



Date: June 14, 2016  
CITY OF GREAT FALLS

**PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT**

**Item:** West Bank Landing TIF Funding Application  
**Applicant:** West Bank LLC  
**Presented By:** Craig Raymond, Director, Planning and Community Development  
**Action Requested:** Recommendation to the City Commission

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**Suggested Motion:**

1. Board Member moves:

“I move that the Planning Advisory Board recommend the City Commission approve the West Bank Landing TIF Funding Application.”

2. Board Member calls for a second, discussion, and calls for the vote.

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**Recommendation:** Staff recommends approval of the West Bank Landing TIF funding application.

**Background:**

Tax increment financing (TIF) is a mechanism that allows communities to use new tax dollars resulting from increasing taxable value for reinvestment within the geographic area in which they are derived for a period of 15 years, or up to 40 years if the incremental taxes were pledged to the repayment of a bond. The City of Great Falls currently has five TIF districts.

The West Bank Urban Renewal and Tax Increment Financing (TIF) District was adopted by the Great Falls City Commission in 2007 and encompasses property on the west bank of the Missouri River on either side of the Central Avenue West Bridge (Exhibit A). Within the West Bank Urban Renewal TIF District is the West Bank One site which consists of Staybridge Suites, Faster Basset, The Front Brewing Company/ Public House and Kobe Restaurant

**Analysis:**

***TIF Application***

The applicant, West Bank Landing LLC, has submitted a TIF application for approximately \$2.6 million in eligible TIF expenses to develop phase 1 and 2 of the site. West Bank Landing will be developed immediately north of the adjacent West Bank One development and will incorporate the existing blighted site into a cohesive “village” of mixed-use businesses and residential property.

The development plans call for construction of a distinctive, environmentally responsible development that enhances the Westside of Great Falls and complements the popular River’s Edge Trail and West Bank One development. The applicant recognizes that this property provides a unique opportunity to

create a development that showcases the Missouri River and needs to be attractive to both residents and new businesses.

The first step in the process is the creation of a master plan that will set the standards for and guide the development of all businesses within the development. The developer is committed to responsibly transforming this Superfund site, and will be constructing all new buildings to LEED standards. The developer will also be extending the award-winning landscaping at the adjoining West Bank One development and will continue incorporating unique artwork, native plants and green space into the design.

The first phase of development includes demolition of existing structures and the immediate cleanup of roughly 5.6 acres to accommodate construction of a new hotel, rehabbing an existing historic building for a potential tenant(s), and site work for future commercial construction.

Construction of the hotel and renovation of the barrel building will commence in the spring of 2016. This phase also includes construction of two new buildings, plus burying the power lines and other utilities for the rest of the development.

Future phases include construction of mixed-use office/retail/restaurant buildings, as well as residential condominiums. As developers, the members of West Bank LLC are convinced that well-planned, environmentally responsible development along the Missouri River is not only feasible, but will be profitable. It will attract new businesses, create more jobs and draw local residents to the river and the core of the city.

### ***Fiscal Impact***

The applicant is requesting to be reimbursed for up to \$2.6 million in eligible TIF expenses. This figure includes costs associated with the purchase of land (excluding fees), demolition, asbestos remediation, public infrastructure improvements, petro remediation and environmental consultants. The developer anticipates investing over \$32.5 million in phase one and two of the project (total project development costs).

While the West Bank Urban Renewal District is one of the healthiest TIF Districts in Great Falls, it already has two bond obligations each year - one for the federal court house and another for the West Bank One project. The District currently receives approximately \$411,000 in increment (property taxes) each year and pays out an average of approximately \$211,461 in bond payments, leaving approximately \$199,539 in the fund.

According to the Department of Revenue, an estimate of the taxable property valuation; based on a calculation of using the \$32.5 million dollars of market value improvements is \$619,000. The base taxable value of this property would be \$46,338, creating an incremental taxable value of \$572,662. Using the current levy results in approximately \$370,000 tax dollars annually (not including any transit mills). It is important to note that this is an estimate only and may change due to the two year reappraisal cycle, changing tax rates set by the Legislature, and annual mill levy changes by the tax jurisdictions, etc.

Staff is recommending issuing a Municipal Bond at the completion of the project, once the City is assured there is enough increment being generated through the new development of West Bank Landing to pay the bond payments. Staff and counsel (Dorsey & Whitney, DA Davidson) feel confident based on the information provided by the Department of Revenue and by the size of the investment being made by the developer that the new development will perform as predicted. However, the development agreement provides safeguards, to protect the City in the event the development does not take place.

Specific language in Section 4 (City Undertakings) of the development agreement states:

Section 4 – The Developer understands that the City does not presently have sufficient bonding capacity to issue the Bonds, such bonding capacity being dependent upon the receipt by the City of sufficient annual Tax Increment. Based on estimates available as of the date hereof, the City has determined the Tax Increment in tax years 2017 and thereafter will support Bonds in the aggregate principal amount of approximately \$3,000,000 assuming a 5.0% interest rate. The City-County’s obligation to issue the Bonds is subject to the fulfillment of each and all of the following additional conditions precedent:

- (a) There shall be sufficient Tax Increment to issue the Bonds in a principal amount sufficient to pay or reimburse the Developer for the costs of the Infrastructure Improvements, to fund a deposit to the reserve account required by the Bond Resolution and to pay costs of issuance of the Bond.
- (b) There shall be sufficient Tax Increment to pay the principal and interest requirements on the Bonds and provide coverage equal to at least 140% of the maximum annual debt service requirements required under the Bond Resolution.
- (c) The Bonds shall be marketable at interest rates acceptable to the City. The Developer understands that the City does not guarantee the marketability of the Bonds or the interest rate thereon.
- (d) No court or governmental or regulatory agency shall have enacted or issued any judgment, injunction, statute, rule, regulation or other order, nor shall any action suit, proceeding or investigation before any court or governmental or regulatory authority be pending, which prohibits or would prohibit, in whole or in part, the consummation of the proposed transactions.
- (e) All required State and local governmental, regulatory and other third-party approvals or consents shall have been obtained.
- (f) The City shall have received an opinion of Bond Counsel as to the tax-exempt status of interest on the Bonds.

The bond will be issued only through the life of the exiting TIF district and will not extend the life of district.

#### **Review Criteria:**

#### ***Preliminary Findings***

City staff and legal counsel from Dorsey & Whitney, LLP met to review the West Bank Landing TIF Application. After thorough review and evaluation of the Project and infrastructure improvements City staff has determined:

- No persons will be displaced from their housing by the Project or the infrastructure improvements.
- The Project and the infrastructure improvements substantially satisfy the review criteria of the funding application process and meet the purpose and goals of State Law, the District and Plan.
- The infrastructure improvements conforms to the comprehensive plan (or parts thereof) for the City as a whole.
- The infrastructure improvements constitute public improvements in accordance with State Law.

- A sound and adequate financial program exists for the financing of the infrastructure improvements.

Representatives from Planning and Community Development Department, Fiscal Services, Park and Recreation, Public Works and the Manager's Office concur on approving the TIF Application for funding.

### ***Montana Code Annotated (MCA) TIF Regulations***

The creation and administration of TIF Districts are governed by State Law. According to Montana Code Annotated (7-15-4288) tax increment can only be used for the following purposes:

The tax increments may be used by the local government to pay the following costs of or incurred in connection with an urban renewal area or targeted economic development district as identified in the urban renewal plan or targeted economic development district comprehensive development plan:

1. land acquisition;
2. demolition and removal of structures;
3. relocation of occupants;
4. the acquisition, construction, and improvement of public improvements or infrastructure, including streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and off-street parking facilities, sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment facilities, natural gas lines, electrical lines, telecommunications lines, rail lines, rail spurs, bridges, publicly owned buildings, and any public improvements authorized by Title 7, chapter 12, parts 41 through 45; Title 7, chapter 13, parts 42 and 43; and Title 7, chapter 14, part 47, and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;
5. costs incurred in connection with the redevelopment activities allowed under 7-15-4233;
6. acquisition of infrastructure-deficient areas or portions of areas;
7. administrative costs associated with the management of the urban renewal area or targeted economic development district;
8. assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the local government itself at its fair value;
9. the compilation and analysis of pertinent information required to adequately determine the needs of the urban renewal area or targeted economic development district;
10. the connection of the urban renewal area or targeted economic development district to existing infrastructure outside the area or district;
11. the provision of direct assistance to secondary value-adding industries to assist in meeting their infrastructure and land needs within the area or district; and
12. the acquisition, construction, or improvement of facilities or equipment for reducing, preventing, abating, or eliminating pollution.

### ***City of Great Falls TIF Review Criteria***

In order to approve TIF participation requests, they must be determined to meet the criteria recommended in the Plan, as well as be determined eligible for TIF participation in accordance with the MCA guidelines presented previously. To aid in this determination, the City of Great Falls' Tax Increment Application Process established twelve specific criteria to assess the merits of the project in relation to the Plan.

