



**Item:** Exchange of City-Owned Property, located in Clara Park in Block 6, Sunrise Terrace Addition to City of Great Falls, Montana, for NorthWestern Energy property, located in Lot 1 in Block 6, Sunrise Terrace Addition to City of Great Falls, Montana.

**From:** Sara R. Sexe, City Attorney

**Initiated By:** Public Works Department

**Presented By:** Sara R. Sexe, City Attorney

**Action Requested:** Conduct public hearing and approve the exchange of City-Owned property with NorthWestern Energy property located in Block 6, Sunrise Terrace Addition

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**Public Hearing:**

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

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (approve/not approve) the exchange of City-Owned property, located in Clara Park in Block 6, Sunrise Terrace Addition, for NorthWestern Energy property, located in Lot 1, Block 6, Sunrise Terrace Addition, and authorize the City Manager to execute all documents necessary to the exchange.”

2. Mayor calls for a second, discussion, and calls for the vote.
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**Report Summary:** In an effort to improve and upgrade the Eastside Substation, NorthWestern Energy requests that the City exchange property in Clara Park with the property on which its substation currently resides to provide better reliability, capacity, accommodate updated technology and better serve the public. The exchange will allow Clara Park to have a more usable area, by moving the substation to the west side of the park, rather than in the middle of the south boundary of the park.

**Background:** On September 1, 2015, the City Commission set a public hearing on October 6, 2015, to consider the exchange of property with NorthWestern Energy. Subsequently, the Notice

of Public Hearing on the proposed exchange was advertised in the *Great Falls Tribune* on September 20, 2015.

The City-owned property under consideration for exchange consists of an isolated area located on the southwest corner of Clara Park. NorthWestern Corporation d/b/a NorthWestern Energy, approached the City Public Works Department regarding its need to upgrade its electric substation, known as the Eastside Substation. NorthWestern desires to rebuild its Eastside Substation, located in the middle of the southern boundary of Clara Park, to provide for increased reliability, increased capacity, and to accommodate changes in technology, all for the purpose of better serving the public. As a result of the exchange, NorthWestern Energy will rebuild its Eastside Substation and the City will have more contiguous and usable park area, as the Eastside Substation which is currently in the area is bisecting the south boundary of Clara Park.

In order to have adequate room to rebuild its substation, NorthWestern desires to obtain from the City a portion of Clara Park, which is generally depicted on Exhibit "A" to Attachment 1., the proposed Exchange Agreement. In exchange for acquiring the property, NorthWestern is willing to exchange a portion of its adjacent real property, also as depicted on Exhibit "A," along with additional monetary consideration to balance the exchange (because the area to be provided by the City is larger than the current NorthWestern parcel), the amount of which will be determined by respective appraisals of the property conducted by a certified real estate appraiser.

The respective properties to be exchanged will need to be divided from the remainder of the larger respective parcels; the City and NorthWestern Energy intend to have this accomplished via a "utility exemption" and/or "boundary adjustment" pursuant to Mont. Code Ann. §76-3-201(1)(h) and/or §76-3-207. NorthWestern will obtain the survey and pursue the necessary approvals, at its sole cost and expense.

There are utility lines, namely water and natural gas lines, which will need to be relocated as a result of the exchange. NorthWestern Energy will agree to the relocation of water main infrastructure, as depicted on Exhibit "B" to the Agreement (Attachment 1) and gas line utilities currently existing on the respective parcels to be exchanged. As separate and additional consideration, NorthWestern will be solely responsible for the costs incurred to relocate all utilities, including but not limited to costs required to ensure appropriate easements or other rights appurtenant to such utilities are secured for the benefit of the City.

On both exchanged parcels, NorthWestern Energy will also agree to respectively plant, or replace, plant materials, shrubs or trees, of the same or similar species, size and types that are currently on the properties. NorthWestern will agree to remove the existing substation on the property to be provided to the City, including all footings and gravel and replant the area with grass consistent with the remaining park area. Further, NorthWestern will agree to indemnify the City for any environmental conditions which may arise, connected with its use of its property to be deeded to the City.

To avoid an interruption in electrical service to the Great Falls area served by the Eastside Substation, the Agreement contemplates that the City first exchange its parcel to NorthWestern, so that it may build the new substation. Then, after the new substation is operational, NorthWestern will dismantle the current substation, remove the underlying gravel and footings, replant the new park area, then deed the property to the City.

The City is authorized pursuant to the Official Code of the City of Great Falls (OCCGF) 3.04.010 through 3.04.050 to exchange the City's parcel for NorthWestern's parcel. Because the exchange is for property in a public park, the Park Board was required to review the proposed exchange, pursuant to OCCGF 3.04.020. It did so on August 10, 2015 and unanimously recommended the City Commission enter into the Agreement. The Park and Recreation Advisory Board minutes are included as Attachment 2.

