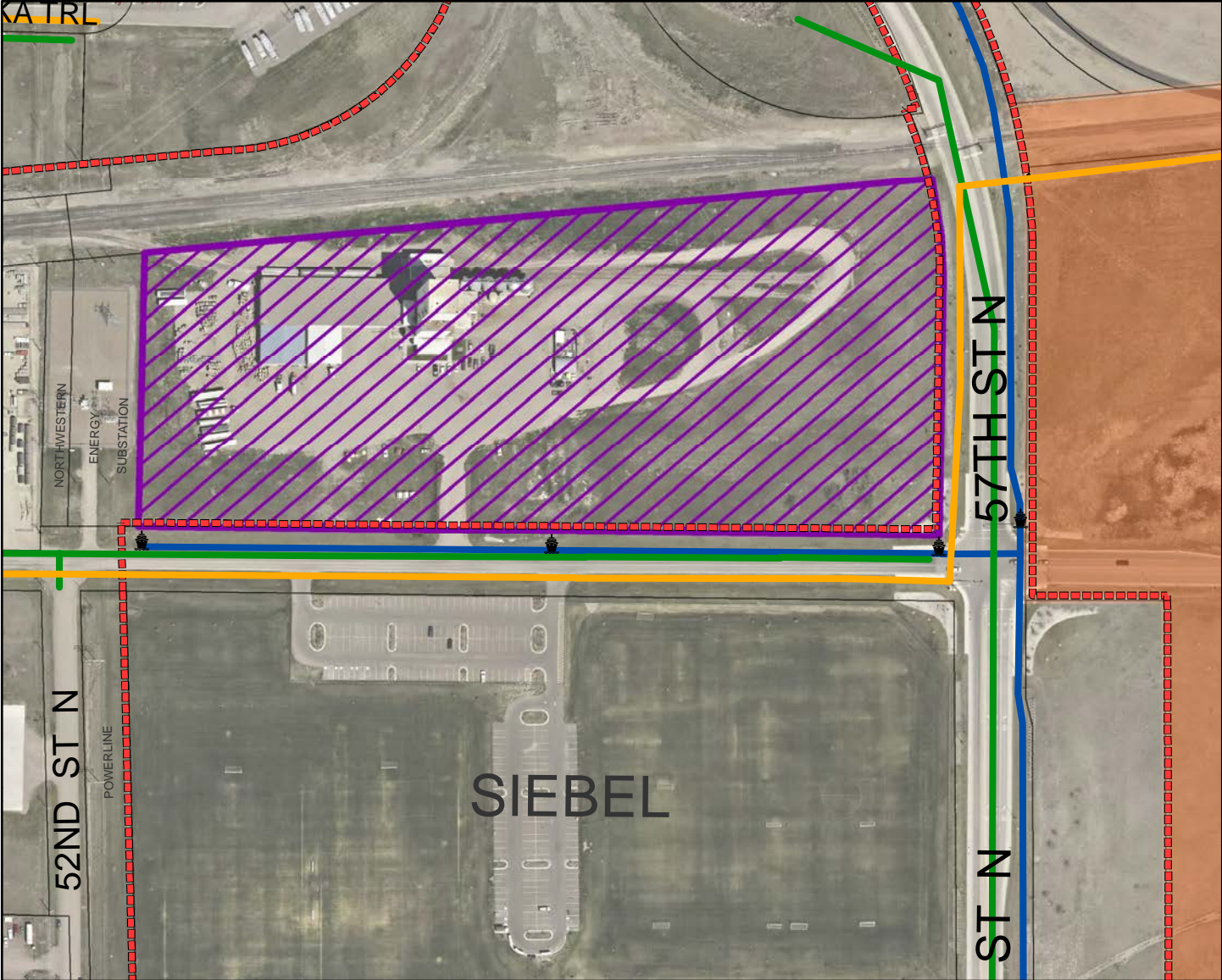
Attachment "A" Resolution 10111



-  City Limits
-  Subject Property addressed as 5325 10th Avenue North
-  Malmstrom Air Force Base boundary
-  Tracts of Land



