



Work Session Meeting Agenda
2 Park Drive South, Great Falls, MT
Virtual Meeting by Zoom
December 1, 2020
5:30 PM

Due to the COVID-19 health concerns, the format of the City Commission meeting will be held in a virtual video-conferencing environment. City Commission members and City staff will attend the meeting via a remote location, using a virtual meeting method.

In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), modifications have also been made for public participation. Public participation is welcome in the following ways:

- To register to attend the virtual meeting utilizing Zoom Webinar or to participate by phone. Attendees must register in advance for the Commission Meeting:
https://us02web.zoom.us/webinar/register/WN_ZmMr7xTqTpKuTsZrtW-7ig

After registering, you will receive a confirmation email containing information about joining the webinar by Zoom or phone.

- Attend in person. **The City will be following the Current Governor's Directives and the Public Health Officer Orders regarding public meetings conducted by, staffed by or held in the facilities of the city.** Masks will be required, social distancing will be enforced, and the total number of persons in the meeting room will be limited to a maximum of 25. Public following these directives may view and participate in the meeting from the Gibson Room. Please refrain from attending in person if you are not feeling well.
- Provide public comments via email. Comments may be sent via email before 12:00 PM on Tuesday, December 1, 2020, to: commission@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether a city resident. Due to tracking and dissemination requirements, written communication must be received by that time in order to be shared with the City Commission and appropriate City staff for consideration during the agenda item and will be so noted in the official record of the meeting.

CALL TO ORDER

PUBLIC COMMENT

(Public comment on agenda items or any matter that is within the jurisdiction of the City Commission. Please keep your remarks to a maximum of five (5) minutes. Speak into the microphone, and state your name and either your address or whether you are a city resident for the record.)

WORK SESSION ITEMS

1. Annual Airport Board Update -- Airport Advisory Board and John Faulkner.
2. Waste Water Treatment Contract Review -- Paul Skubinna.

DISCUSSION POTENTIAL UPCOMING WORK SESSION TOPICS

ADJOURNMENT

City Commission Work Sessions are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. Work Session meetings are re-aired on cable channel 190 the following Thursday morning at 10 a.m. and the following Tuesday evening at 5:30 p.m.

UPCOMING MEETING SCHEDULE

Work Session -- Tuesday December 15, 2020 5:30 p.m.

Commission Meeting -- Tuesday December 15, 2020 7:00 p.m.

Great Falls International Airport

An Update to the City Commission

GTF



GTF GREAT FALLS INTERNATIONAL AIRPORT

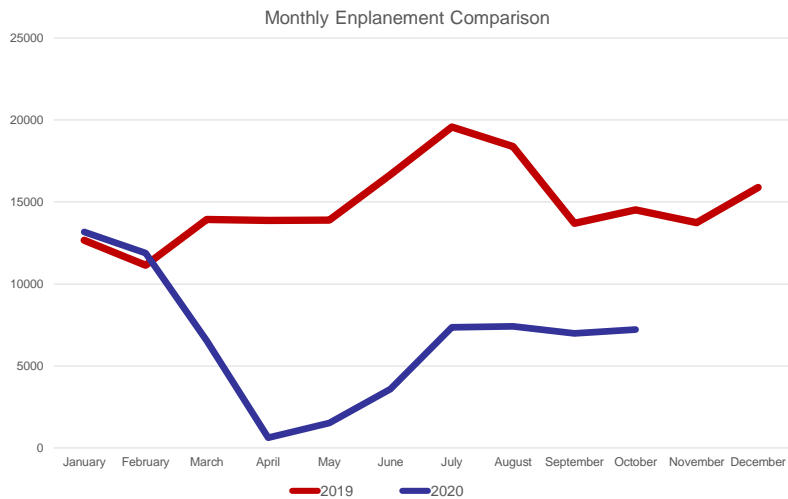
November 2020

Objective: Passenger Recovery and Growth



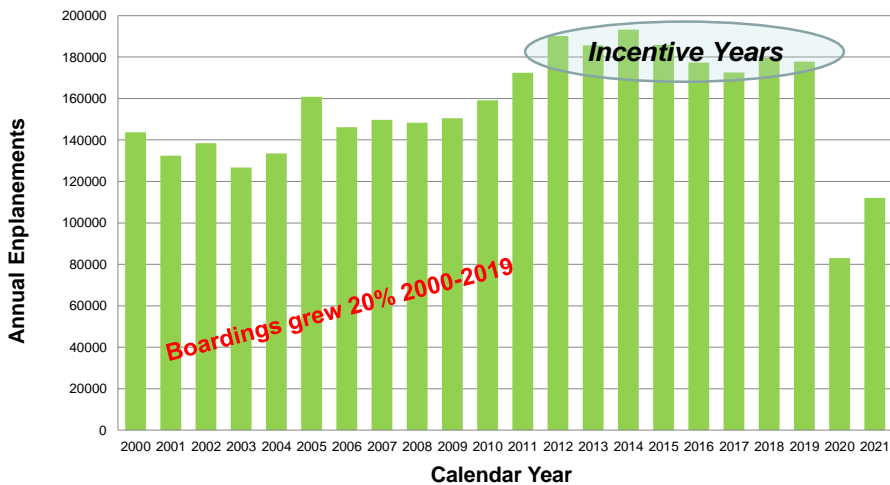
GTF GREAT FALLS INTERNATIONAL AIRPORT

Situation: Boardings dropped 95% in April Activity has now recovered to 50%



GTF GREAT FALLS INTERNATIONAL AIRPORT

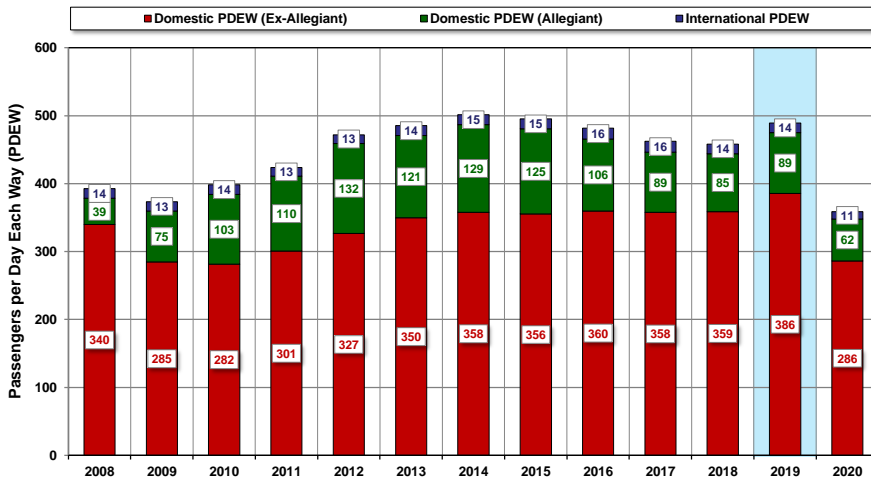
Pre-Covid Boardings grew 20% in 20 years With only 2% population growth same period