Those criteria are:

1. Public Infrastructure Improvements - Public infrastructure improvements have the benefit of improving and impacting an entire district. Each district may have its own Capital Improvement Plan, which may include things such as roadway improvements, storm drains, sewer and waterlines, railroads, etc.
2. Economic Stimulus - The amount of economic activity to be generated within the district through the development is assessed, as well as the leverage ratio of public to private investment. In

general, the maximum limit of any one development is 10% of the construction/rehabilitation costs, exclusive of acquisition costs. Projects clearly demonstrating extraordinary benefit to Districts or the community may, at the discretion of the City Commission, receive additional TIF assistance for eligible items. All applications should contain credible, measurable information substantiating the project's economic stimulus in the District and the community.

3. Tax Generation - The increase in taxable value due to the new district development, including construction/rehabilitation, as estimated by the County Assessor's office to determine tax increment generation.
4. Employment Generation - Total employment generated by the district development as assessed in terms of new permanent and part-time jobs, and construction jobs.
5. Elimination of Blight (applies to Urban Renewal Districts) - The development's direct and indirect impact on the physical and fiscal deterioration within the appropriate district and the community, as identified in the appropriate district plan.
6. Special or Unique Opportunities - The extent to which the district's development represents a unique opportunity, meets a special need, or addresses specific district or community goals. The restoration of a historic property or the provision of an unmet community need is an example of special and unique opportunities.
7. Impact Assessment - The extent of both positive and negative environmental impacts, appropriateness of the development's project design, and impact on existing businesses or residents.
8. Financial Assistance - Other forms of financing available to the Applicant. Lender participation, industrial development revenue bonds, and state and federal grant monies, for example, are examined to assess the need for TIF assistance.
9. Development Feasibility - A determination of feasibility is made based on the strength of the Applicant's demonstration of market demand for the development in the district as contained primarily on the pro forma and financing commitments.
10. Developer Ability to Perform - An assessment of the Applicant's capability to undertake the relative complexities of the development based on past performance on similar projects.
11. Timely Completion - The feasibility of completing the development according to the Applicant's development schedule.
12. Payment of Taxes - All property taxes, special improvement district assessments and other assessments on the project property must be paid to date.

**Next Steps:** The recommendation of the Planning Advisory Board will be forwarded to the City Commission for final action.

**Attachments/Exhibits:**

- |           |   |
|-----------|---|
| Exhibit A | West Bank Urban Renewal District Boundary Map |
| Exhibit B | West Bank Landing Phasing Plan                |
| Exhibit C | TIF Application                               |
| Exhibit D | Development Agreement                         |

Cc: Jim Rearden, Public Works Director  
Dave Dobbs, City Engineer  
Patty Cadwell, Neighborhood Council Coordinator

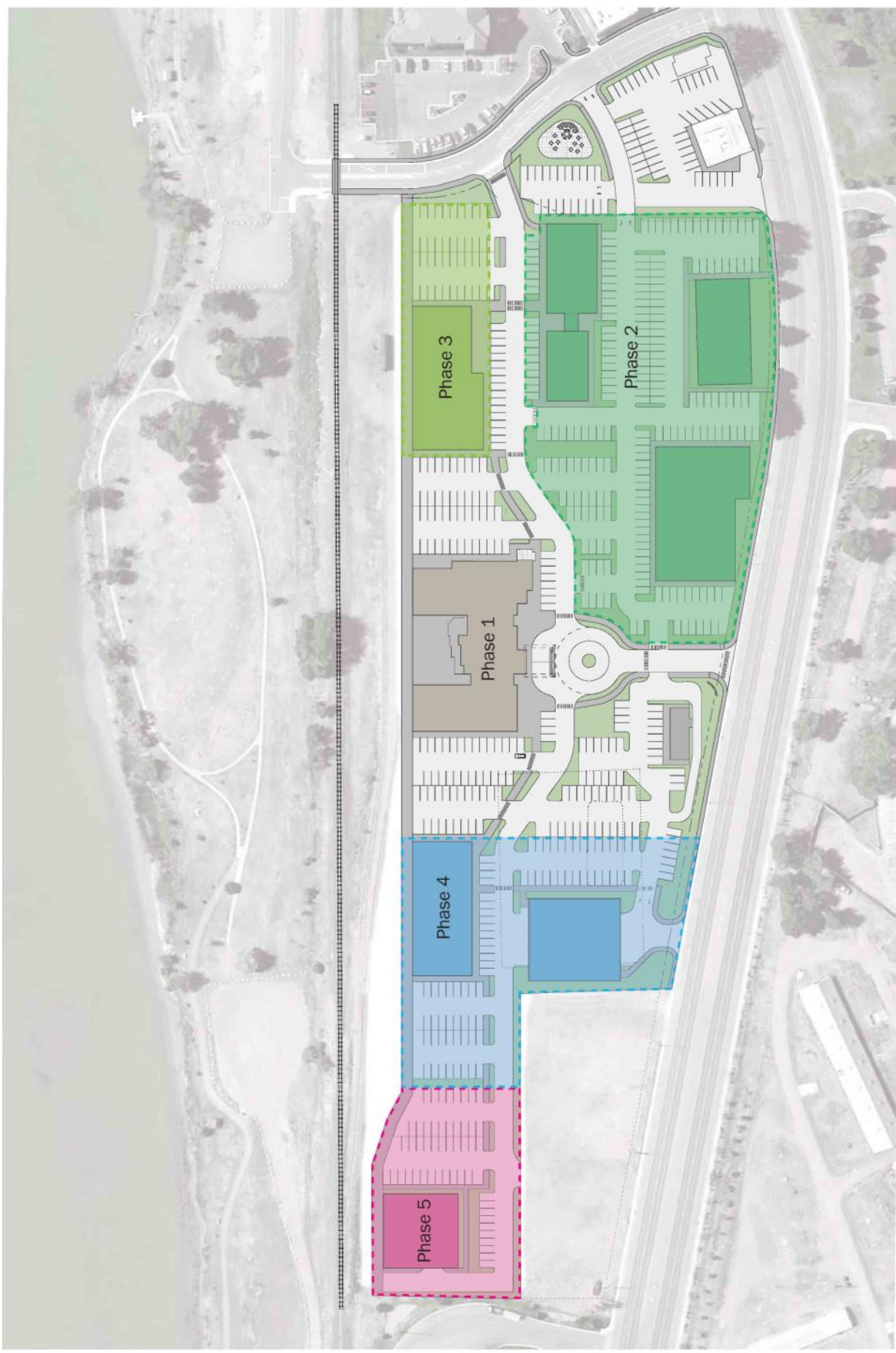


# EXHIBIT A - RENEWAL AREA





# EXHIBIT B - WEST BANK LANDING PHASING PLAN



# EXHIBIT C - APPLICATION

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## CITY OF GREAT FALLS



## TAX INCREMENT FINANCING (TIF)

## APPLICATION FOR FUNDS

**WEST BANK  
LANDING**

Revision Date: May 16, 2016



**CITY OF GREAT FALLS  
TAX INCREMENT FINANCING (TIF)  
APPLICATION FOR FUNDS**

Project Name: West Bank Landing

Date Submitted (Original): Feb. 17, 2016

Date Submitted (Revised): May 16, 2016

Name of TIF District: West Bank Urban Renewal District

**APPLICANT INFORMATION**

Name: West Bank LLC  
Address: P.O. Box 2493, Great Falls, MT 59403  
Telephone: 406-761-0018

**DEVELOPMENT INFORMATION**

1. Building Address: 415 3rd St. NW and Surrounding Area

2. Legal Description:

**Parcel 1:** Certificate of Survey No. 1092, located in the SE1/4 of Section 2, Twp.20N., R. 3E., M.P.M., Cascade County, Montana, filed Aug. 30, 1978, records of Cascade County, Montana.

**Parcel 2:** Certificate of Survey No. 2529, located in the SE1/4 of Section 2, Twp. 20N., R. 3E, P.M.M., Cascade County, Montana, filed Aug. 23, 1990, records of Cascade County, Montana.

**Parcel 3:** Parcels No. 4, 9 and 10, including that triangular parcel lying to the Northeast of said Parcel 10 to be included in Amended Certificate of Survey to be filed, all in Certificate of Survey No. S-0004615, located in the SW1/4 and Governments Lots 6 and 7 in Section 2 and Government Lot 2 of Section 11, all located in Township 20 North, Range 3 East, M.P.M. Great Falls, Cascade County, Montana, filed June 11, 2009, records of Cascade County, Montana.

**Parcel 4:** A triangular tract of land located in the SE1/4 of Section 2, Township 20 North, Range 3 East, PMM, Cascade County, Montana, lying southeasterly of Certificate of Survey 1092, filed August 30, 1978, and northeasterly of Certificate of Survey No. S-0004615, filed June 11, 2009, and westerly of Certificate of Survey No. 2529, filed August 23, 1990, records of Cascade County, Montana.

3. Ownership: West Bank LLC  
Address: P.O. Box 2493, Great Falls, MT 59403

4. If property is not owned by the Applicant, list leasehold interest: (*Attach evidentiary materials*).  
Name: N/A

5. Existing/Proposed Businesses: The existing business/tenant is relocating to the Agri-Tech Park and expanding.  
6.

New Business Description: The first phase includes construction of a new hotel, rehab of historic barrel building for potential retail use, and infrastructure improvements to allow access to the hotel and building sites for future proposed commercial space. Phase 1 will include the new 132 room Marriott Springhill Suites Hotel. Phase 2 concepts are being marketed and tenants are still being identified.