Bidding on the exchange is not required pursuant to OCCGF, as NorthWestern agrees that the property being exchanged by the City will be used by NorthWestern for a public purpose, and that the property will revert back to the City should it ever cease to be used for public purposes.

As required by OCCGF 3.04.030, before final consideration of an exchange of City property, the City Commission shall hold a public hearing. After public hearing is held, approval of the exchange (trade) requires a four-fifths vote of the City Commission.

Neighborhood Council No. 4 was provided the proposed exchange documentation on August 19, 2015 by the Neighborhood Council Liaison.

**Fiscal Impact:** The sale of property would provide a one-time cash benefit to the City Park and Recreation Fund, for the monetary difference between the two properties, which will be determined by appraisals of both properties. All other costs of the exchange will be borne by NorthWestern Energy, except for title insurance for the property the City will deed to NorthWestern.

**Alternatives:** The City Commission could choose to not authorize the exchange, and NorthWestern Energy would be required to locate other property for its substation upgrade.

**Attachments:** 1. Exchange Agreement with Exhibits  
2. Park Advisory Board Minutes of August 10, 2015

## EXCHANGE AGREEMENT

This Exchange Agreement (Agreement) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Great Falls, a political subdivision of the State of Montana, of P.O. Box 5021, Great Falls, MT 59403 (the City), and NorthWestern Corporation d/b/a NorthWestern Energy, a Delaware Corporation, of 40 East Broadway, Butte, MT 59701 (NorthWestern), and provides as follows:

### RECITALS

1. The City is the owner of certain real property, which is described as follows:

Clara Park in Block 6, Sunrise Terrace Addition to City of Great Falls, Montana, according to the map and plat thereof recorded in the office of the Clerk and Recorder of Cascade County, Montana (the City's Real Property).

2. NorthWestern is the owner of certain real property, which is described as follows:

Lot 1 in Block 6, Sunrise Terrace Addition to City of Great Falls, Montana, according to the map and plat thereof recorded in the office of the Clerk and Recorder of Cascade County, Montana. (NorthWestern Real Property).

3. NorthWestern is a public utility, providing electric service to the citizens of the City and Cascade County.
4. NorthWestern's Real Property is the site of an electric substation, known as the Eastside Substation. NorthWestern desires to rebuild its Eastside Substation, to provide for increased reliability, increased capacity, and to accommodate changes in technology, all for the purpose of better serving the public.
5. In order to have adequate room to rebuild its substation, NorthWestern desires to obtain from the City a portion of the City's Real Property, which is generally depicted on Exhibit "A," which is attached to and incorporated into this Agreement (the City's Exchange Parcel).
6. In exchange for acquiring City's Exchange Parcel, NorthWestern is willing to exchange a portion of NorthWestern's Real Property, also as depicted on Exhibit "A" (NorthWestern's Exchange Parcel) along with additional monetary consideration to balance the exchange, the amount of which is described in this Agreement.
7. The City is authorized pursuant to Sections 3.04.010 through 3.04.050 of the Official Code of the City of Great Falls (the City Code) to exchange the City's Exchange Parcel for NorthWestern's Exchange Parcel and is agreeable to such exchange, subject to the terms and conditions of this Agreement.

## AGREEMENT

Now, therefore, for good and valuable consideration, the parties agree as follows:

1. Exchange.

- a. *The City's Exchange Parcel.* Upon the closing date set out in Section 3(a) of this Agreement, the City agrees to convey to NorthWestern the City's Exchange Parcel, together with all interest of the City in any adjacent vacated streets and alleys; all easements and other appurtenances thereto.
- b. *NorthWestern's Exchange Parcel.* Upon the closing date set out in Section 3(b) of this Agreement, NorthWestern agrees to convey to the City NorthWestern's Exchange Parcel, together with all interest of NorthWestern in any adjacent, vacated streets and alleys; all easements and other appurtenances thereto. Prior to such conveyance, NorthWestern shall remove the gravel from NorthWestern's Exchange Parcel, remove all existing footings and reseed NorthWestern's Exchange Parcel with native grass or grass that is consistent with the surrounding park land.
- c. *Exchange Adjustment.* Upon the closing date, NorthWestern agrees to pay to the City in cash or other readily available funds the amount by which the value of the City's Exchange Parcel exceeds the value of NorthWestern's Exchange Parcel, if any (the Exchange Adjustment). The Exchange Adjustment shall be determined by an appraisal (or appraisals) of the City's Exchange Parcel and NorthWestern's Exchange Parcel. The appraisals are to be conducted in conformity with Section 3.04.040 of the City Code. The parties shall agree on the identity of an appraiser, who is a Certified Real Estate Appraiser under the laws of Montana and who carries an MAI designation. NorthWestern shall bear all costs and expenses of the appraisal (or appraisals) produced by the agreed upon appraiser.