GTF GREAT FALLS INTERNATIONAL AIRPORT

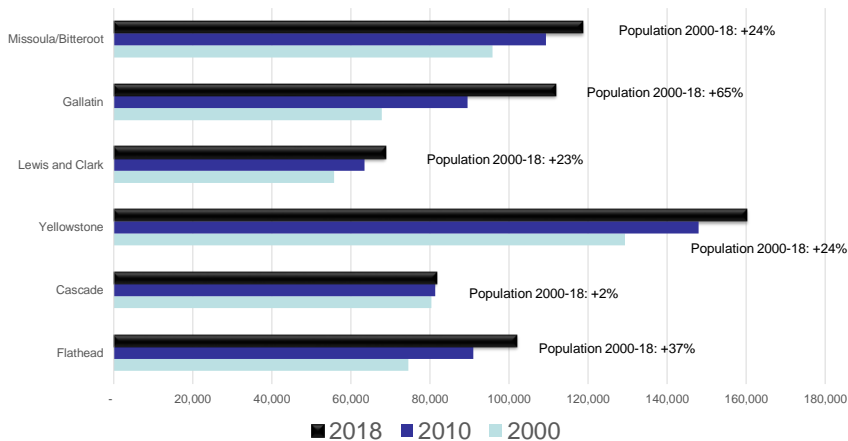
Pre-COVID GTF was at time high in daily non-Allegiant Passengers

Great Falls Domestic and International Passengers per Day Each Way (PDEW)
Year-End Second Quarter



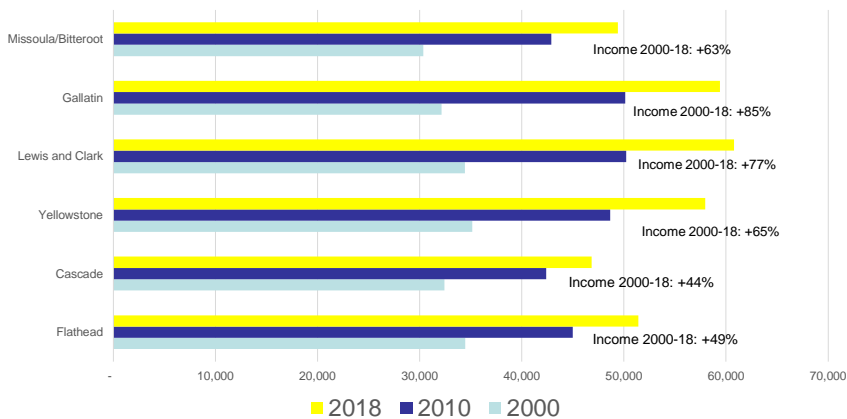
Challenge: Grow Where There is No Growth
Population stagnation = headwinds for new flights

Airport Base Populations Comparison 2000 to 2018



Economic Growth in Air Service Region Cascade has lowest and slowest income growth

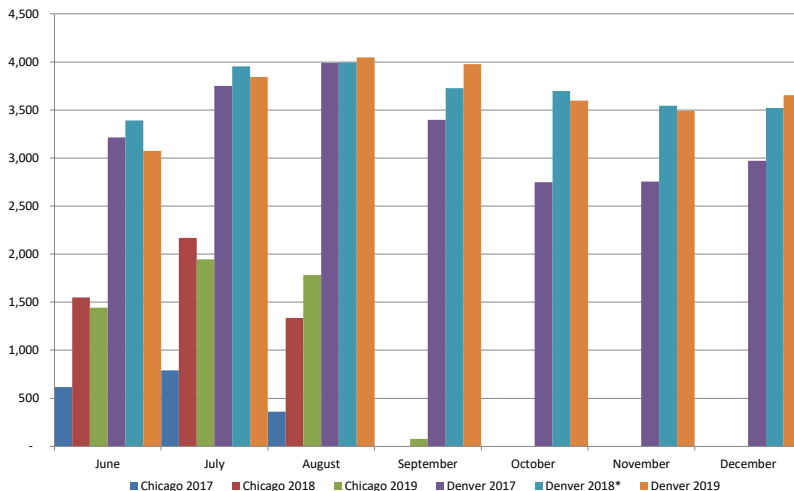
Airport Service Area Economic Base Comparison Median Household Income Growth 2000 to 2018



Tourism growth from new routes is vital Recruiting new visitors must offset stagnant local growth



United was at record levels in 2019 Chicago boarded over 8,000 passengers in 2018 & 19



COVID has accelerated instability of small markets Why we MUST URGENTLY grow out of the 50-seater

- **U.S. Regional Airline Trans States to Close by Year-end** by [Gregory Polek](#) February 24, 2020, 3:08 PM
- **Another Regional Airline Falls to the Covid-19 Recession:** ExpressJet's CEO says the hub-and-spoke carrier model still has a future, even if his airline doesn't. By [Justin Bachman](#) August 4, 2020, 2:00 AM MDT
- **Small airports 'shocked' and 'disappointed' after American Airlines suspends service at 15 airports** By [Evan Hoopfer](#) Aug 20, 2020, 4:11pm EDT
- **US Regional Airports Set To Lose The Most Air Service In October** by [Jay Singh](#) August 26, 2020

Flight Global, Feb 2018: "An abundance of 50-seaters is simply unsustainable these days"

AirOnline, Jan 2018: "The FAA writes: "By 2025 only a handful of 50 seat regional jets remain in the fleet."