**CITY OF GREAT FALLS  
TAX INCREMENT FINANCING (TIF)  
APPLICATION FOR FUNDS**

7. Employment: Existing FTE Jobs: 0; New Permanent FTE Jobs created by Phase 1 & 2: 42;  
Construction FTE jobs: 75
8. **Architectural/Engineering Firm:** Wedgwood Architectural Services & L'Huereux Page Werner  
**Address(es):** 7600 NE 41<sup>st</sup> Street, Vancouver, WA 98662 & 15 5<sup>th</sup> Street South, Great Falls, Montana 59401  
**Representative:** Andy Bremmeyer (Wedgewood) & Timothy Peterson (LPW)
9. Please provide a description of the Total Project Development (attach a narrative explanation).

**Please See Attachment 1.**

10. Please provide rehabilitation/construction plans (attach schematics, site and landscaping plans).

The rehabilitation portion of the project includes demolition of existing structures and cleanup of soil contaminants from prior owners/users. Please see Attachment 2 for site plans, which show details of buildings proposed for construction. The anchor tenant will be a new hotel, and construction on that business will proceed this spring, as will renovation of the historic barrel building and demolition of other existing structures.

11. What is the development schedule or estimated completion date for the Total Project Development? The Total Project Development is best defined as the entire development, not just the TIF improvements (please include project phasing if appropriate).

The project will be phased over five years, beginning immediately. Phase 1 and 2 will begin Spring of 2016, Phase 3 is anticipated to start mid-2017.

11. Do you plan on asking for any other tax abatements, grants, tax credits or other forms of relief? If so, what type? No
12. Please describe your funding needs and the anticipated timing schedule for your identified Eligible TIF Activities (example: *I will be fronting the costs of all identified TIF improvements and would like to be reimbursed incrementally as TIF funds become available; I am interested in utilizing bond financing to complete the identified project improvements and would like to be reimbursed with TIF funds as they become available, I need TIF funds immediately to complete the identified TIF improvements, etc.*)

There are not enough funds in the West Bank TIF District to cover the anticipated improvements in Phase 1 & 2. We anticipate that bridge financing will be needed to carry the costs for the improvements during the early development period, but expect that permanent bond financing will be required. Permanent financing will need to include interest costs.

13. Please indicate the amount of Public Infrastructure Need and the amount of Public Infrastructure being requested to be financed by the TIF District.

Phase 1 and 2 Construction at West Bank Landing includes the following public infrastructure improvements: 1) environmental remediation, 2) demolition of existing buildings, 3) relocating overhead power and telecom utilities, 4) installation of and extension of domestic water, sanitary and storm sewer, and 5) new public access roads, sidewalks and parking areas. Please see breakdown of work and costs within application.

**CITY OF GREAT FALLS  
TAX INCREMENT FINANCING (TIF)  
APPLICATION FOR FUNDS**

**TOTAL PROJECT DEVELOPMENT COSTS**

*The total project development cost is the cost to develop the entire project/site,  
and should include the cost of the TIF improvements.*

**Land and Site Preparation Improvements** (Itemized)

1	Value of Land (312,266 SF)	\$4,996,256	
2	Public Utility Relocation	\$700,000	
3	Remediation	\$1,600,000	
4	Grading & Site Improvements	\$1,688,856	
5	Landscaping	\$298,974	
6			<b>Subtotal: \$9,284,086</b>

**Construction/Rehabilitation Costs** (Use general construction trade divisions)

*(Total value of improvements)*

7	Div 1	\$1,237,200	
8	Div 3-6	\$3,397,865	
9	DIV 7-8	\$1,488,568	
10	DIV 9-10	\$2,959,410	
11	Div 13,15,16	\$12,273,747	
12			<b>Subtotal: \$21,356,790</b>

**Equipment Costs**

*(Total value of equipment)*

13	FF&E	\$1,935,700	
14			<b>Subtotal: \$1,935,700</b>

**Total Project Development Costs for Phase 1 & 2**

15		<b>TOTAL</b>	<b>\$32,576,576</b>
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**Note:** All cost estimates are Rough Order of Magnitude (ROM).

**CITY OF GREAT FALLS  
TAX INCREMENT FINANCING (TIF)  
APPLICATION FOR FUNDS**

**ELIGIBLE TIF ACTIVITIES**

**Land Acquisition**

1	ITEM	TOTAL	AMT REQ FROM TIF	TIMING
2	Land Cost (Excluding Fees)	\$2,000,000	\$0	
3		<b>Subtotal:</b>	<b>\$0</b>	

**Demolition & Removal of Structures**

4	Remove (E) Structures	\$150,000	\$150,000	Q2 2016
5	Asbestos Remediation	\$25,000	\$25,000	Q2 2016
6		<b>Subtotal:</b>	<b>\$175,000</b>	

*Explanation: The DEQ will require asbestos remediation under the CECRA rules, which accounts for the variance between our original application and this application.*

**Relocation of Occupants**

7	Relocation	\$0	\$0	
8		<b>Subtotal:</b>	<b>\$0</b>	

**Public Improvements**

*(acquisitions, construction and improvement of infrastructure which includes streets, roads, curbs, gutters, sidewalks, alleys, parking lots and off-street parking facilities, sewers, sewer lines, storm sewers, etc.)*

9	City Utility	\$327,614	\$327,614	Q2 2016
10	Power & Telecom	\$700,000	\$700,000	Q2 2016
11		<b>Subtotal:</b>	<b>\$1,027,614</b>	

*Explanation: Our overall public utility cost estimate has decreased based on pricing we've received from power and telecom providers.*

**Environmental Remediation**

12	Petro Remediation Phase 2A*	\$1,600,000	\$1,200,000	Q2 2016
14		<b>Subtotal:</b>	<b>\$1,200,000</b>	

**\*See attached CAP Exhibit**

*Explanation: The original estimate for remediation was based on the previous work completed by Cascade County, which was priced in 2008. Our estimated excavation quantities at time of original TIF application were ~10k CY. After compiling the new CAP, we found that our estimated excavation quantities increased to ~26k CY, and our testing requirements have become more stringent under the CECRA rules.*

**Fees (associated with eligible activities)**

*(A&E design/supervision, permits & other fees)*

15	A/E Fees	\$50,000	\$50,000	Q2 2016
16	Environmental Consultants	\$115,000	\$115,000	Q2 2016

**CITY OF GREAT FALLS  
TAX INCREMENT FINANCING (TIF)  
APPLICATION FOR FUNDS**

17	DEQ Permitting/Administration	\$75,000	\$75,000	Q2 2016
18			<b>Subtotal: \$240,000</b>	

**Total Request for TIF Eligible Activities for Phase 1 & 2**

19			<b>TOTAL \$2,642,614</b>
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**Note:** All cost estimates are Rough Order of Magnitude (ROM).

**CERTIFICATION**

I, Brad Talcott certify that the statements and estimates within this Application as well as any and all documentation submitted as attachments to this Application or under separate cover are true and correct to the best of my knowledge and belief.

Signature: \_\_\_\_\_  
 Title: Member, West Bank LLC  
 Address: P.O. Box 2493, Great Falls, MT 59403  
 Date: May 16, 2016



# WEST BANK LANDING

## Attachment 1

### Total Project Narrative

West Bank Landing will be the premier riverfront development in Montana. It will incorporate features that Great Falls has been hoping for as we transform the contaminated eyesore into a cohesive “village” of mixed-use businesses and residential property.

Our plans call for construction of a distinctive, environmentally responsible development that enhances the West side and complements the popular River’s Edge Trail and West Bank Park. We recognize that this property provides a unique opportunity to create a development that showcases the Missouri River and is attractive to both residents and new businesses.

The first step in this process is the creation of a master plan that will set the standards for and guide the development of all businesses within the development. To demonstrate to the community our commitment to responsibly transforming this Superfund site, we intend to construct all new buildings to LEED standards. Likewise, we will extend the award-winning landscape work of the adjoining West Bank One development and will continue incorporating unique artwork, native plants and green space into the design.

The first phase of development includes demolition of some existing structures and immediate cleanup of roughly 5.6 acres to accommodate construction of a new hotel, rehabbing an existing historic building for a potential tenant(s), and site work for future commercial construction. Construction of the hotel and renovation of the barrel building will commence in the spring of 2016. This phase also includes construction of two new buildings, plus burying the power lines and other utilities for the rest of the development.

Future phases include construction of mixed-use office/retail/restaurant buildings, as well as residential condominiums.

As developers, the members of West Bank LLC are convinced that well-planned, environmentally responsible development along the Missouri River is not only feasible, but will be profitable. It will attract new businesses, create more jobs and draw local residents to the river and the core of the city.

# WEST BANK LANDING

## Attachment 1

# Phase I & 2 Criteria for Review

### **Public Infrastructure Improvements**

There will be extensive public infrastructure improvements on this roughly 12.5-acre development, starting with environmental cleanup of the contaminated areas. Of that, about 5.6 acres will be cleaned for the first phase of the project. Other improvements include burying power and utility lines and construction of roads, sidewalks and parking areas. The project also includes construction of and/or improvement to water lines, sewer lines and storm drains.