2. Contingencies. The parties agree that this transaction is subject to the contingencies as follows:

- a. *Utility Relocation.* The exchange contemplated herein will require the relocation of water main infrastructure, as depicted on the attached Exhibit "B" and gas line utilities currently existing on the respective Exchange Parcels. As separate and additional consideration for this Agreement, NorthWestern will be solely responsible for the costs incurred to relocate said utilities, including but not limited to costs required to ensure appropriate easements or other rights appurtenant to such utilities are secured for the benefit of the City. The utility relocation anticipated under this subsection shall occur on or before the closing date set out in Section 3(a).
- b. *Subdivision Compliance.* It is understood that to create legally conveyable parcels that both the City's Exchange Parcel and NorthWestern's Exchange Parcel must be divided

from the remainder of their respective parcels. It is understood that such division is intended to be accomplished via a "utility exemption" and/or "boundary adjustment" pursuant to Montana Code Annotated §76-3-201(1) (h) and/or §76-3-207. NorthWestern will obtain the survey and pursue the necessary governmental approvals, at its sole cost and expense. The City agrees to cooperate with NorthWestern, its surveyors, engineers, and contractors permitting access to the City's Real Property for all necessary survey and planning work; to sign all applications, surveys, and other documents associated with the same as may be required in order to record the survey dividing the exchange parcels from the remaining real property. The parties' respective obligations to exchange under this Agreement are contingent upon their agreeing as to the final configuration of the City's Exchange Parcel and NorthWestern's Exchange Parcel, including easements (if any) and the filing of such survey. If a survey creating the City's Exchange Parcel and NorthWestern's Exchange Parcel is not able to be filed of record on or before 180 days from the date of this Agreement, the parties' obligations to exchange shall be terminated and this Agreement will have no further force or effect.

- c. *Due Diligence.* The parties' respective obligations to exchange are contingent upon their review and approval of such professional, independent due diligence investigations of all conditions relating to the property which each is to acquire under this Agreement as such party desires to have investigated. If either party's review of such inspection discloses any condition that is unacceptable to such party, it shall give written notice of said condition to the other party, providing a full copy of the inspection report, on or before 30 days from the date of this Agreement. If a party fails to provide such notice to the other by such date, then this contingency shall be deemed waived by the party failing to give notice. Upon receipt of written notice of an unacceptable condition, the receiving party shall have 15 days to advise the objecting party in writing whether it will agree to remedy the noted condition. If the receiving party elects to remedy the objection, the transaction shall proceed to closing however the receiving party shall have an additional 90 days from the specified closing date to affect the remedy, if necessary. If the receiving party elects not to remedy the objection, the parties' obligations to exchange shall be terminated and this Agreement will have no further force or effect. Each party shall be responsible for all costs associated with its due diligence investigation. Each party shall, upon reasonable prior notice to the other party and those involved in its due diligence investigations, provide reasonable access to the property to be inspected. In no event shall any due diligence investigations cause damage to the property being investigated.
- d. *Title Review.* The parties' respective obligations to exchange are contingent upon their review and approval of a preliminary title commitment concerning the property which each party is to acquire under this Agreement. If either party's review of the preliminary title commitment for the property which they are to acquire discloses any condition that is unacceptable to such party, not including an interest or easement to be reserved under this Agreement or any encumbrances or liens to be discharged through the closing of the transaction anticipated herein, the objecting party shall give written notice of said condition to the other party on or before 30 days from the date the objecting party receives the preliminary title commitment. If a party fails to provide such notice to the other by such date, then this contingency shall be deemed waived by the party failing to

give notice. Upon receipt of written notice of an unacceptable condition, the receiving party shall have 15 days to advise the objecting party in writing whether it will agree to remedy the noted condition. If the receiving party elects to remedy the objection, the transaction shall proceed to closing, however the receiving party shall have an additional 90 days from the specified closing date to affect the remedy, if necessary. If the receiving party elects not to remedy the objection, the parties' obligations to exchange shall be terminated and this Agreement will have no further force or effect.

- e. *Screening.* Upon the City's direction as to location, NorthWestern agrees to replace plant materials, shrubs or trees, of the same or similar species, size and types as those that have died or been damaged as a result of NorthWestern's activities required under this Agreement, including Section 1.b. above, on NorthWestern's Exchange Parcel. City will thereafter maintain the plant materials.

In coordination with the City, NorthWestern further agrees to plant and maintain on the City Exchange Parcel, plant material, shrubs or trees, to provide visually attractive screening of similar species, size and types as those which exist or will exist on NorthWestern's Exchange Parcel.