Flight Global, Feb 2019: "no 50-seat jets have been in production since Bombardier and Embraer shifted to manufacturing larger jets more than a decade ago"

MRONetwork.com, Jan 2016: "Going forward, the number of dots on the airline map will be fewer....with the disproportionate impact being felt at the smaller markets"

AirlineGeeks.com, Oct 2017: "there are over 200 50-seat planes removed from US carrier's fleets may lead some fliers to look at previously avoided routes or hubs to fly through since the 50-seat planes are slowly being transitioned out"

But: Air Service Growth is expensive
Other regional Communities are spending millions

- **Southwest Will Get \$2.5mn In Incentives For Colorado Springs Flights**
by [Jay Singh](#) November 3, 2020
- **Bozeman:** \$8 million in new community incentives in past ten years brought new direct markets, American Airlines and Jet Blue. One of fastest growing in US
- **Billings:** \$1.6 million in community incentives for American Airlines to Dallas
- **Missoula:** \$1.4 million in community incentives for American Airlines to Dallas and Chicago
- **Kalispell:** Estimated \$2 million in incentives for American Airlines to Dallas, Chicago, Los Angeles

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Partnering for air service, now more than ever
Airports are prohibited from directly incentivizing airlines

the great falls area
chamber
of commerce



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GREAT FALLS MT TOURISM BUSINESS IMPROVEMENT DISTRICT

Montana is a community of interest with airlines Chamber has a very small incentive pool

Unpredicted opportunity in 2021 for Rocky Mountain tourism:

- At Takeoff Airline Route Planning Conference, CEO's of Frontier & Sun Country indicate that National Park and Montana currently among most searched travel destinations.
- Alaska announces new direct flights from Missoula to several California markets.
- Southwest announced first small market service in the west – Montrose and Hayden (CO)
- Dept of Transportation announces new round of Small Community Air Service Development Grants (SCASD Grants) will open for application in December

Great Falls Low Cost Airfare Initiative targeting several goals:

- Establish new summer low cost airline service in Great Falls
- Secure new SCASD Grant for new direct service to Texas and/or California
- Use lower fares and interest in direct flights to grow regional demand for flying

GTF to Host North American Airline Industry in 2021 Bringing the airlines to our community



Sponsored by

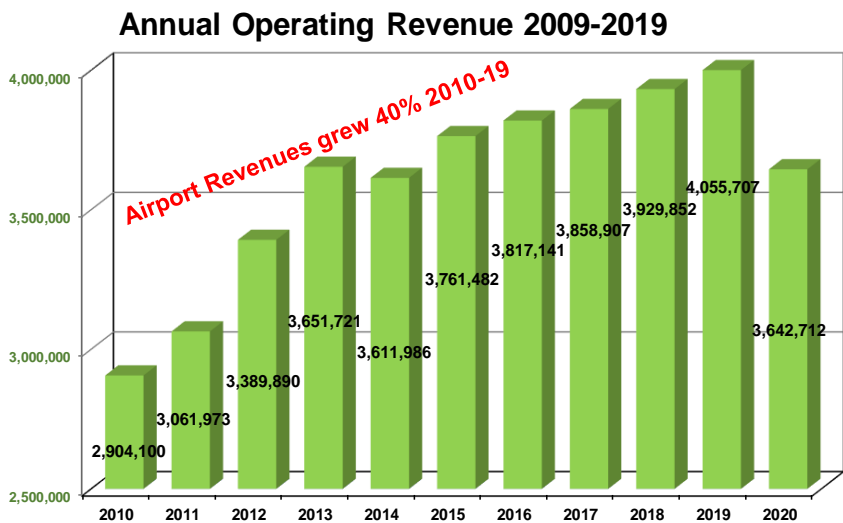
SPRINGHILL SUITES®
BY MARRIOTT

Objective: Revenue Diversification



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Pre-Covid 9 out of Past 10 Years were record performances
FY 2020 Revenue declined 10%



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Record Revenue

Non-traditional sources provide revenue growth

Often more durable in economic downturns than passenger revenue

- **Five deals in past five years have generated \$200,000 in new annual revenue**
 - ✓ I-State Trucking: New commercial development
 - ✓ EagleJet: Large hangar development
 - ✓ Love's Travel stops: Planned commercial development
 - ✓ Avmax: Leased GTF former snow equipment building
 - ✓ Fleet Truck and RV Repair: Leased GTF former maintenance building
- **Renegotiated FedEx lease to generate \$200,000 in new income starting FY 2021-22**

Airports are a cost recovery business with airlines picking up the residual. Development allows us to maintain low rates and prevent "rate shocks" during industry downturns.

Next Horizon: Airport Light Industrial Park

Capitalizing on the growth in ecommerce, air cargo and I-15 location

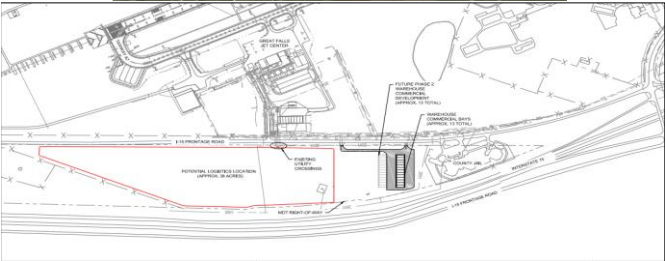


Opportunity - As ecommerce expands in Montana, air cargo, trucking and fulfillment needs to expand, as logistics expands local small manufacturers can reach new markets. This project provides space for small industry and logistics providers to colocate.

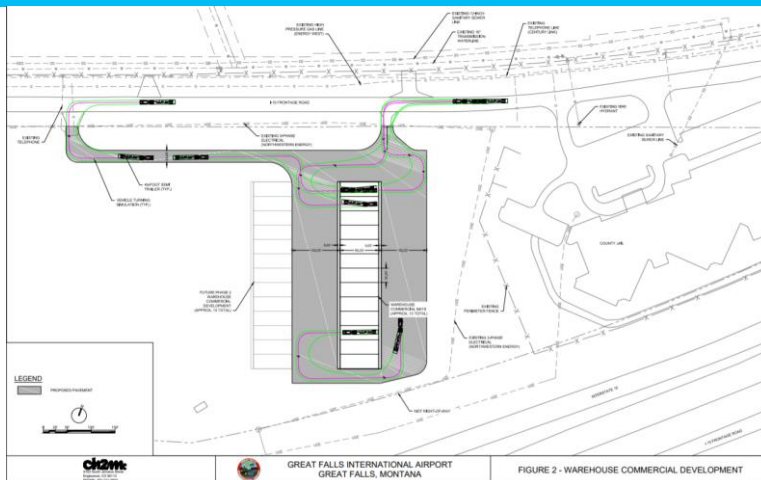
Land - The Airport Authority owns 163 developable acres sandwiched between I-15 and the Airport. Currently, we are pursuing logistic-based developments in the parcels nearest I-15.