Utility Map



- 5325 10th Avenue North
- City Limits
- Tracts of Land
- Malmstrom Air Force Base
- Fire Hydrants
- Sewer Mains
- Storm Mains
- Water Mains



CHS Inc. Annexation

Exhibit 20-4 (continued). Development standards for other zoning districts

	M-1	M-2	C-1	C-2	C-3	C-4	C-5	PLI	GFIA	I-1	I-2
Residential density	500 sq. feet of lot area per dwelling unit	500 sq. feet of lot area per dwelling unit	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Minimum lot size for newly created lots	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet	7,500 sq. feet
Minimum lot width for newly created lots	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet	50 feet
Lot proportion for newly created lots (maximum depth to width)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	3:1	3:1
Maximum building height of principal building	65 feet except as follows: 35 feet within 200 feet of an R-1, R-2, R-3 district; 45 feet when within 200 feet to 350 feet of an R-1, R-2, R-3 district; and 65 feet when more than 350 feet from an R-1, R-2, R-3 district	65 feet except as follows: 35 feet within 200 feet of an R-1, R-2, R-3 district; 45 feet when within 200 feet to 350 feet of an R-1, R-2, R-3 district; and 65 feet when more than 350 feet from an R-1, R-2, R-3 district	35 feet	65 feet	50 feet	100 feet by right; 101 feet to 160 feet as conditional use	55 feet	100 feet by right; 101 feet to 160 feet as conditional use, except as follows; in the proposed medical district master plan area, 160 feet by right	65 feet	45 feet	none
Maximum building height of accessory building	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	n/a	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	24 feet, but may not be higher than the uppermost elevation of the principal building	35 feet	none

	M-1	M-2	C-1	C-2	C-3	C-4	C-5	PLI	GFIA	I-1	I-2
Minimum front yard setback of principal and accessory buildings	none	Existing Industrial: 20 feet	15 feet	none	25 feet	none	15 feet	25 feet	25 feet	20 feet	10 feet
Minimum side yard setback of principal and accessory buildings	Commercial: none Residential: 5 feet each side	Commercial: none Residential: 5 feet each side Existing Industrial: 15 feet each side	10 feet each side	10 feet each side	15 feet each side	none	10 feet each side	10 feet each side	none	10 feet each side	10 feet each side, 15 feet when side yard abuts a non-industrial zoning district
Minimum rear yard setback of principal and accessory buildings	10 feet	10 feet	15 feet	1/10 of lot depth but not less than 1/10 of building height	1/10 of lot depth but not less than 1/10 of building height	none	1/10 of lot depth but not less than 1/10 of building height	1/10 of lot depth but not less than 1/10 of building height	none	5 feet	5 feet
Maximum lot coverage of principal and accessory buildings	Corner lot: 70% Other lots: 65%	Corner lot: 70% Other lots: 65%	Corner lot: 50% Other lots: 40%	Corner lot: 70% Other lots: 60%	Corner lot: 70% Other lots: 60%	100%	Corner lot: 70% Other lots: 60%	Corner lot: 70% Other lots: 60%	none	Corner lot: 85% Other lots: 70%	Corner lot: 85% Other lots: 70%

(Ord. No. 3087, § 1(Exh. A), 6-19-2012, eff. 7-19-2012) <?xpp restore?>

Zoning Analysis

Cascade County I-1 Zoning District: This zoning district is intended to accommodate those uses of manufacturing, processing, fabrication, packaging, assembly, storage, and freight handling, or similar operations. Specifically, the use of “Agricultural Commodity Storage Facility” is permitted within the I-1 zoning district. Cascade County defines an “Agricultural Commodity Storage Facility” as: *A place and/or building, or portion thereof, that is used or is intended to store bulk food stuffs prior to shipment and/or processing; the term includes grain elevators and such facilities.*

City of Great Falls I-2 Zoning District: This zoning district is intended to accommodate those activities associated with processing raw materials or other activities with potentially significant off-site impacts. The City’s I-1 district is intended to accommodate those types of activities typically associated with manufacturing of finished products, storage, and wholesale operations.

Given the scale of CHS’s operation and their use of grain elevators, staff found the City’s I-2 zoning district to be most appropriate for their operation, and in some capacities, is similar to the County’s I-1 zoning district for agricultural facilities.