### 3. Closing.

- a. *City's Exchange Parcel Closing.* The closing date for the conveyance of the City's Exchange Parcel to NorthWestern shall be on or before 30 days from the date the survey creating the City's Exchange Parcel and NorthWestern's Exchange Parcel is filed of record.
  - b. *NorthWestern's Exchange Parcel Closing.* The closing date for the conveyance of NorthWestern's Exchange Parcel to the City shall be on or before 30 days following the removal of NorthWestern's existing substation from NorthWestern's Exchange Parcel. It is estimated that it will take two years, following commencement of construction for NorthWestern to complete that construction and remove the existing substation.
  - c. *Place of Closing.* The closings shall take place at First American Title Company, 110 2<sup>nd</sup> Street South, Great Falls, Montana 59401 (the Closing Agent). The parties shall deposit with the Closing Agent all monies and executed documents as necessary to complete the transaction as anticipated by this Agreement.
  - d. *Closing Costs.* NorthWestern agrees to pay all charges of the closing agent related to this Agreement. Each party shall pay the recording charges for the deed to the property it is to receive, and for the costs of their respective real estate agents, attorneys, inspectors, or other representatives. Other closing costs shall be paid as otherwise set forth in this Agreement.
4. Prorations. The City and NorthWestern agree to prorate taxes, special improvement assessments for the current tax year, permit fees, water and sewer charges, irrigation assessments, maintenance fees, and any other pre-paid charges concerning the respective



properties, as are applicable, as of the date of closing. If the current year's taxes are not known, NorthWestern and The City agree that the previous year's tax assessment or an estimated amount can be used to base the pro-ration.

5. Conveyance. Each party shall convey the exchange parcel each is to convey under this Agreement by Warranty Deed, free of all liens and encumbrances except those described in the title insurance commitment as approved by the other party, and as follows:
  - a. Mortgage Acknowledgement. The City acknowledges that NorthWestern's Exchange Parcel is subject to the lien of a Mortgage and Deed of Trust, dated as of October 1, 1945, which was recorded on November 10, 1945, in Book 67 of Mortgages, at Page 1, records of the Cascade County Clerk and Recorder (as amended). NorthWestern agrees to obtain the release of that mortgage in the normal course of business, so that it may not affect the title to the property being conveyed to the City. The City understands that the release will not occur until after closing, but no later than two years after closing. NorthWestern will provide an Indemnification Agreement indemnifying the City and its title company from the effects of such mortgage.
  - b. Reversion. NorthWestern acknowledges and agrees that the City's Property shall be conveyed, with the City retaining a right of reversion should such parcel ever cease to be used for public utility purposes, per Section 3.04.050 (A)(4) of the City Code.
6. Title Insurance. Each party shall purchase for the benefit of the other party an American Land Title Association (ALTA) Standard Coverage Owners Title Insurance Policy (as evidenced by a standard form ALTA title insurance commitment) in an amount equal to the appraised value of the property it will convey to the other.
7. Possession and Risk of Loss. Each party shall deliver possession and occupancy of the property it is to convey to the other party upon the closing date, after all monies are received and documents delivered. All loss or damage to any of the property, subject of this Agreement, by any cause is assumed by the respective owners of the property through the time of closing, unless otherwise specified.

Indemnification. To the fullest extent permitted by law, NorthWestern shall fully indemnify, defend, and save City, its agents, representatives, employees, and officers harmless from and against any and all claims, actions, costs, fees, losses, liabilities or damages of whatever kind or nature arising from or related to NorthWestern's performance under this Agreement and or work of any subcontractor or supplier to NorthWestern, providing services or materials related to this Agreement.

8. Environmental Laws. The term "Environmental Laws" shall be defined as any statute, regulation, ordinance or policy issued by any governmental authority, whether federal, state, county or local, that pertains to the environment or to public health, including but not limited to PCB leaks. NorthWestern agrees to indemnify, defend and hold City harmless from and against any and all claims, including demands, damages, liabilities and costs, actions, orders, expenses, settlements, fines, penalties, attorneys' fees, expert witnesses and consultants, and



other litigation expenses arising out of a breach or violation of any Environmental Law in any way connected with, NorthWestern's use and or occupation of NorthWestern's Exchange Parcel. This indemnification shall survive the end of this Agreement and shall inure to the benefit of City, its representatives, successors, agents and assigns.

9. Compliance with Laws. In acquiring and improving its substation site, NorthWestern shall comply with all applicable laws and regulations, including all applicable provisions of the Official Code of the City of Great Falls.