### **Economic Stimulus**

Site remediation, development and construction of the hotel, along with rehabilitation of the historic barrel building and site work for new construction comes at a cost of \$24,205,266. A substantial portion of this includes construction-related jobs. The businesses will provide new jobs to the community and an enhanced business area.

### **Tax Generation**

The County Assessor will determine the increase in taxable value from the proposed hotel and businesses. We note, however, that a similar development on adjoining property in the same TIF district produces annual property taxes of \$134,563. We anticipate annual tax outlays of two to three times that for West Bank Landing.

### **Employment Generation**

As noted in the application form, the hotel will provide 28 FTE permanent jobs, as well as 75 FTE construction jobs. The project is also relying on local environmental consultants, architects and engineers for project planning. Further, a local firm will provide all environmental cleanup prior to construction.

### **Elimination of Blight**

The West Bank Urban Renewal District has been one of the City of Great Falls' top priorities for many years. The City listed the area as "blighted" in 2006 due to the physical deterioration of the property, the incompatible mix of heavy industrial use interspersed with commercial and park use, defective street layout, and unsafe/unsanitary conditions on the property. The cleanup and redevelopment of West Bank Landing will go a long way in accomplishing the city's urban renewal goal. As a former industrial site with several sources of environmental contamination, the property has been a neglected eyesore for

# WEST BANK LANDING

## Attachment 1

- The proposed Hotel will represent of the newest and highest quality lodging facilities in Great Falls.
- The site for the proposed Hotel is deemed to be very good to excellent as it offers frontage on the Missouri River with access to public parks, walking/biking trails and river access points.
- The proposed Hotel will benefit from its location adjacent to the Montana Expo Park, as well as nearby amenities. Further the Hotel is anticipated to be part of a mixed-use development, featuring restaurants, retail and other establishments which are considered to be conducive to the operation of a hotel facility.
- The proposed Hotel will be affiliated with a national brand and is recognized as an upscale, all-suite hotel. Furthermore, the Hotel will benefit from the brand's strong national marketing brand association and the guest loyalty program.

### **Developer Ability to Perform**

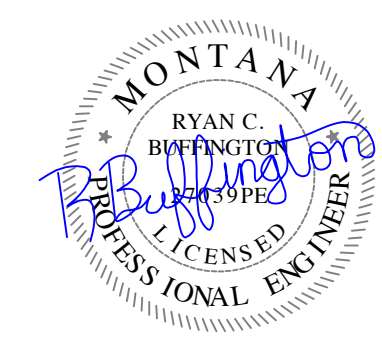
Please see **Attachment 4**: Development CV of West Bank LLC members.

### **Timely Completion**

The development schedule is conditioned upon several factors, including financing and the environmental assessment. Remediation is anticipated this spring, with construction to begin by June 2016.

### **Payment of Taxes**

All taxes on the property are up to date. **Please see Attachment 5** for verification.



WEST BANK LANDING  
GREAT FALLS, MT

PRELIMINARY - NOT FOR CONSTRUCTION

TIF

WOITH ENGINEERING, INC.  
ENGINEERS & SURVEYORS  
P.O. BOX 7526, GREAT FALLS, MONTANA 59406

JOB NO. 1410  
DATE 04-20-18

# WEST BANK LANDING

## Attachment 1

decades. Construction of the new hotel will provide the anchor tenant necessary to attract more businesses and continue responsible redevelopment.

### **Special or Unique Opportunities**

By its very location, West Bank Landing provides a unique opportunity. With its close proximity to the West Bank Park, River's Edge Trail and Missouri River, the property is ideally situated for creative and sustainable mixed-use development. We recognize that local residents have high expectations for riverfront development – they crave inclusive design that provides easy access between a variety of businesses and restaurants and the outdoor activities inherent in the location. We intend to maximize that access with bike- and pedestrian-friendly design and a “village” feel to the development.

The property also includes the historic barrel building, formerly known as the WPA Warehouse Building. Constructed in 1940 as an operations base for the Works Progress Administration, the brick building has a barrel roof supported by a series of steel trusses and a limited Art Deco architectural detail. That building will be refurbished and offered to a retail and/or restaurant tenant.

### **Impact Assessment**

The most obvious positive environmental impact is remediation of the existing historic contamination on the property. This contamination has not only threatened groundwater near the Missouri River, it has also stymied any development in the area for decades. Development can carry its own environmental impacts. We intend to mitigate these by implementing a master plan that includes sensitive and sensible site-wide plans for everything from storm water retention to building construction. We are committed to a development that emphasizes water and energy efficiency, use of locally sourced plants and materials, and indoor environmental quality.

### **Financial Assistance**

West Bank LLC is working with a local bank and the U.S. Small Business Administration for financing on this project. We received a Great Falls Development Association Grant to help assess the need for environmental cleanup. At this time we have no other source of state or federal grants or revenue bonds to help finance the project.

### **Development's Feasibility**

West Bank LLC contracted with PFK Consulting | CBRE Hotels to complete a market and financial analysis for a new hotel at West Bank Landing. The report was completed on Nov. 24, 2015 and confirmed the feasibility of the project. Among its conclusions:



# WEST BANK LANDING

## Attachment 4: Development Curriculum Vitae

### Objective

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Following are a sampling of recent business developments successfully completed or in development by the members of West Bank One. These developments are evidence of the capabilities of the team and demonstrate their experience to assess the feasibility of the project.

### Brad Talcott/Linda Caricaburu

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- Candlewood Suites, Sidney, MT. Value: \$13 million.
- West Bank One (Staybridge Suites, Kobe Seafood & Steakhouse, The Front Brewing Company, Faster Basset and The Front Public House), Great Falls. Value: \$16 million.
- La Quinta Inn & Suites, Moscow, ID. Value: \$5.9 million
- Hampton Inn, Nampa, ID. Value: \$9 million.

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### Spencer Woith

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- Berkner Heights (39 single-family and 20 multifamily homes). Value: \$15.9 million
- Cottage Grove (80 lots and more than 60 homes). Value: \$11.4 million.
- Whispering Ridge (44 high-end lots and homes). Value: \$15.4 million.
- North Industrial Area (57 acres of industrial lots, shop and office building). Value: \$16 million.
- Downtown Condo redevelopment. Value: \$800,000

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### Joe Aline

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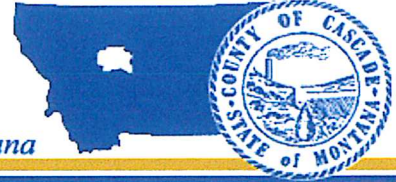
- ADF Site Development. Value: \$40 million
- Loenbro Site Development. Value: \$16 million.
- Skyline Heights Addition. Value: \$23 million





# CASCADE COUNTY

Your Local Government in Great Falls, Montana



Shopping Cart: 0 items [\$0.00]



New Search



History



Payoff



Pay Taxes



Help

**Parcel Number:** 0001877700

**Status:** Current

**Receipt:** 26597

**2016 Owner(s):**  
CASCADE COUNTY  
WEST BANK LLC

**Mailing Address:**

4415 RIVER DR N  
GREAT FALLS, MT 59405

**Levy District:**

1C-T4, Levy District 1C-T4

2015 Value:

**Market:** \$577,554  
**Taxable:** \$0

2015 Taxes:

**First Half:** \$609.23 **Due:** 11/30/2015  
**Second Half:** \$609.21 **Due:** 5/31/2016  
**Total:** \$1,218.44



[View Pie Charts](#)

2015 Payments:

**First Half:** \$609.23  
**Second Half:** \$0.00  
**Total:** \$609.23

(May include penalty & interest)



[Detail](#)



[Detail](#)

2016 Legal Records:

**Geo Code:** Instru#: R0309161 **Doc Type:** ABST **Date:** 2015-07-20

**Property address:** 415 3RD ST NW, GREAT FALLS MT 59404

**TRS:** T20, R3E, Sec. 2

**Legal:** S2,T20,R3E

**Mark:** 1

**PAR 9 COS 4615,IN NWSE,SWSE**

**Note:** The accuracy of this data is not guaranteed.

Web data was last updated 05/17/2016 09:30 AM.

**Send Payments To:**

Cascade County  
Treasurer's Office  
121 4th St North,  
Suite 1A,  
Great Falls, MT 59401



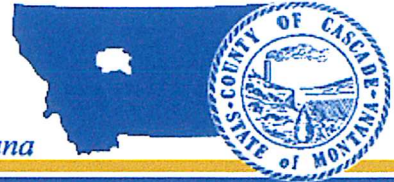
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History



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Help

**Parcel Number:** 0001877725

**Status:** Current

**Receipt:** 26598

**2016 Owner(s):**  
CASCADE COUNTY  
WEST BANK LLC

**Mailing Address:**

4415 RIVER DR N  
GREAT FALLS, MT 59405

**Levy District:**

1C-T4, Levy District 1C-T4

2015 Value:

**Market:** \$1,775,520  
**Taxable:** \$0

2015 Taxes:

**First Half:** \$1,532.71 **Due:** 11/30/2015  
**Second Half:** \$1,532.70 **Due:** 5/31/2016  
**Total:** \$3,065.41



[View Pie Charts](#)

2015 Payments:

**First Half:** \$1,532.71  
**Second Half:** \$0.00  
**Total:** \$1,532.71

(May include penalty & interest)



[Detail](#)



[Detail](#)

2016 Legal Records:

**Geo Code: Instru#:** R0309161 **Doc Type:** ABST **Date:** 2015-07-20

**Property address:** 501 3RD ST NW, GREAT FALLS MT 59404

**TRS:** T20, R3E, Sec. 2

**Legal:** S2,T20,R3E

**Mark:** 1B

**PAR 10, COS 4615, IN NWSE,SWSE**

**Note:** The accuracy of this data is not guaranteed.

Web data was last updated 05/17/2016 09:30 AM.