TIF District - Most major utilities are in the vicinity of this development site and we are hoping to use TIF dollars to extend them and construct needed roads.

Access - The Logistic Park will have expectational access to both I-15 and airside cargo facilities.



Phase I: Commercial Warehouse Condominium Development Privately-owned flexible high-bay units for sale in 2021



Opportunity – Joint Venture with Dick Anderson to develop small to medium size mixed use spaces to be owned by local businesses. We expect these to be popular with companies that need a flexible space for construction, fabrication, final assembly, logistics and internet fulfillment related businesses due to proximity to both air cargo and interstate infrastructure.



New Bozeman Park Attracts Variety of Industrials Tenants GTF project could be home to dozens of start-ups and small companies

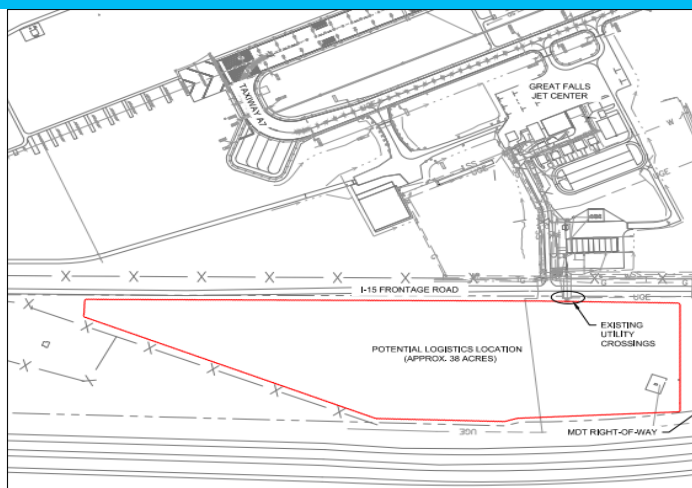


Tenants – Largest is Flaskap who makes custom drink tumblers and lids. Other tenants include lighted sign builder, industrial pump and controls company, heating and cooling company, utility trailer fabricator, industrial coating booth, produce warehouse, concrete contractor, landscaper, tile showroom, taxi and delivery company, concrete form builder, internet provider, transport and delivery company



Phase II: Logistics and Distribution Development Space

Air Cargo near and I-15 served this site is prime for logistics development



Opportunity - As ecommerce expands in Montana, air cargo, trucking and fulfillment needs to expand. Examples, a Prime Air hub will likely exist in Montana in the future, both FedEx Ground and UPS will need more space even after recent expansion.

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INTERNATIONAL AIRPORT

Flexible Footprint Logistics and Light Industrial Development 2021

Individual Condo Units can be configured from 1,200 sf to 25,000 sf

- Clear-bay construction, 16-foot floor heights and doors widths up to 26 feet make these condo units attractive to wide assortment of users including: contractors, fabricators, mechanics, internet fulfillment, final assembly and transport operations.
- Layout provides flexible unit size from 1,200 sf to 25,000 sf making these units ideal for small businesses that currently have few space options in Great Falls. Also allows these small businesses to own their own shop.
- Condo Association formed to maintain building exteriors, common infrastructure (i.e., roads and oil-water separator).
- **TIF application** recently submitted to assist with extending utilities to this land for development. Current estimate is \$850,000 in utility and road cost. Bonding the airport TIF funds would make this innovative and flexible development possible.

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INTERNATIONAL AIRPORT

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Air Cargo and Logistics are Vital for the Future of Small Towns GTF's Master plans Air Cargo Expansion

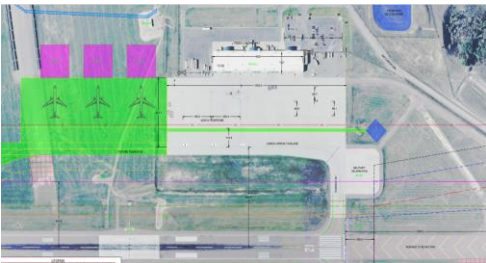


Parking – Existing cargo ramp has a vacant aircraft parking position for a 767-sized aircraft. Available today.

- Approved master plan includes cargo ramp expansion, with few constraints on size of aircraft or number of spots available.

Cargo Terminal – GTF has space vacant adjacent to the cargo ramp to develop practically any size air terminal desired. The white-roofed FedEx building in the photo is 70,000 sf.

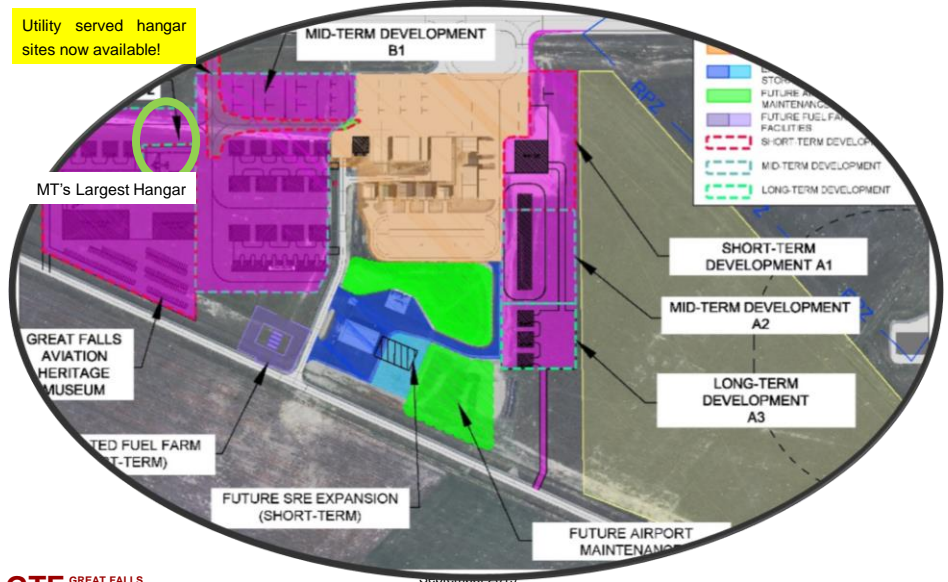
Expansion Room – The master planned envisioned development below is part of a 175 acre aeronautical development parcel with room to accommodate vast logistics expansion in the future.



Foreign Trade Zone – All GTF land can be activated as a FTZ which could allow for delaying duty to save on cross-border shipments.