10. Disclosures

- a. *Agency.* The City and NorthWestern understand that Rona Sanchez and Pat Asay are licensed as real estate brokers or real estate salespersons in the State of Montana, are employees of NorthWestern, and have been serving solely as NorthWestern's agents.
- b. *Megan's Law.* In accordance with Title 46, Chapter 23, Part 5 of the Montana Code Annotated certain individuals are required to register their address with local law enforcement agencies as part of Montana's Sexual or Violent Offender Registration Act. You may obtain information on these registrations by contacting the local county sheriff's office, the Montana Department of Justice in Helena, Montana, and probation officers assigned to your area. The real estate brokers or salespersons, identified above do not have actual knowledge of sexual or violent offender registration information that pertains to the property that is the subject of this Agreement.
- c. *Noxious Weeds.* Each party represents to the other that noxious weeds exist or may exist on the property that is the subject of this Agreement. Each party further notifies the other that it is unlawful for any person to permit any noxious weed to propagate or go to seed on the person's land, except that any person who adheres to the noxious weed management program of the person's weed management district or who has entered into and is in compliance with a noxious weed management agreement is considered in compliance with the law.
- d. *Water Right Ownership Update Disclosure.* By Montana law, failure of the parties at closing or transfer of real property to pay the required fee to the Montana Department of Natural Resources and Conservation for updating water right ownership may result in the transferee of the property being subject to a penalty. Additionally, in the case of water rights being exempted, severed, or divided, the failure of the parties to comply with § 85-2-424, MCA, could result in a penalty against the transferee and rejection of the deed for recording.
11. Entire Agreement and Modifications. This Agreement supersedes all prior agreements, contracts, and understandings between the parties. It may not be modified or terminated orally. No modification, termination, or attempted waiver shall be valid unless in writing signed by the party against whom the same is sought to be enforced.

12. Time. Time is of the essence in this Agreement and all clauses herein. Provided, that in the event an act is required to occur upon a Saturday, Sunday, or Legal Holiday that said act may be performed on the next business day.
13. Assignment. This Agreement is binding upon the parties, their respective heirs, successors, and assigns.
14. Remedies.
  - a. *NorthWestern's Remedies*. If the City refuses or neglects to consummate the transaction within the time period provided in this Agreement, NorthWestern may demand that the City specifically perform the City's obligations under this Agreement, or demand monetary damages from the City for the City's failure to perform the terms of this Agreement.
  - b. *The City's Remedies*. If NorthWestern refuses or neglects to consummate the transaction within the time period provided in this Agreement, the City may demand that NorthWestern specifically perform NorthWestern's obligations under this Agreement, or demand that NorthWestern pay monetary damages for NorthWestern's failure to perform the terms of this Agreement.
15. Controlling Law. This Agreement shall be interpreted under the laws of the State of Montana.
16. Interpretation. This Agreement has been reviewed by both parties, each of whom has had the opportunity to consult with independent counsel regarding it and has done so to the extent that such party desired. No stricter construction or interpretation of the terms hereof shall be applied against either party as the drafter hereof.
17. Attorney's Fees. In the event either party finds it necessary to employ counsel in order to enforce or rescind any term or provision of this Agreement, including any proceeding in bankruptcy, before any officer or judge of the U.S. Bankruptcy Court or any proceeding pertaining thereto, the prevailing party shall be entitled to recover from the other party in addition to costs and disbursements allowed by law, the prevailing party's reasonable attorney's fees. Attorney's fees shall include any attorney's services rendered prior to the institution of litigation or proceedings in bankruptcy and include all matters pertaining to litigation, or proceedings in bankruptcy as may be necessarily incurred in such proceedings and shall include an estimate of the attorney's fees to be incurred by the prevailing party following any initial decision or judgment entered in connection with that matter.
18. Electronic and Counterparts. The parties agree that an electronic copy, which contains the parties' respective signatures, shall be considered an original. Further, this Agreement may be executed in counterparts, each of which when taken together shall constitute a fully executed Agreement.

CITY OF GREAT FALLS, MONTANA

By \_\_\_\_\_  
Gregory T. Doyon, City Manager

ATTEST:

(Seal of the City)