**Send Payments To:**

Cascade County  
Treasurer's Office  
121 4th St North,  
Suite 1A,  
Great Falls, MT 59401



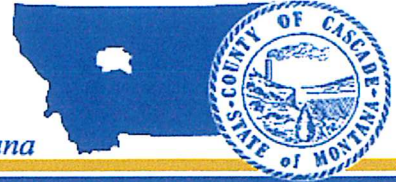
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# CASCADE COUNTY

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Shopping Cart: 0 items [\$0.00]

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[History](#)

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[PayTaxes](#)

[Help](#)

**Parcel Number:** 0001881325

**Status:** Current

**Receipt:** 26631

**2016 Owner(s):**  
CASCADE COUNTY  
WEST BANK LLC

**Mailing Address:**

4415 RIVER DR N  
GREAT FALLS, MT 59405

**Levy District:**

1C-T4, Levy District 1C-T4

**2015 Value:**

**Market:** \$46,086  
**Taxable:** \$0

**2015 Taxes:**

**First Half:** \$17.61 **Due:** 11/30/2015  
**Second Half:** \$17.60 **Due:** 5/31/2016  
**Total:** \$35.21

**2015 Payments:**

**First Half:** \$17.61  
**Second Half:** \$0.00  
**Total:** \$17.61

(May include penalty & interest)

[Detail](#)

[Detail](#)

**2016 Legal Records:**

**Geo Code: Instru#:** R0309161 **Doc Type:** ABST **Date:** 2015-07-20

**TRS:** T20, R3E, Sec. 2  
**Legal:** PAR 4 COS 4615, IN SESW & GOV LOTS 6 & 7  
S2,T20,R3E  
**Mark:** 2C4

**Note:** The accuracy of this data is not guaranteed.

Web data was last updated 05/17/2016 09:30 AM.

**Send Payments To:**

Cascade County  
Treasurer's Office  
121 4th St North,  
Suite 1A,  
Great Falls, MT 59401



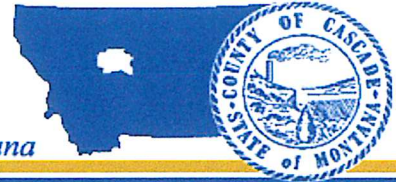
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New Search



History



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Pay Taxes



Help

**Parcel Number:** 0001877730

**Status:** Current

**Receipt:** 26599

**2016 Owner(s):**  
CASCADE COUNTY  
WEST BANK LLC

**Mailing Address:**

4415 RIVER DR N  
GREAT FALLS, MT 59405

**Levy District:**

1C-T4, Levy District 1C-T4

**2015 Value:**

**Market:** \$92,437  
**Taxable:** \$0

**2015 Taxes:**

**First Half:** \$58.03 **Due:** 11/30/2015  
**Second Half:** \$58.02 **Due:** 5/31/2016  
**Total:** \$116.05

**2015 Payments:**

**First Half:** \$58.03  
**Second Half:** \$0.00  
**Total:** \$58.03

(May include penalty & interest)



Detail



Detail

**2016 Legal Records:**

**Geo Code: Instru#:** R0309161 **Doc Type:** ABST **Date:** 2015-07-20

**TRS:** T20, R3E, Sec. 2  
**Legal:** Mark: 1BB  
IN SW & GOV LOTS 6 & 7  
S2,T20,R3E

**Note:** The accuracy of this data is not guaranteed.

Web data was last updated 05/17/2016 09:30 AM.

**Send Payments To:**

Cascade County  
Treasurer's Office  
121 4th St North,  
Suite 1A,  
Great Falls, MT 59401



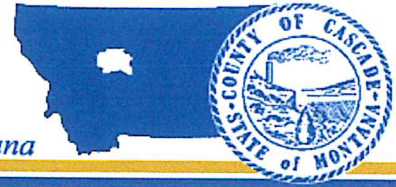
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[Pay Taxes](#)

[Help](#)

**Parcel Number:** 0001881300

**Status:** Current

**Receipt:** 26630

**2016 Owner(s):**  
CASCADE COUNTY  
WEST BANK LLC

**Mailing Address:**

4415 RIVER DR N  
GREAT FALLS, MT 59405

**Levy District:**

1C-T4, Levy District 1C-T4

**2015 Value:**

**Market:** \$1,387,648  
**Taxable:** \$26,226

**2015 Taxes:**

**First Half:** \$10,598.72 **Due:** 11/30/2015  
**Second Half:** \$10,598.75 **Due:** 5/31/2016  
**Total:** \$21,197.47

[View Pie Charts](#)

**2015 Payments:**

**First Half:** \$10,598.72  
**Second Half:** \$0.00  
**Total:** \$10,598.72

(May include penalty & interest)

[Detail](#)

[Detail](#)

**2016 Legal Records:**

**Geo Code:** 02-3015-02-4-01-02-0000 **Instru#:** R0309161 **Doc Type:** ABST **Date:** 2015-07-20

**Property address:** 415 3RD ST NW, GREAT FALLS MT 59404  
**TRS:** T20, R3E, Sec. 2  
**Legal:** IN NWSWSE  
S2,T20,R3E  
**Mark:** 23

**Geo Code:**

**Property address:** 205 4TH AVE NW, GREAT FALLS MT 59404  
**Geo Code:**

**Property address:** 201 4TH AVE NW, GREAT FALLS MT 59404  
**Geo Code:**

**TRS:** T20, R3E, Sec. 2  
**Legal:** S2,T20N,R3E  
**MARK:** 2C4

**Geo Code:**

**TRS:** T20, R3E, Sec. 2  
**Legal:** S2,T20N,R3E  
**MARK:** 1

**Geo Code:**

**TRS:** T20, R3E, Sec. 2  
**Legal:** S2,T20N,R3E  
**MARK:** 1B

**Geo Code:**

# EXHIBIT D - DEVELOPMENT AGREEMENT

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## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is dated as of [\_\_\_\_], 2016 (this “**Agreement**”), among the CITY OF GREAT FALLS, a municipal corporation of the State of Montana (the “**City**”), and WEST BANK LLC, a Montana limited liability company (the “**Developer**”).

### WITNESSETH:

WHEREAS, under the provisions of the Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the “**Act**”), an urban renewal district may be established so that an issuer of bonds may undertake urban renewal projects therein, provide for the segregation and collection of tax increment with respect to taxes collected in such district, issue its bonds to pay the costs of such projects or redeem such bonds that paid the costs of such projects, and pledge to the repayment of the bonds all or a portion of the tax increment derived from the urban renewal district; and

WHEREAS, the City Commission, pursuant to Amended Ordinance No. 2967, duly adopted on March 20, 2007 after a duly called and noticed public hearing thereon, created an urban renewal area as the West Bank Urban Renewal Area (the “**District**”) and adopted the West Bank Urban Renewal Plan (the “**Plan**”) containing a tax increment financing provision; and

WHEREAS, the Developer proposes to develop a 12.5 acre, multi-phase, mixed-use commercial development at the West Bank Landing, including construction of a four story 127-room hotel and future sites for restaurants, office buildings, retail shops and residential condominiums (the “**Project**”), as depicted on the map included on Exhibit A hereto; and

WHEREAS, the Developer submitted an Application for City of Great Falls Tax Increment Financing (TIF) Application for Funds dated May 16, 2016 (the “**Application**”) for tax increment financing assistance with respect to certain qualified improvements associated with the Project, consisting of environmental remediation, removal of existing buildings, design, engineering and relocation of overhead power and telecom utilities, and design, engineering, construction and installation and extension of water, sanitary sewer and storm sewer utilities, as further described on Exhibit B hereto (the “**Infrastructure Improvements**”); and

WHEREAS, the City has determined that it is appropriate to pay for or reimburse the Developer for the costs of the Infrastructure Improvements with tax increment generated from the District, subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the City Commission, pursuant to Ordinance No. [\_\_\_\_], duly adopted on [\_\_\_\_], 2016, after a duly called and noticed public hearing thereon approved the Project and the Infrastructure Improvements as an urban renewal project and authorized the City to enter into this Agreement which sets forth the obligations and commitments of the City and the Developer with respect to the Project, the Infrastructure Improvements and the tax increment generated from the District.

NOW THEREFORE, the City and the Developer, each in consideration of the representations, covenants and agreements of the other, as set forth herein, mutually represent, covenant and agree as follows:

Section 1. Definitions; Rules of Interpretation; Exhibits.

1.1. Definitions. For all purposes of this Agreement, except as otherwise expressly provided or unless the context clearly requires otherwise, the following terms have the meanings assigned to them, respectively:

“**Act**” has the meaning given to it in the recitals.