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Aviation Sites Ready for Development Completed in 2020, nine utility-served hangar sites are getting some interest



GTF GREAT FALLS INTERNATIONAL AIRPORT

September 2019

For Additional Information

Contact

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Airport Director
Great Falls International Airport Authority**

**2800 Terminal Drive
Great Falls, MT 59404**

406-788-2155

john@flygtf.com



WASTEWATER TREATMENT PLANT O&M CONTRACT RENEWAL (PART I)

COMMISSION WORK SESSION

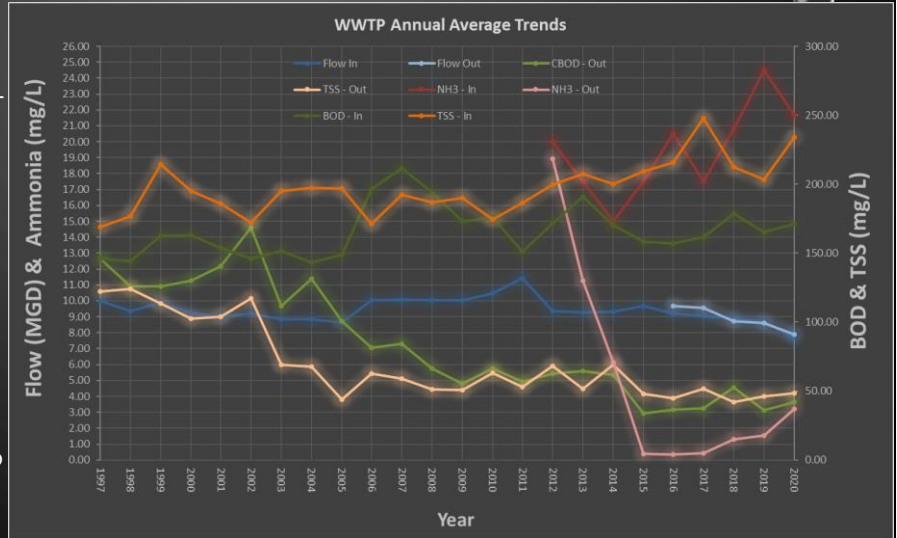
DECEMBER 1, 2020

PART 1 - INTRODUCTION

- A. WASTEWATER PLANT OVERVIEW
- B. CONTRACT HISTORY AND STRUCTURE
- C. ITEMS UNDER NEGOTIATION

WASTEWATER TREATMENT PLANT OVERVIEW

- POPULATION SERVED ~ 64,000
- TWO "CONSECUTIVE" SYSTEMS – MALMSTROM AND BLACK EAGLE
- TREATMENT CAPACITY - 13.3 MILLION GALLONS PER DAY (MGD)
- TREATED 3.2 BILLION GALLONS OF WASTEWATER IN 2019
- 30 LIFT STATIONS, 271 MILES OF SANITARY SEWER
- 9 MAJOR INDUSTRIAL USERS AND 100'S OF MINORS IU'S



LIQUID SIDE

- SCREENING
- PRIMARY TREATMENT
- BIOLOGICAL TREATMENT USING 3 STAGE MODIFIED LUDZACK – ETTINGER PROCESS
- SECONDARY CLARIFICATION
 - UV DISSINFECTION
- DISCHARGE TO MISSOURI RIVER

SOLIDS SIDE

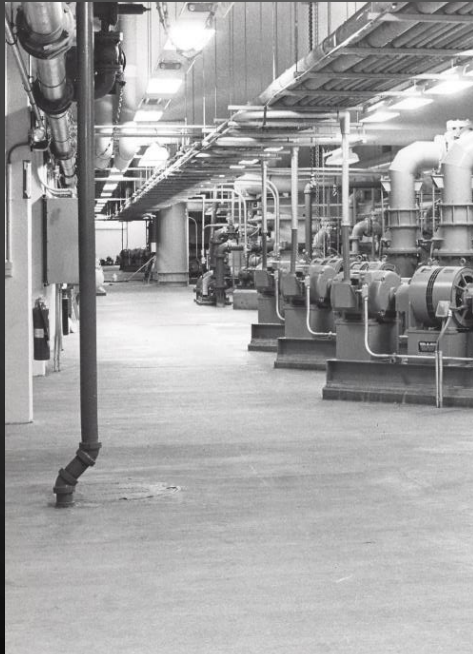
- GRIT REMOVAL
- DISSOLVED AIR FLOTATION
- ANAEROBIC DIGESTION
- CENTRIFUGAL DEWATERING
 - LANDFILL DISPOSAL

PROCESS OVERVIEW



CONTRACT HISTORY

- ISSUED EFFECTIVE APRIL 1, 1977
- REISSUED IN 1979, 1982, AND 1986
- COMPETED IN 1992 AND RE-AWARDED TO VEOLIA
- EXTENDED\REISSUED IN 1995, 2000, 2005, AND 2015
- EXPIRES DECEMBER 31, 2020



“INCENTIVE TARGET PRICE” MODEL

INCENTIVE TARGET PRICE (ITP) = ACTUAL COST + INFLATION

- ACTUAL COST ARE DOCUMENTED EXPENDITURES + OVERHEAD AND PROFIT MARK-UP
- INFLATION IS BASED ON CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) OR 5% CAP
- CITY PAYS VEOLIA A SET MONTHLY INVOICED AMOUNT EQUAL TO ITP DIVIDED BY 12

ANNUAL RECONCILIATION

- ACTUAL COSTS ARE TABULATED
- COSTS ARE COMPARED TO ITP
- COST SAVINGS ARE SHARED 50:50
- COST OVER-RUNS ARE SHARED 50:50 WITH A \$50,000 MAX LIABILITY TO THE CITY