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

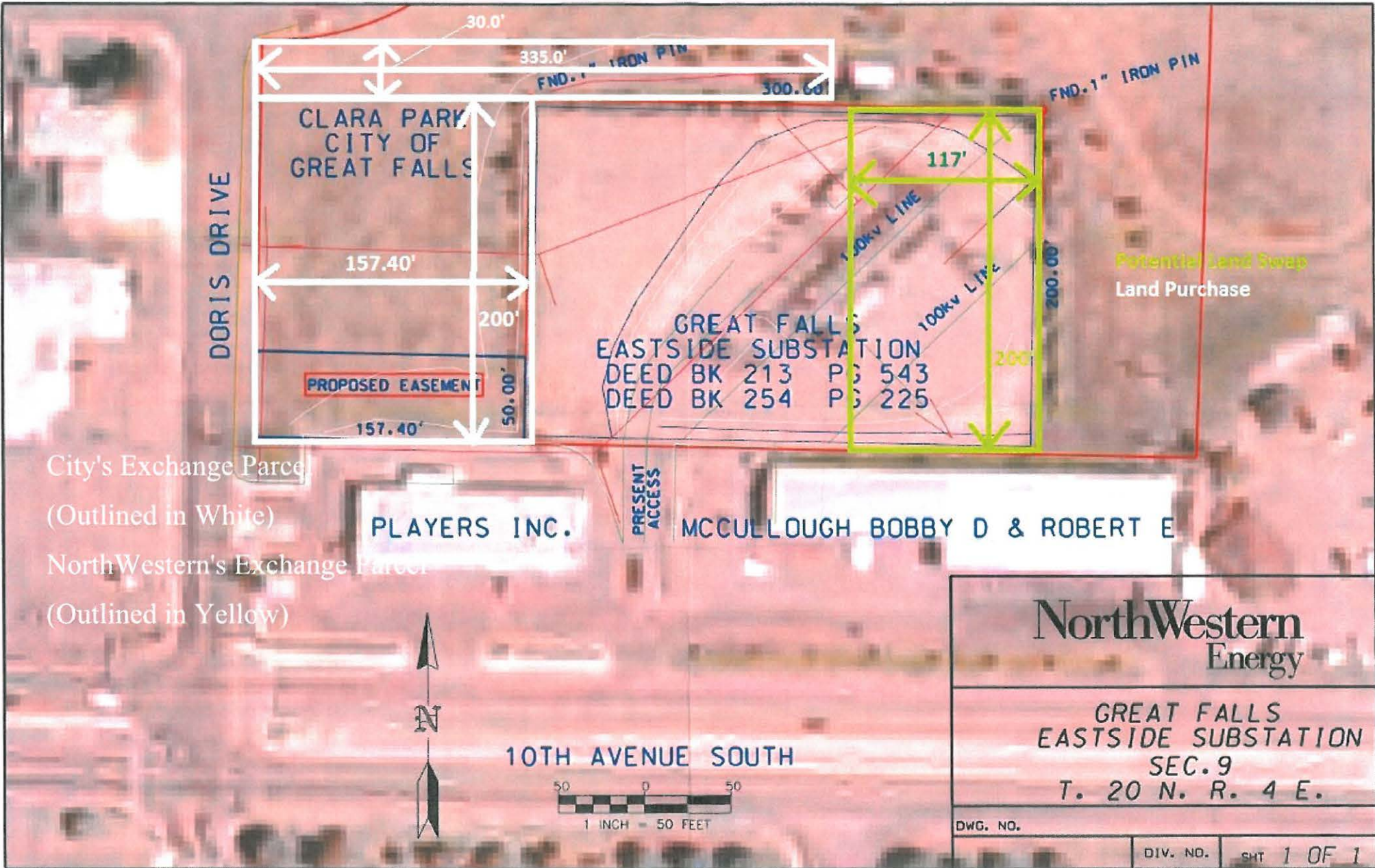
APPROVED AS TO FORM:

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

NORTHWESTERN CORPORATION d/b/a  
NORTHWESTERN ENERGY, a Delaware  
Corporation

By: \_\_\_\_\_  
Michael R. Cashell  
Vice President – Transmission





City's Exchange Parcel  
 (Outlined in White)  
 NorthWestern's Exchange Parcel  
 (Outlined in Yellow)

PLAYERS INC.

MCCULLOUGH BOBBY D & ROBERT E

**NorthWestern**  
 Energy

GREAT FALLS  
 EASTSIDE SUBSTATION  
 SEC. 9  
 T. 20 N. R. 4 E.