**IMPROVEMENT AGREEMENT FOR CHS INC.,
FOR REMAINDER TRACT OF CERTIFICATE OF SURVEY 2466, KNOWN AS
MARK 4C, LOCATED IN THE SW¼ NW¼ OF SECTION 3, TOWNSHIP 20
NORTH, RANGE 4 EAST, CASCADE COUNTY, MONTANA**

The following is a binding Agreement dated this _____ day of _____, 2015, between CHS Inc., hereinafter referred to as "Owner," and the City of Great Falls, Montana, a municipal corporation of the State of Montana, hereinafter referred to as "City," regarding the requirements for annexation into the corporate limits of City of a tract of land legally described as Remainder Tract of Certificate Of Survey 2466, known as Mark 4C, located in the SW¼ NW¼ of Section 3, Township 20 North, Range 4 East, Cascade County, Montana, hereinafter referred to as "Subject Property." The City is authorized to enter into this agreement by 17.68.010-040 of the Official Code of the City of Great Falls.

- 1. Supporting Document.** Certificate of Survey 2466 filed of record in the Clerk and Recorder's Office of Cascade County, Montana.

- 2. Amendments.** Minor changes to engineering documents and such revisions to the engineering drawings as are deemed appropriate and necessary by the City Engineer and the City's Public Works Department and which do not materially affect the hereinabove mentioned Certificate of Survey, can be made as follows:
 - A. The proposed revision will be submitted to City's Public Works Department for review and, if approved, the City Engineer or Public Works Director will sign and adequately annotate the change.
 - B. The annotated revision becomes a part of this Agreement upon City's Public Works Department approval.
 - C. Changes during construction shall be made by change order approved by City's Public Works Department.
 - D. "As Built" reproducible drawings shall be supplied to the City Engineer upon completion of the construction.
 - E. All amendments to this Agreement, except as allowable above in this section, shall be in writing and approved by City and Owner.

3. Successors. This Agreement and the approval by the City on which it is based run with the land. This Agreement applies to any party to whom the land is conveyed by any means, in whole or in part, and is binding on them as if they were the Owner who has signed below.

4. Fees And Charges

A. Prior to annexation of the Subject Property, Owner shall pay the following fees as provided by City policy and resolution;

a. Storm Sewer Fee (\$250/acre x 13.796 acres)	\$ 3,499.00
b. Proportionate share of the 10th Avenue North public storm drain (\$24.50/L.F. x 695 L.F., refer to Cost Estimate for reimbursements – O.F. 1174.5 prepared by City Engineers Office 6/15/2015)	\$ 17,027.50
c. Proportionate share of the 10th Avenue North public water main installed in 2004 by the City (\$17.43/L.F. x 1,238 L.F., refer to Cost Estimate for reimbursements – O.F. 1397.1 prepared by City Engineers Office 6/15/2015)	\$ 21,578.34
d. Fees to publish legal ad in the <i>Great Falls Tribune</i> prior to Planning Advisory Board/Zoning Commission (\$128.88) and City Commission (\$159.60) Public Hearings	\$ 288.48
e. Recording fees for Improvement Agreement and Resolution (<u>\$11 per page x 7 pages</u>)	<u>\$ 77.00</u>
Total fees made payable to City of Great Falls	\$ 42,470.32

These fees are in addition to the \$2,000.00 fee for establishing City zoning and the \$500.00 fee for Annexation Application, which have been paid prior to this Annexation Agreement.

- B. The total fees summarized in Section A. above shall be paid to the City no later than 30 days after City Commission action to annex Subject Property into the City.
- C. Owner or its successors or assigns shall reimburse City for its expenses incurred for inspection, testing and acceptance of public utilities serve Subject Property and sidewalk at the rates charged by City for said work at the time performed.
- D. Water service tapping and water and sewer service connection fees will be assessed at the time of installation.
- E. The absence of any fee from this agreement which is lawfully charged by the City in connection with construction activity associated with Subject Property shall not constitute a waiver by the City.