VEOLIA WATER NORTH AMERICA
GREAT FALLS WWTP
2019 ITP RECONCILIATION

	ACTUAL 2019 COSTS	REVISED 2019 TARGET COSTS	BETTER/(WORSE THAN TARGET
PERSONNEL:			
SALARIES & WAGES	\$821,176	\$858,965	\$37,789
OVERTIME	\$12,093	\$16,043	\$3,950
BENEFITS	\$269,026	\$317,753	\$18,727
SUBTOTAL PERSONNEL	\$1,132,295	\$1,192,761	\$60,466
OUTSIDE SERVICES	\$58,756	\$57,466	(\$1,290)
CHEMICALS	\$134,224	\$144,671	\$10,447
LANDFILL	\$294,979	\$294,293	(\$686)
REPAIR & MAINTENANCE	151,979.91	\$147,212	(\$4,768)
OTHER	\$131,094	\$134,936	\$3,841
TOTAL DIRECT COSTS	\$1,903,328	\$1,971,339	\$72,779
INDIRECT SUPPORT PROGRAM COSTS (19.0% OF TOTAL DIRECT COSTS)	\$361,632	\$374,554	\$12,922
TOTAL COSTS	\$2,264,960	\$2,345,893	\$80,933
PROFIT FEE (15.75% OF TOTAL COSTS)	\$356,731	\$369,478	\$12,747
SUBTOTAL ALL DIRECT & INDIRECT COSTS ABOVE	\$2,621,691	\$2,715,371	
UTILITIES:			
ELECTRICITY	\$0	\$0	\$0
NATURAL GAS	\$0	\$0	\$0
OTHER	\$0	\$0	\$0
SUBTOTAL UTILITIES	\$0	\$0	\$0
TOTAL ITP RECONCILIATION	\$2,621,691	\$2,715,371	\$93,680
HALF OF THE RECONCILIATION TOTAL =			\$46,840
Additional Arsenic Testing			(5,238.87)
Iron Sponge			(\$15,207)
Activated Carbon			(\$6,050)
The total reconciliation results in an additional fee to the City of _____			\$19,744.29

NEGOTIATIONS ARE ON-GOING, MORE TO COME

- AN ADJUSTMENT OF PROFIT AND OVERHEAD
- ELIMINATION OF ELECTRICITY REDUCTION INCENTIVE PROGRAM
- LONGER TERM
- ENHANCED ASSET MANAGEMENT
- FUTURE LARGE CAP OPTION
- ANNUAL HOUSEHOLD HAZARDOUS WASTE COLLECTION DAY
- MINOR LEGAL LANGUAGE TIDY-UP



Wastewater Treatment Plan Operation & Maintenance Contract Renewal Fact Sheet

December 1, 2020 Commission Work Session

Vital Stats:

- The current population served is 64,000 and includes Great Falls, Malmstrom AFB and Black Eagle. The average plant flow is currently 8.7 million gallons per day (mgd) and the plant is rated at 13.3 mgd. Historically, the population of Great Falls has remained static, whereas recently flow into the plant has decreased. This is because of the concerted effort of Public Works to line, repair and replace many of the City's collection lines. This effort has reduced infiltration and inflow of storm and ground water into the sanitary sewer lines, thus the decrease in flow.
- Total staff is 14, 10 of which are union employees (as of 1990). There is at least one operator on duty 24 hours a day 7 days a week, 365 days of the year.
- There have been 11 contract renewals/extensions. They were all 5 year contracts including the current contract which expires December 31, 2020. There was one 10 year contract from 2005-2015 and one of the 5 year contracts had a potential 3 year extension built in.
- 2019 total Incentive Target Price Compensation was \$2,983,097

Contract Overview:

- O&M of the Great Falls Wastewater Treatment Plant and 30 Lift Stations has been privatized since April 1, 1977.
- The contract structure is referred to as an Incentive Target Price (ITP). There is incentive for Veolia to keep costs down. Each year when the ITP is calculated, any cost savings from the previous year are split equally between the City and Veolia.
- The ITP is calculated each year and is based on the previous year's actual expenses. Most, but not all budget line items are increased by the CPI-U.
- The City pays Veolia on a monthly basis. That invoice is broken into Operation & Maintenance (O&M), Repair & Maintenance (R&M), Small Capital and Utilities. Profit margin is added to each of these categories except utilities. Additionally, Veolia completes contingency projects for the City as needed and these projects are billed individually as they are completed. Most of these projects are planned/anticipated but on occasion if a piece of critical equipment breaks, contingency funds are used to promptly replace it.
- The ITP is limited from year to year by the CPI-U or 5%, whichever is lower. Small Capital and Utilities are not part of this limiting factor.
- Healthcare costs from year to year are limited by the Medical Care CPI-U or 7%, whichever is less.
- Veolia assists the Public Works Industrial Pretreatment Program by collecting approximately 100 required samples and arranging for these samples to be tested as described in the City's Discharge Permit.

- Veolia is liable for any regulatory related fines or penalties related to compliance. In the 44 years the plant has been privately operated, the number of compliance issues has been extraordinarily minimal and not a single fine has ever been levied.

Proposed Changes by the City and Veolia:

- An adjustment in Profit and Overhead rate that is applied to Operation and Maintenance fee, Repair and Maintenance fee, Contingency Repair\Maintenance project fees, and Small Capital project fees.
- A longer, 10 year, contract term.
- An expansion and documentation of Veolia's asset management program and Veolia's support of the City' Capital Improvement Project planning. Each of the City's assets will be evaluated based on level of service criteria, criticality ranking, condition ranking and anticipated remaining life projection. These evaluations are then used to establish repair and replacement Budgets as well as Capital Improvement Project recommendations over a running five year period.
- An option for a future Large Capital Improvement program managed by Veolia.
- An option for Veolia to provide and manage a household hazardous waste collection day each year.
- Elimination of the Electricity Reduction Incentive Program

VEOLIA WATER NORTH AMERICA
INITIAL 2020 ITP CALCULATION

2020
CALCULATED
TARGET
COSTS

PERSONNEL	
SALARIES & WAGES	\$843,287
OVERTIME	\$12,419
BENEFITS	\$307,077
SUBTOTAL PERSONNEL	\$1,162,783

OUTSIDE SERVICES	
JANITORIAL SERVICES	\$10,401
UNIFORM SERVICES	\$9,860
LAWN SERVICES	\$11,658
MAINTENANCE SERVICES (ELECTRICAL + MECHANICAL)	\$28,420
SUBTOTAL OUTSIDE SERVICES	\$60,338

CHEMICALS	\$141,620
LANDFILL	\$418,693
REPAIR & MAINTENANCE	\$156,072
OTHER	\$134,624
TOTAL DIRECT COSTS	\$2,074,130

INDIRECT SUPPORT PROGRAM COSTS = 19.0% OF TOTAL DIRECT COSTS	\$394,085
TOTAL COSTS = TOTAL DIRECT COSTS + INDIRECT COSTS	\$2,468,215
PROFIT FEE = 15.75% OF TOTAL COSTS	\$388,744