“**Actual Taxable Value**” means the taxable value (as defined in the Act) of the Taxable Property as shown on or calculated from the assessment roll last equalized before the date of reference.

“**Agreement**” means this Development Agreement, including any amendment hereof or supplement hereto entered into in accordance with the provisions hereof.

“**Base Taxable Value**” means the Actual Taxable Value as of January 1, 2007, as such value is adjusted from time to time in accordance with the Act.

“**Bond Resolution**” means Resolution No. 9815, duly adopted by the Commission on July 21, 2009, as amended and supplemented by Resolution Nos. 9843 and 9960, adopted by the Commission on October 20, 2009 and February 21, 2012, respectively, and as shall be further amended and supplemented by a supplemental resolution in connection with the issuance of the Bonds.

“**Bonds**” means the Tax Increment Urban Renewal Revenue Bonds (West Bank Urban Renewal Area) to be issued by the City pursuant to this Agreement and the Bond Resolution.

“**City**” means the City of Great Falls, Montana, or any successors to its functions under this Agreement.

“**Commission**” means the City Commission or any successor governing body of the City, however denominated by statute.

“**Department of Revenue**” means the State of Montana Department of Revenue.

“**Developer**” has the meaning given to it in the preamble.

“**Developer Certificate**” means the certificate attached hereto as Exhibit D.

“**District**” has the meaning given to it in the recitals.

“**Environmental Laws and Regulations**” means and includes the Federal Comprehensive Environmental Compensation Response and Liability Act (“CERCLA” or the “Federal Superfund Act”) as amended by the Superfund Amendments and Reauthorization Act



of 1986 (“SARA”), 42 U.S.C. §§ 9601 et seq.; the Federal Resource Conservation and Recovery Act of 1976 (“RCRA”), 42 U.S.C. §§ 6901 et seq.; the Clean Water Act, 33 U.S.C. § 1321 et seq.; and the Clean Air Act, 42 U.S.C. §§ 7401 et seq., all as the same may be from time to time amended, and any other federal, State, county, municipal, local or other statute, code, law, ordinance, regulation, requirement or rule which may relate to or deal with human health or the environment including without limitation all regulations promulgated by a regulatory body pursuant to any such statute, code, law or ordinance.

“**Fiscal Year**” means the period commencing on the first day of July of any year and ending on the last day of June of the next calendar year, or any other twelve-month period authorized by law and specified by the Commission as the City’s fiscal year.

“**Incremental Taxable Value**” means the amount, if any, by which the Actual Taxable Value, as of the date of reference, exceeds the Base Taxable Value.

“**Indemnified Parties**” has the meaning given to it in Section 7 hereof.

“**Infrastructure Improvements**” means those improvements in the District described on Exhibit B hereto.

“**Land**” means the real property and interests in real property described in Exhibit A hereto.

“**Land Use Regulations**” means all federal, State and local laws, rules, regulations, ordinances and plans relating to or governing the development or use of the Land or the Project.

“**Ordinance**” means Amended Ordinance No. 2967 adopted on March 20, 2007, together with Ordinance No. [\_\_\_\_\_] adopted on [\_\_\_\_\_], 2016 (as either may be amended and supplemented from time to time).

“**Person**” means any individual, corporation, partnership, joint venture, association, committee, limited liability company, limited liability partnership, joint stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

“**Plan**” has the meaning given to it in the recitals.

“**Prevailing Wage Rates**” means the Montana Prevailing Wage Rate for public works projects as published from time to time by and available from the Montana Department of Labor and Industry, Research and Analysis Bureau, P.O. Box 1728, Helena, Montana 59624, telephone number (800) 541-3904.

“**Project**” has the meaning given to it in the recitals.

“**State**” means the State of Montana.

“**Tax Increment**” means the amount received by the City pursuant to the Act from the extension of levies of Taxes against the Incremental Taxable Value of the Taxable Property and



will include all payments in lieu of Taxes or beneficial use taxes attributable to the Incremental Taxable Value.

“**Taxable Property**” means all real and personal property located in the District and subject to Taxes.

“**Taxes**” means all taxes levied on an ad valorem basis by any Taxing Jurisdiction against the Taxable Property and includes all payments in lieu of taxes or beneficial use taxes received by the City with respect to the Incremental Taxable Value of the Taxable Property.

“**Taxing Jurisdiction**” means the State, the City, any school district, local government, municipal corporation, political subdivision or other government entity that levies, during any Fiscal Year during which the tax increment provision of the District is effective under the Act, ad valorem taxes against real or personal property in the District.

“**Unavoidable Delay**” means a delay resulting from a cause over which the party required to perform does not have control and which cannot or could not have been avoided by the exercise of reasonable care, including but not limited to acts of God, accidents, war, civil unrest, embargoes, strikes, unavailability of raw materials or manufactured goods, litigation and the delays of the other party or its contractors, agents or employees in the performance of their duties under or incident to this Agreement.

1.2. Rules of Interpretation.

(a) The words “herein,” “hereof” and words of similar import, without reference to any particular section or subdivision, refer to this Agreement as a whole rather than to any particular section or subdivision hereof.

(b) References herein to any particular section or subdivision hereof are to the section or subdivision of this Agreement as originally executed unless otherwise indicated.

(c) “Or” is not exclusive but is intended to contemplate or encompass one, more or all of the alternatives conjoined.

1.3. Exhibits. The following Exhibits are attached to and by reference made a part of this Agreement:

Exhibit A—Legal Description of the Land and Map Thereof

Exhibit B—Infrastructure Improvements

Exhibit C—Project Costs and Sources of Funds

Exhibit D—Form of Developer Certificate

Section 2. Representations.

2.1. City Representations. The City hereby represents as follows:

(a) Pursuant to the Act, and after public hearing duly called and held, the City by the Ordinance has duly created the District. Pursuant to the Act and the Ordinance, the City has approved the Project as an urban renewal project.

(b) The City is authorized by law to enter into this Agreement and, upon the adoption of a supplemental resolution in connection with issuing the Bonds, to carry out its obligations hereunder and thereunder and to issue the Bonds.

(c) The City is committed to issuing Bonds in order to pay or reimburse the Developer for up to \$2,642,124 of costs of the Infrastructure Improvements as set forth on Exhibit B hereto.

(d) The State Department of Revenue has advised the City that as of January 1, 2007 the Base Taxable Value of the District was \$292,250.

2.2. Developer Representations. The Developer hereby represents as follows:

(a) The Developer is a Montana limited liability company, duly formed, validly existing and in good standing under the laws of the State and is duly qualified to do business in the State. The Developer has the power to enter into this Agreement and by all necessary corporate action has duly authorized the execution and delivery of this Agreement.

(b) The representations and warranties of the Developer in its Application are true and correct as of the date hereof, including with respect to the total investment to be made by the Developer with respect to the Project and the Infrastructure Improvements.

(c) The Developer has good marketable title to the Land, free and clear of all liens, encumbrances and defects except such as do not materially affect the value of the Land or materially interfere with the use made and proposed to be made of the Land by the Developer.

(d) The Developer estimates the total costs of the Project (including Land acquisition) is \$32,000,000 as described in Exhibit C hereto and the Developer has the financial capability and/or financing commitments to complete the Project.

(e) The Developer is not aware of any facts the existence of which would cause the Developer to be in violation of any Environmental Laws and Regulations applicable to the Project or the Infrastructure Improvements. The Developer has not received from any local, State or federal official any notice or communication indicating that the activities of the Developer may be or will be in violation of any Environmental Laws and Regulations applicable to the Project or the Infrastructure Improvements.

(f) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prohibited or limited by, conflicts with or results in a breach of the terms, conditions or provisions of the certificate of formation or operating agreement of the Developer or any evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(g) There is no action, suit, investigation or proceeding now pending or, to the knowledge of the Developer, threatened against or affecting the Developer or its business, operations, properties or condition (financial or otherwise) before or by any governmental department, commission, board, authority or agency, or any court, arbitrator, mediator or grand jury, that could, individually or in the aggregate, materially and adversely affect the ability of the Developer to complete the Project.

### Section 3. Developer's Undertakings.

3.1. Construction and Maintenance of Project. The Developer hereby agrees and commits to the City that it will diligently prosecute to completion the construction of the Project in accordance with this Agreement, the site plan submitted to the City and all applicable federal, State and local laws, rules, regulations and ordinances relating to or governing the development or use of the Project, including applicable Land Use Regulations and Environmental Laws and Regulations. The Developer agrees and commits to the City that construction of the Project shall be completed by December 31, 2017, subject to Unavoidable Delays. The total costs of the Project and the source of funds available for payment thereof are shown on Exhibit B hereto. The Developer has the financial capacity to complete the Project, and the Developer agrees to pay all such costs thereof. If there is an increase in the costs of the Project from that shown on Exhibit C hereto and that cannot be covered by the contingency amount, the Developer shall notify the City of the increase and submit additional evidence in a form acceptable to the City that the Developer has the financial capacity and/or financial commitments to cover such additional costs and complete the Project. At all times during the term of this Agreement, the Developer will operate and maintain, preserve and keep the Project or cause the Project to be operated, maintained, preserved and kept for the purposes for which it was constructed, and with the appurtenances and every part and parcel thereof, in good repair and condition. The Developer agrees to permit the City and any of its officers, employees or agents access to the Land for the purpose of inspection of all work being performed in connection with the Project; provided, however, that the City shall have no obligation to inspect such work.