10TH AVENUE SOUTH

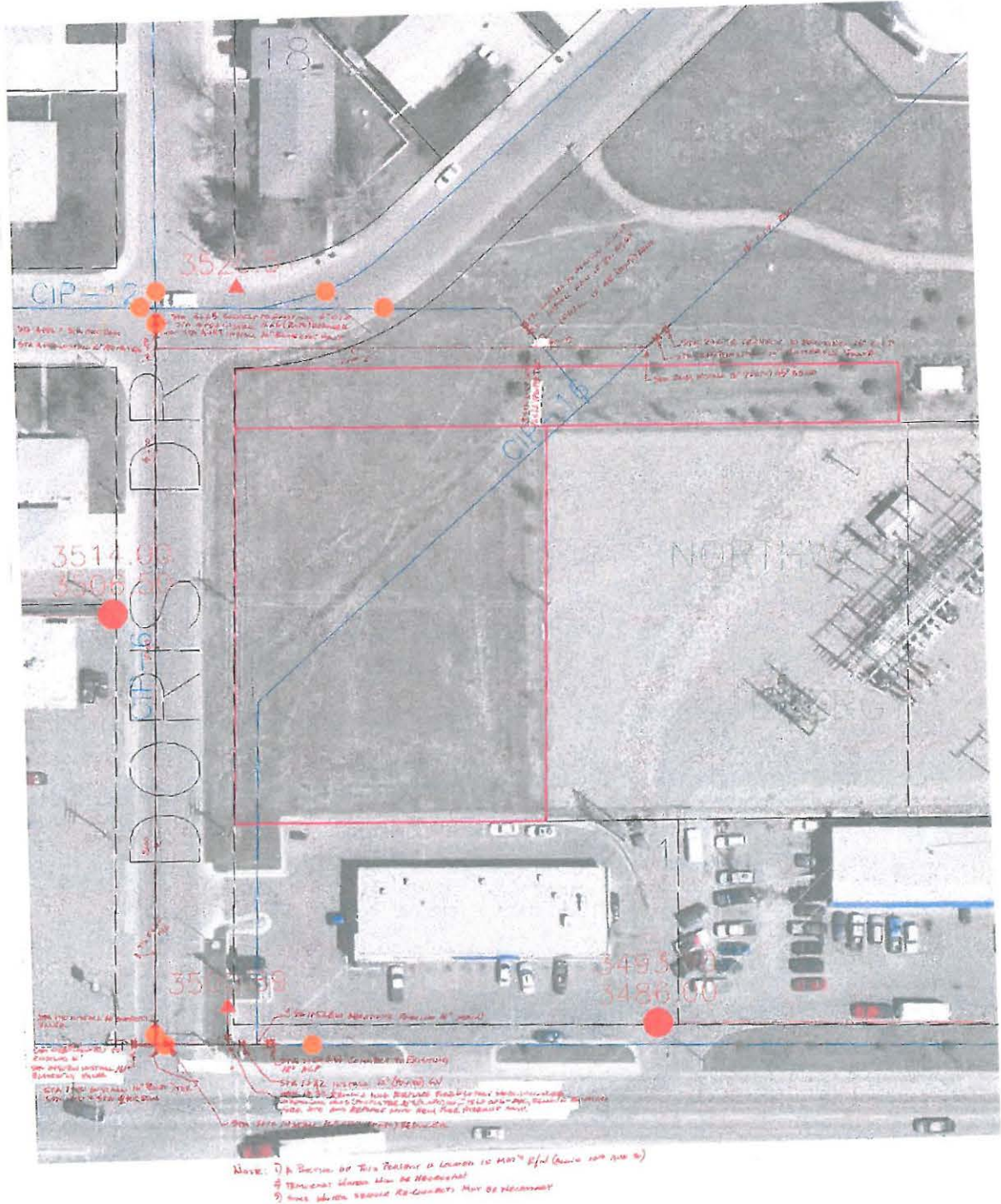


DWG. NO.	DIV. NO.	SHT 1 OF 1
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MicroStation 11" X 17"  
 Site Plot Ct Falls E Sub.dan



EXHIBIT "B"



**Park and Recreation Advisory Board**  
**Monday, August 10, 2015**  
**Minutes**

Members Present: Patrick Carroll, William Ramsey, Lynn Ulmer Oatman, June Sprout, Shirley Davis.

Staff Present: Joseph Petrella, Patty Rearden, Lonnie Dalke, Todd Seymanski, Cindy Stein

Meeting called to order at 3:00pm.

**With no corrections or additions to the minutes of July meeting, Board motioned to approve as written. Motion second and carried.**

**Director's Report**

- July monthly activity report provided to Board.
- Things have gone well all summer.
- Board received a sample of a new map of parks that are being created through our mapping department.
- Budget Approved
  - Trail manager approved will start end of February
  - Another year for the Natatorium extended
  - Lonnie will get a new sprayer position starting fall
  - Debt in golf and aquatics will be paid off
  - They covered the \$167,000 debt for the flow rider, without the debt we should be sustaining.
- Master plan will be going out for RFP this month. Will be funded through the Park trust account.
- Russ Motschbacher has resigned effective now, his term expires in December. There are several terms that will expire in December and we will not fill his position until then.

**OLD BUSINESS**

***West Bank Park Trail/Road***

Follow up discussion...

- How far is the track going to be, how much of the road is going to be used.
- Trail will be rebuilt if we receive funds for that.
- Much of the trail will be gone if the road is moved over.
- Suggest that we talk to them and find out exactly what is going on with the new rail line.
- Road only goes to the pavilion now; the way it was discussed it was not known where the road was going to end. There is no access to the pavilion if there is no road. There were 6 parking spots for 10-12 vehicles.
- Preserving the park system is as important as preserving the trail system.