SUBTOTAL ALL ABOVE -----> \$2,856,958

UTILITIES :	
ELECTRICITY	\$170,436
NATURAL GAS	\$47,679
OTHER	\$44,857
SUBTOTAL UTILITIES	\$262,972

CALCULATED INITIAL 2020 INCENTIVE TARGET PRICE ----->	<u>\$3,119,931</u>
CALCULATED INITIAL 2020 INCENTIVE TARGET PRICE WITH CPI-U LIMITATION ----	<u>\$3,073,771</u>

VEOLIA WATER NORTH AMERICA
 GREAT FALLS WWTP
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LANDFILL	\$294,979	\$294,293	(\$685)
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UTILITIES :			
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NATURAL GAS	\$0	\$0	\$0
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TOTAL ITP RECONCILIATION	\$2,621,691	\$2,715,371	\$93,680
HALF OF THE RECONCILIATION TOTAL =			\$46,840
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Iron Sponge			(\$15,207)
Activated Carbon			(\$6,650)
The total reconciliation results in an additional fee to the City of			\$19,744.29

VEOLIA WATER NORTH AMERICA
 GREAT FALLS WWTP
 REVISED 2019 ITP CALCULATION

	2019 INITIAL CALCULATED TARGET COSTS	2019 REVISED ACTUAL TARGET COSTS
PERSONNEL		
SALARIES & WAGES	\$858,965	\$858,965
OVERTIME	\$16,043	\$16,043
BENEFITS	\$317,753	\$317,753
SUBTOTAL PERSONNEL	\$1,192,761	\$1,192,761
OUTSIDE SERVICES		
JANITORIAL SERVICES	\$10,437	\$10,437
UNIFORM SERVICES	\$9,693	\$9,693
LAWN SERVICES	\$11,211	\$11,211
MAINTENANCE SERVICES (ELECTRICAL + MECHANICAL)	\$26,124	\$26,124
SUBTOTAL OUTSIDE SERVICES	\$57,466	\$57,466
CHEMICALS	\$144,671	\$144,671
LANDFILL	\$294,293	\$294,293
REPAIR & MAINTENANCE	\$147,212	\$147,212
OTHER	\$134,936	\$134,936
TOTAL DIRECT COSTS	\$1,971,338	\$1,971,339
INDIRECT SUPPORT PROGRAM COSTS = 19.0% OF TOTAL DIRECT	\$374,554	\$374,554
TOTAL COSTS = TOTAL DIRECT COSTS + INDIRECT CC	\$2,345,893	\$2,345,893
PROFIT FEE = 15.75% OF TOTAL COSTS	\$369,478	\$369,478
SUBTOTAL INITIAL ITP & REVISED 2019 (ALL ABOVE	\$2,715,371	\$2,715,371
UTILITIES :		
ELECTRICITY	\$183,637	\$170,436
NATURAL GAS	\$36,705	\$47,679
OTHER	<u>\$47,385</u>	<u>\$44,857</u>
SUBTOTAL UTILITIES	\$267,726	\$262,972
INITIAL CALCULATED 2019 ITP & REVISED ACTUAL 2019 ITP -----	<u>\$2,983,097</u>	<u>\$2,978,344</u>
CHANGE TO COSTS FOR REVISED 2019 ITP = -----	<u>\$4,753.31</u>	

2020 INCENTIVE TARGET PRICE PERSONNEL COSTS SPREADSHEET

I. ACTUAL COSTS FOR 2019 ITP YEAR

SALARIES & WAGES	\$821,176
OVERTIME	\$12,093
BENEFITS	\$299,026
TOTAL	<u>\$1,132,295</u>

II. CALCULATED COSTS FOR 2020 ITP YEAR

SALARIES & WAGES	\$843,287
OVERTIME =	\$12,419
BENEFITS	\$307,077
TOTAL =	<u>\$1,162,783</u>

INCENTIVE TARGET PRICE OUTSIDE SERVICES SPREADSHEET

I. ACTUAL COSTS FOR 2019 ITP YEAR

JANITORIAL	\$10,128
UNIFORMS	\$9,601
LAWNCARE	\$11,352
MAINTENANCE	\$27,675

TOTAL 2019 OUTSIDE SERVICES =	\$58,756

II. CALCULATED COSTS FOR 2020 ITP YEAR

CPI = 2.693%

JANITORIAL	\$10,401
UNIFORMS	\$9,860
LAWNCARE	\$11,658
MAINTENANCE	\$28,420

CALCULATED DIRECT COSTS FOR 2020 ITP =	\$60,338

11/20/2020

INCENTIVE TARGET PRICE CHEMICALS SPREADSHEET

I. ACTUAL COSTS FOR 2019 ITP YEAR

POLYMER COSTS	109,345
HYPOCHLORITE COSTS	20,025
STRUVITE PREVENTION CHEMICAL	6,695
MISCELLANEOUS CHEMICAL COSTS	1,841
TOTAL DIRECT CHEMICAL COSTS FOR 2019 ITP YEAR	<u>\$136,065</u>

134,223.98

II. CALCULATED DIRECT COSTS FOR 2020 ITP YEAR

POLYMER COSTS	112,290
HYPOCHLORITE COSTS	20,564
STRUVITE PREVENTION CHEMICAL	6,875
MISCELLANEOUS CHEMICAL COSTS	1,891
CPI-U (01/19 to 12/19)	2.693%

CALCULATED CHEMICAL COSTS FOR 2020 INCENTIVE TARGET PRICE \$141,620

I. ACTUAL COSTS FOR 2019 ITP YEAR

CENTRIFUGE CAKE & GRIT

SCREENINGS

INVOICE DATE	COST \$	# OF HAULS	INVOICE DATE	COST \$	
Jan-19	23,470.37	93	Jan-19	\$914.87	
Feb-19	23,858.58	87	Feb-19	\$899.85	
Mar-19	21,292.71	88	Mar-19	\$899.85	
Apr-19	20,769.01	73	Apr-19	\$899.85	
May-19	25,627.02	98	May-19	\$899.85	
Jun-19	19,633.39	77	Jun-19	\$957.85	
Jul-19	23,945.90	88	Jul-19	\$904.85	
Aug-19	14,500.76	67	Aug-19	\$899.85	
Sep-19	19,576.41	75	Sep-19	\$899.85	
Oct-19	23,081.08	89	Oct-19	\$452.44	\$215,755.23
Nov-19	35,622.33	90	Nov-19	\$491.70	\$69,610.88
Dec-19	<u>33,988.55</u>	<u>85</u>	Dec-19	<u>\$491.70</u>	
	\$285,366.11	1010		\$9,612.51	