3.2. Preparation, Review and Approval of Construction Plans. In connection with the Project, the Developer, at its sole expense, shall prepare and submit construction plans, drawings, and related documents for each portion of the Project to the appropriate City officials for architectural, engineering or land use review and written approval or permits. The Developer acknowledges that no review or approval by City officials may be in any way construed by the Developer to replace, override or be in lieu of any required review, inspection, or approval by the City Building Office, or any other building construction official review or approvals required by any State laws or local ordinances or regulations.

3.3. Competitive Bidding; Prevailing Wage Rates; and Preference for Montana Residents. The Developer understands that the City is obligated to follow certain laws with respect to the expenditure of public funds, which includes Tax Increment. The Developer agrees that in the awarding of contracts for the Infrastructure Improvements that (i) it will, and it will cause its contractor to, competitively bid contracts for each component of the Infrastructure Improvements; (ii) it will, and it will cause its contractor to, pay the Prevailing Wage Rates on such contracts related to the Infrastructure Improvements; (iii) it will, and it will cause its contractor to, give preference to the employment of bona fide residents of the State, as required

by Montana Code Annotated Section 18-2-403 and as such term is defined by Montana Code Annotated Section 18-2-401(1) and the Administrative Rules of the State, including but not limited to A.R.M. 24.17.147, obliging the Developer and its contractors to hire 50% bona fide Montana residents with respect to the installation and construction of the Infrastructure Improvements; and (iv) when making assignments of work, it will, and it will cause its contractor to, use workers both skilled in their trade and specialized in their field of work for all work to which they are assigned. The Developer will provide to the City all documentation requested to verify the compliance of the Developer and its contractors with the foregoing requirements. Failure of the Developer and its contractors to pay the Prevailing Wage Rates on the Infrastructure Improvements will be considered a breach of this Agreement and the City will be entitled to exercise any and all measures to assure compliance and retroactive compensation plus interest to employees not paid in accordance with this Agreement, and recovery of any penalty or fine assessed by the State attributed to any failure to pay the Prevailing Wage Rates. Additionally, the Developer acknowledges that a violation of these requirements will result in the City not being able to pay or reimburse the Developer for costs of the Infrastructure Improvements.

3.4. Easements. To the extent that the Infrastructure Improvements are to be located on the Land, the Developer hereby agrees to grant to the City and applicable utility companies from time to time such easements, rights-of-way and similar licenses as are reasonably necessary to permit the City or applicable utility company to own, operate and maintain the Infrastructure Improvements. The City and the Developer shall agree to the reasonable location, scope, duration, type, form and use of such easements, rights-of-way or similar licenses pursuant to separate instruments to be negotiated between the parties hereto in accordance with the intent of this Section 3.7.

3.5. Utilities. The Developer shall not interfere with, or construct any improvements over, any public street or utility easement without the prior written approval of the City. All connections to public utility lines and facilities shall be subject to approval of the City and any private utility company involved. The Developer at its own expense shall replace any public facilities or utilities damaged during the Project by the Developer or its agents or by others acting on behalf of or under their direction or control of the Developer.

3.6. Permits; Environmental Laws. The Developer will obtain in a timely manner all required permits, licenses and approvals, and will meet all requirements of all federal, State and local laws, rules, regulations and ordinances, which must be obtained or met in connection with the acquisition and construction of the Project and the Infrastructure Improvements. Without limiting the foregoing, the Developer will request and seek to obtain from the City or other appropriate governmental authority all necessary variances, conditional use permits and zoning changes. The Developer will comply in all material respects with all Environmental Laws and Regulations applicable to the construction, acquisition and operation of the Project and the Infrastructure Improvements, obtain any and all necessary environmental reviews, licenses or clearances under, and comply in all material respects with, Environmental Laws and Regulations.

3.7. Nondiscrimination. The Developer agrees that all hiring by the Developer and its contractors and persons performing this Agreement will be on the basis of merit and qualification

and will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, national origin, or other class protected by State and/or federal law.

3.8. Worker's Compensation Insurance. The Developer shall provide in its construction contracts with all of its respective contractors that such contractors are to be covered by a Worker's Compensation insurance program with the State, a private insurance carrier, or an approved self-insurance plan in accordance with State law.

Section 4. City Undertakings. Subject to the terms and conditions of this Agreement, the City agrees to issue the Bonds payable from Tax Increment in a principal amount sufficient to pay or reimburse the Developer for the costs of the Infrastructure Improvements, to fund a deposit to the reserve account required by the Bond Resolution and to pay costs of issuance of the Bonds. The City estimates that the aggregate principal amount of the Bonds necessary to cover such costs is approximately \$3,000,000. The Developer understands that the City does not presently have sufficient bonding capacity to issue the Bonds, such bonding capacity being dependent upon the receipt by the City of sufficient annual Tax Increment. The City-County's obligation to issue the Bonds is subject to the fulfillment of each and all of the following additional conditions precedent:

(a) There shall be sufficient Tax Increment to issue the Bonds (and pay debt service thereon) in an aggregate principal amount sufficient to pay or reimburse the Developer for the costs of the Infrastructure Improvements, to fund a deposit to the reserve account required by the Bond Resolution and to pay costs of issuance of the Bonds, and to provide coverage equal to at least 140% of the maximum annual debt service requirements required under the Bond Resolution.

(b) The Bonds shall be marketable at interest rates acceptable to the City. The Developer understands that the City does not guarantee the marketability of the Bonds or the interest rate thereon.

(c) No court or governmental or regulatory agency shall have enacted or issued any judgment, injunction, statute, rule, regulation or other order, nor shall any action suit, proceeding or investigation before any court or governmental or regulatory authority be pending, which prohibits or would prohibit, in whole or in part, the consummation of the proposed transactions.

(d) All required State and local governmental, regulatory and other third-party approvals or consents shall have been obtained.

(e) The City shall have received an opinion of Bond Counsel as to the tax-exempt status of interest on the Bonds.

Section 5. Payment or Reimbursement for Infrastructure Improvements. Payment or reimbursement by the City for the Infrastructure Improvements shall be subject to the following conditions and in accordance with the following procedures:

(i) Subject to Section 4, the City shall have issued the Bonds.

(ii) (A) The Project (including Land acquisition) shall have been substantially completed at a cost of not less than \$32,000,000 and (B) the Infrastructure Improvements shall have been completed in their entirety and the City shall have delivered to the Developer written acceptance of the Infrastructure Improvements (which may be in the form of a Certificate of Completion or such other format as required by the City).

(iii) Any payment or reimbursement by City for costs of the Infrastructure Improvements will be based on paid or outstanding invoices for costs incurred by the Developer, its contractors and subcontractors or utility companies. The City may reject, in its sole discretion, any invoice to the extent it is not part of the Infrastructure Improvements.

(iv) The parties hereto agree that City will not be required to pay or reimburse costs of any Infrastructure Improvements unless at the time of such request (A) all of the Developer's representations as set forth in Section 2.2 are true and correct and (B) the Developer is not in breach of any covenant or undertaking as set forth in Section 3.

(v) The request for payment or reimbursement must be accompanied by a signed draw request substantially in a form attached as Exhibit D (the "**Developer's Certificate**") hereto and acceptable to the City, accompanied by the invoices and lien waivers (if relevant) from the contractors or subcontractors performing the work to be paid or reimbursed.

(vi) The City will cause payment or reimbursement for all properly submitted and allowable expenses to be paid within 30 days of satisfaction of the requirements of this Section 5, subject to compliance with City accounts payable procedures.

## Section 6. Sources of Repayment; Covenants to Pay Taxes.

6.1. Taxes. The Developer shall pay or cause to be paid when due and prior to the imposition of penalty all Taxes and all installments of any special assessments payable with respect to the Land and the Project and any improvements thereto or extension thereof.

6.2. Maintenance of Land and Project. Developer agrees to use its commercially reasonable best efforts to maintain and operate the Land and the Project so as to be able at all times to pay promptly and when due all property taxes levied with respect to the Land and the Project.

## Section 7. Release, Indemnification and Insurance.

7.1. Release and Indemnification. The Developer releases the City and all Commission members, officers, agents, servants and employees thereof (the "**Indemnified Parties**") from, and covenants and agrees that the Indemnified Parties shall not be liable for, and agrees to indemnify, defend and hold harmless the Indemnified Parties against, any loss, damage, cost (including reasonable attorneys' fees), claim, demand, suit, action or other proceeding

whatsoever (i) arising or purportedly arising out of, or resulting or purportedly resulting from, the acquisition and construction of the Project and the Infrastructure Improvements, any violation by the Developer of any agreement, condition or covenant of this Agreement, the construction of the Project and the Infrastructure Improvements, the ownership, maintenance and operation of the Project, or the presence on any portion of the Land, of any dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances or (ii) which is caused by the Developer or its officers, agents, contractors, consultants or employees; except that such indemnification shall not apply to the extent that the loss, damage or cost is determined by a court of competent jurisdiction to have been caused by the gross negligence, willful misconduct or bad faith of the Indemnified Party.