## **NEW BUSINESS**

### ***Northwestern Energy Eastside Substation/Clara Park***

- NW Energy runs a substation out of Clara Park.
- In the 1995 Park and Recreation Master Plan it was suggested the City sell that property.
- Northwestern Energy needs to expand the substation to cover the new development in that area, they are requesting a land swap to re-route the current substation.
- Attached map - Yellow is current, purple is new.
- They will pay for excess land and other amenities as needed.
- All water and gas lines will be moved to square off the area, they will fence off and create a buffer for the neighboring homes
- If we don't agree they have the right to create eminent domain on the property.
- Joe is working with public works and city planning on this trade.
- There are no plans now or in the future to sell the remainder of the land. The department and city did not act on the 1995 Master plan recommendation.

**Board motioned to accept the agreement with Northwestern Energy, motion seconded and carried.**

### ***Mobile Vending in Parks***

- Joe has created a draft "mobile vending" agreement.
- We have received numerous requests to offer portable vending
- Under City Ordinance it does give the authority of the Park and Recreation Director to allow vending in parks.
- With the removal of the park and ponder building this is the solution to address these concerns.
- Joe has done research on other cities on how they manage their vending.
- The proposed has gone through the legal dept for review. It is a pilot program that we would like to try and establish where we will allow.
- Draft agreement is for review and no vote needed at this time.
- Vendors will have to have self contained units and will have to be removed every day. They will have to be licensed, insured and clean up their trash.
- The fee is in line with other cities in Montana and will go in a fund to support park maintenance.

Discussion continued on how we will schedule vending in parks, it was suggested that they not be allowed to schedule more than 3 weeks in advance. Other things to decide are how we will handle special events such as Wednesday concerts, etc.

Attached draft agreement.

**Board motioned to accept the Vendors contract as written. Motion seconded and approved.**

### ***Westwood Park/CMR Tennis Courts***

- Westwood Park is located next to CMR tennis courts.

- School district wanted us to redo the courts for the state tournament.
- Staff has met with the school district on creating an MOU; also discussed the possibility of leasing, trading or selling this property to the school district.
- The School District was able to find revenue to redo the courts if we lease them to the district.
- The School District would take over the mowing and court maintenance; they will remain open to the public and in our inventory of property.

**Board made a recommendation to move forward with the lease of CMR courts and Westwood Park. Motion seconded and carried.**

***Cian Enterprises, Inc.***

- Cian Enterprises currently leases the café at the Community Recreation Center.
- They are changing their name from Good Eats Café to the Burger Bunker.
- Their lease has expired and we are recommending renewal; lease renewal will go to the commission; the new agreement covers a late fee charge that was not on the older lease.
- Good Eats will move to the old Columbus hospital.

**Board motioned to recommend approval by the City Commission the lease with Cian enterprises at the Community Recreation Center. Motion seconded and approved.**

***A Childs World lease, Community Recreation Center***

- A Childs World Day Care is located in the basement of the Community Recreation Center.
- Monthly fee will increase slightly; it includes utility costs in the fee.
- There are no issues with the current lease, staff is recommending renewal.
- All leases offer a 60 day notice if either party would like to cancel.

**Board motioned to recommend to the City Commission the lease with A Child's World Day Care. Motion seconded and approved.**

**MISCELLANEOUS REPORTS/ANNOUNCEMENTS**

Patty Rearden, Deputy Director

- Pet and doll parade was held on July 23<sup>rd</sup> with 200 kids participating and 500-600 spectators. Brainstormed after the event to bump up numbers for 2016 event.
- Paris Gibson celebration with Waking the Dead event, tree planting in honor of the Park Gibson Award winners and a picnic in Gibson Park.
- Westbank Park construction has begun with water and sewer installation now.
  - Contact awarded for the restroom to Wadsworth Builders
  - Contract to be awarded on August 18<sup>th</sup> for the parking lot at Westbank and Bay Drive along with the vault toilet. The restroom will cost \$205,000 due to soil contamination and using all vandalism proof fixtures; this is within standard costs for public restrooms.

Todd Seymanski, City Forester

- Trimming and watering trees.
- Flower bed care.
- DED has slowed way down this year.
- 10% boulevard assessment increase approved by the City Commission.

Lonnie Dalke, Park Supervisor

- Crews mowing; having bigger problems with irrigation breaks where parks are not getting watered at all.
- Skyline Park sprayed for thistle.
- Repairs on RET with cracks; trying a new product with oil and sand to repair from dog park to giant springs.
- Car flipped over in North Kiwanis Park over the week-end.

With no further business, meeting adjourned.