5. Public Improvements.

A. Upon annexation into the City of Great Falls, the Owner hereby agrees to install a boulevard style sidewalk on the south side of 10th Avenue North from the from the 10th Avenue North and 57th Street North intersection west to the equivalent of the western property line extended of the subject property, adjacent to the Siebel Soccer Park. Said sidewalk shall be installed in accordance with Title 17 - Land Development Code of the Official Code of the City of Great Falls after review and approval of the City Public Works Department.

B. Upon annexation into the City of Great Falls, the Owner hereby agrees to install one public fire hydrant assembly on the site at a location as stipulated by the City. Such fire hydrant assembly shall include a 20 foot wide public utility easement (10 feet on either side of the fire line and hydrant and be designed and constructed in accordance with City and Montana State Department of Environmental Quality standards.

6. Other Required Improvements

A. The Owner further agrees, per the approved conditions of approval by City Commission, to install boulevard trees on the north side of 10th Avenue North, adjacent to the Subject Property, in accordance with Title 17 - Land Development Code of the Official Code of the City of Great Falls, Chapter 44 Landscaping.

B. The Owner shall improve and pave the two existing driveways off of 10th Avenue North to City standard.

C. Within two (2) years of the date of final City Commission approval, the Owner shall install a fire sprinkler system in the F-1 portion of the existing building, in accordance with Section 903.2.4 Group F-1 of the 2012 International Fire Code, and Section 903.2.4 of the 2012 International Building Code.

D. Owner will abandon all on-site private wastewater systems before connection to City water service. Such abandonment shall include removal or filling of any septic or sewage holding tanks.

E. Owner will disconnect all private water systems from any plumbing, fire lines, or other water conveyances or storage facilities prior to connection of any of those same facilities to the City's public water system.

7. Site Conditions. The Owner warrants that it has conducted site investigations sufficient to be aware of all natural conditions, including, but not limited to, flooding, slopes, and soils characteristics, that may affect the installation of improvements on the site and its development for the approved use. The Owner further warrants that all plans submitted pursuant to this Agreement and all applications for building permits within the Development will properly account for all such conditions. The Owner holds the City harmless for natural conditions and for any faults in its own assessment of those conditions.

8. Restrictions On Building Permits. A Storm Water Management Plan shall be developed to City standards and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits.

9. Maintenance Districts. Owner hereby agrees to waive its right to protest the lawful creation by City of maintenance districts for any proper purpose including, but not limited to, fire hydrant and street maintenance and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied the Subject Property.

10. Public Roadway Lighting. Owner hereby agrees to waive its right to protest any future special lighting district for public roadway lighting facilities that service the Subject Property, and further

agrees to pay for its proportionate share of the costs associated with roadway lighting which services the Subject Property that may be installed with or without a special lighting district.

11. Warranty, Ownership And Inspection Of Public Improvements

- A. After the public sidewalk, described in Paragraph 5. hereof, has been installed, inspected and accepted by City, Owner will have no future maintenance obligations of said sidewalk. Notwithstanding, Owner or its contractor shall guarantee said improvements referenced above against defective work and materials for a period of two (2) years from date of acceptance of the completed improvements by City.

- B. Installation of said sidewalk and driveway, described in Paragraph 6 hereof, shall be subject to City's inspection policy in place at the time of installation.

12. City Acceptance and Zoning. In consideration of the foregoing, City hereby accepts and approves Remainder Tract of Certificate Of Survey 2466, known as Mark 4C, located in the SW¼ NW¼ of Section 3, Township 20 North, Range 4 East, Cascade County, Montana, for incorporation by annexation into the corporate limits of the City of Great Falls, Montana, with an assigned zoning classification of I-2 Heavy Industrial district.

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

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

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

Gregory T. Doyon, City Manager

ATTEST:

Lisa Kunz, City Clerk

(Seal of City)

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

OWNER

By: _____
Its: _____

State of _____)
:SS.
County of _____)

On this _____ day of _____, in the year Two Thousand and Fifteen, before me, the undersigned, a Notary Public for the State of _____, personally appeared _____, known to me to be the persons whose names are subscribed to the instrument within and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of _____

(NOTARIAL SEAL)

Notary Public for the State of _____ (Printed)
Residing at _____
My commission Expires _____, 20_____