7.2. Insurance. Developer shall keep and maintain the Project at all times insured against such risks and in such amounts, with such deductible provisions, as are customary in connection with facilities of the type and size comparable to the Project, and the Developer shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for direct damage insurance covering all risks of loss (which need not include flood or seismic), including, but not limited to, the following:

1. fire
2. extended coverage perils
3. vandalism and malicious mischief
4. boiler explosion (but only if steam boilers are present)
5. collapse

on a replacement cost basis in an amount equivalent to the Full Insurable Value thereof. "Full Insurable Value" shall include the actual replacement cost of the Project, without deduction for architectural, engineering, legal or administrative fees or for depreciation. The policies required by this Section 7.2 shall be subject to a no coinsurance clause or contain an agreed amount clause, and may contain a deductibility provision not exceeding \$100,000.

Subject to the terms of any mortgage relating to the Project, policies of insurance required by this Section 7.2 shall insure and be payable to Developer, and shall provide for release of insurance proceeds to Developer for restoration of loss. The City shall be furnished certificates showing the existence of such insurance. In case of loss, the Developer is hereby authorized to adjust the loss and execute proof thereof in the name of all parties in interest.

During construction of the Project, any and all of the foregoing insurance policies may be maintained by the Developer's contractor; provided that once the Project is placed into service, Developer shall maintain all of the foregoing insurance policies.

## Section 8. General Provisions.

8.1. Conflicts of Interest; City's Representatives Not Individually Liable. No member, officer, agent, servant or employee of the City shall have any personal interest, direct or indirect, in this Agreement, the Project or the Infrastructure Improvements, nor shall any such member, officer or employee participate in any decision relating to this Agreement that affects his or her personal interests or the interests of any corporation, partnership or association in which he or



she is, directly or indirectly, interested. No member, officer or employee of the City shall be personally liable to Developer in the event of any default under or breach of this Agreement by the City, or for any amount that may become due to Developer for any obligation issued under or arising from the terms of this Agreement.

8.2. Rights Cumulative. The rights and remedies of the parties hereto, whether provided by law or by this Agreement, shall be cumulative, and the exercise by any party hereto of any one or more of such remedies shall not preclude the exercise by such party, at the same or different times, of any other remedy for the same default or breach or of any of its remedies for any other default or breach of the party subject to the limitation of remedies provided herein. No waiver made by such party with respect to the performance or the manner or time thereof, of any obligation under this Agreement, shall be considered a waiver with respect to the particular obligation of the other party or a condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver of any obligations of the other party. Delay by a party hereto instituting or prosecuting any cause of action or claim hereunder shall not be deemed a waiver of any rights hereunder.

8.3. Injunction; Specific Performance. The parties hereto agree that, in the event of a breach of this Agreement by any party or its successors or assigns, the non-breaching party would suffer irreparable harm. Therefore, in the event any party or its successors or assigns fails to comply with the provisions of this Agreement, the parties expressly agree that the non-breaching party may pursue any remedy at law or in equity, including without limitation, the remedies of injunction and specific performance.

8.4. Term of Agreement. This Agreement will remain in effect until July 1, 2032 or such earlier date upon which no Bonds are outstanding and all obligations under this Agreement have been satisfied or discharged; provided that this Agreement may be terminated by the City in its sole discretion at any time after June 30, 2018 if the Project and the Infrastructure Improvements have not been fully completed. Notwithstanding, Sections 6, 7 and 8 shall in all events survive the termination of this Agreement.

8.5. Limitation on City Liability. No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by the City contained in this Agreement or any other document executed by the City in connection with the Infrastructure Improvements or the Bonds will give rise to any pecuniary liability of the City or a charge against its general credit or taxing powers, or will obligate the City financially in any way except with respect to the Tax Increment. No failure of the City to comply with any term, condition, covenant or agreement herein will subject the City to liability for any claim for damages, costs or other financial or pecuniary charge except to the extent that the same can be paid or recovered from the Tax Increment; and no execution on any claim, demand, cause of action or judgment will be levied upon or collected from the general credit, general funds or taxing powers of the City (except as such constitute Tax Increment). Nothing herein will preclude a proper party in interest from seeking and obtaining specific performance against the City for any failure to comply with any term, condition, covenant or agreement herein; provided that no costs, expenses or other monetary relief will be recoverable from the City except as may be payable from the Tax Increment or proceeds of the Bonds.

8.6. Notices. All notices, certificates or other communications required to be given to the City or the Developer hereunder will be sufficiently given and will be deemed given when delivered or deposited in the United States mail in certified form with postage fully prepaid and addressed as follows:

If to the City: City of Great Falls  
P.O. Box 5021  
Great Falls, Montana 59403  
Attn: Fiscal Services Director

If to the Developer: West Bank LLC  
P.O. Box 2493  
Great Falls, Montana 59403

The City and the Developer, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications should be sent.

8.7. Assignment. This Agreement is unique between the City and the Developer and no party may assign any rights or privileges or delegate any duties or obligations under this Agreement without first obtaining the written consent of the other parties hereto.

8.8. Binding Effect. The right and obligations set forth in this Agreement will inure to the benefit of and will be binding upon the City and the Developer and their respective successors and assigns.

8.9. Prior Agreements. This Agreement supersedes, merges and voids any and all prior discussions, negotiations, agreements and undertakings between the parties hereto with respect to the subject matter of this Agreement. The parties waive and release each other from any claims, actions, or causes of action that relate in any manner to any prior discussions, negotiations, agreements and undertakings between the parties with respect to the subject matter of this Agreement.

8.10. Severability. If any provision of this Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

8.11. Amendments, Changes and Modifications. This Agreement may be amended or any of its terms modified only by written amendment authorized and executed by the City and the Developer.

8.12. Governing Law. This agreement and the legal relations between the parties hereto will be governed by and construed in accordance with the laws of the State of Montana, without giving effect to any choice of law statutes, rules, or principles.

8.13. Further Assurances and Corrective Instruments. The City and the Developer agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as

may reasonably be required for correcting any inadequate or incorrect description of the Project or the Infrastructure Improvements or for carrying out the expressed intention of this Agreement.

8.14. Execution Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute one and the same instrument.

8.15. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope of intent of any provisions or Sections of this Agreement.

*[remainder of page left intentionally blank]*

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the \_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF GREAT FALLS, MONTANA

[SEAL]

By \_\_\_\_\_  
City Manager

Attest:

\_\_\_\_\_  
City Clerk

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
Sara Sexe, City Attorney

STATE OF MONTANA     )  
  : ss.  
County of Cascade        )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_ by Gregory T. Doyon, Lisa Kunz and Sara Sexe, as the City Manager, City Clerk and City Attorney of the City of Great Falls, Montana, respectively.

(Notarial Seal)

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_, Montana  
My Commission Expires: \_\_\_\_\_

WEST BANK LLC

\_\_\_\_\_  
Name:  
Title:

STATE OF MONTANA     )  
                                      : ss.  
County of Cascade     )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_ by  
\_\_\_\_\_ of West Bank, on behalf of said limited liability company.

(Notarial Seal)

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_, Montana  
My Commission Expires: \_\_\_\_\_

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND AND MAP THEREOF

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EXHIBIT B  
INFRASTRUCTURE IMPROVEMENTS

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EXHIBIT C

PROJECT COSTS AND SOURCES OF FUNDS

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EXHIBIT D

FORM OF DEVELOPER CERTIFICATE

TO: City of Great Falls, Montana (the “City”)

FROM: West Bank LLC (the “Developer”)

SUBJECT: Payment/Reimbursements for Infrastructure Improvements

This represents Developer Certificate No. \_\_\_\_\_ in the total amount of \$\_\_\_\_\_ for payment of the Infrastructure Improvements.

The undersigned, as Authorized Developer Representative, intends that this certificate will satisfy the requirements of Section 5(iv) of the Development Agreement, dated as of [\_\_\_\_], 2016 between the City and the Developer, and does hereby certify on behalf of the Developer that:

(a) the expenditures for which payment or reimbursement is requested are listed in summary form in the attached schedule;

(b) the amounts requested have been paid by the Developer for property or to contractors, subcontractors, materialmen, engineers, architects or other persons who will perform or have performed necessary or appropriate services or will supply or have supplied necessary or appropriate materials for the acquisition, construction, renovation, equipping and installation of the Infrastructure Improvements, as the case may be, and that, to the best of my knowledge, the fair value of such property, services, or materials is not exceeded by the amounts requested to be paid;

(c) the cost of work to be paid or reimbursed has been competitively bid and the contractor or subcontractor has paid the Montana prevailing wage for such work;

(d) no part of the several amounts requested to be paid or reimbursed, as stated in such certificate, has been or is the basis for the payment or reimbursement of any money in any previous or pending request; and

(e) the payment or reimbursement of the amounts requested will not result in a breach of any of the covenants of the Developer contained in the Agreement.

Dated: \_\_\_\_\_, 20\_\_

WEST BANK LLC

By: \_\_\_\_\_  
Authorized Developer Representative

Schedule to Developer Certificate No. \_\_\_\_\_

Payee

Purpose

Amount

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