TOTAL DIRECT COSTS FOR 2019 ITP YEAR = \$294,978.62

II. CALCULATED DIRECT COSTS FOR 2020 INCENTIVE TARGET PRICE YEAR

S FOR CENTRIFUGE CAKE & GRIT

2019 TOTAL TONS	9747.34
2020 RATE \$/TON	\$27.98
2019 # OF HAULS	1010
2020 RATE \$/HAUL	\$135.00

AND :

9747.34 TONS x \$27.98/TON	\$272,730.47
1010 HAULS x \$135.00/HAUL	\$136,350.00
SUBTOTAL	\$409,080.47

COSTS FOR SCREENINGS, HAULING AND DISPOSAL = \$9,612.51

TOTAL DIRECT COSTS FOR 2019 ITP YEAR = \$418,692.98

Repair & Maintenance

I. Actual Costs for 2019 ITP Year

R&M \$151,979.91

II. Calculated Costs for 2020 ITP Year

Increased by CPI = 2.6926% \$156,072.12

OTHER COSTS SPREADSHEET

2/13/2020

I. ACTUAL "OTHER" INVOICED COSTS FOR 2019 ITP YEAR

VEHICLE EXPENSE	12,389	
LICENSING/CERT	1,120	
TRAINING	2,105	
GEN LIABILITY/BOND	43,604	
OFFICE SUPPLIES	4,343	
DELIVERY/POSTAGE	1,722	
TRAVEL + MEALS & ENTERTAINMENT	3,201	
LAB SUPPLIES	15,995	
LAB SERVICES	42,453	
SAFETY EXPENSES	3,842	
IT MAINTENANCE	319	
NON-CHARGEABLES		\$2,732.15
ACTUAL 2019 OTHER COSTS =	<u>\$131,094</u>	

II. CALCULATED DIRECT "OTHER" COSTS FOR 2019 ITP YEAR

2019 ACTUAL COSTS		131,094
CPI-U	2.693%	
2019 ACTUAL COSTS INCREASED BY CPI		134,624
2020 ITP DIRECT OTHER COSTS		<u>\$134,624</u>

~~CONTRACT AMENDMENT AND EXTENSION~~ AMENDED AND RESTATED
 AGREEMENT FOR
 OPERATION AND MAINTENANCE OF WASTEWATER TREATMENT PLANT
 OFFICE FILE NO. 1010

This Amendment and ~~Extension~~ Restated Agreement for Operating and Maintenance of Wastewater Treatment Plant (this "Agreement") is made and entered into this 18th-[] day of ~~August~~ [] 2015-2020 by and between the City of Great Falls, Montana herein referred to as "CITY" and Veolia Water North America Operating Services, LLC, herein referred to as "CONTRACTOR".

WHEREAS, the CITY and ~~Envirotech Operating Services, Inc.~~ CONTRACTOR entered into that certain Contract Amendment and Extension Agreement dated ~~February~~ August 18, ~~2015~~ 1992 for the operation and maintenance of the CITY's Wastewater Treatment Plant (the as amended, the "Original Contract");

~~WHEREAS, CONTRACTOR is the successor to Envirotech Operating Services, Inc.~~

~~WHEREAS, the Contract was subsequently amended by the parties or their predecessors certain instruments executed by the CITY and CONTRACTOR or its predecessors, including an Amendment dated December 5, 1995, Amendment #2 dated November 4, 1998, Amendment #3 dated March 7, 2000, Amendment #4 dated March 16, 2004, Amendment #5 dated August 17, 2004, Amendment #6 dated June 5, 2007, Amendment #7 dated March 30, 2015, Amendment # 8 dated May 19, 2015 and Amendment # 9 dated June 16, 2015. (The Contract and all Amendments thereto are collectively referred to as the "Original Contract");~~

WHEREAS, the CITY desires that the CONTRACTOR continue to provide services in connection with ~~its~~ the CITY's Wastewater Treatment Facilities by extending the Original Contract for an additional period as described in this ~~amendment and extension~~ Agreement in accordance with Montana Code Annotated §7-5-4301(2)(b)(ii); and

WHEREAS, the parties desire to clarify certain provisions and to ~~consolidate the Original Contract into a single instrument and therefore intend to amend and restate~~ the Original Contract in its entirety by this Agreement.

WITNESSETH: that CONTRACTOR hereby agrees to furnish all equipment, tools, supplies materials and necessary labor to Operate and Maintain the Wastewater Treatment Plant in the said City of Great Falls, Montana, and will do and perform all other work specified complete and in all respects fully in accordance with the contract documents, and that all said work shall be done and performed and fully completed in accordance with the contract documents.

NOW, THEREFORE, in mutual consideration herein described another good and valuable consideration, receipt of which is hereby acknowledged, the parties agree to amend and restate the Original Contract as follows:

1. THE CONTRACT:

Except for Titles, Subtitles, Headings, Running Headlines, Table of Contents, and Indices (all of which are printed herein merely for convenience), the following, except for such portions thereof as may be specifically excluded, constitute the “Contract Documents”:

- This Agreement
- Exhibits to this Agreement
- All supplementary drawings issued after award of ~~the this Contract Agreement.~~
- All provisions required by law to be a part of the Contract Documents, whether actually inserted therein or not.

2. DEFINITIONS:

The following words and expressions (or pronouns used in their stead) shall, wherever they appear in the Contract Documents, be construed as follows unless a different meaning is clear from the context.

“Agreement” shall ~~mean the written agreement between the CITY and the CONTRACTOR covering the Work to be performed~~ have the meaning set forth in the preamble.

“Applicable Law” means any law, rule, code, regulation, ordinance, consent decree, consent order, consent agreement, permit, determination or order of, or governmental approval issued by, any governmental agency having jurisdiction applicable to any activities associated with the testing, acceptance, operation, maintenance, repair, replacement or modification of any part of the Facility or any other obligations of the parties under this Contract.

“Bond(s)” shall mean the Performance and other instruments of security furnished by the CONTRACTOR and his Surety in accordance with the Contract Documents.

“City Commissioners” shall mean the City Commission of the City of Great Falls, Montana.

“Change in Law” shall mean any of the following events occurring after the date hereof: the adoption, modification or repeal, or official change in interpretation, of any Applicable Law by any entity with jurisdiction over the CITY or the Facility resulting in the modification or imposition of any condition, restriction or limitation in any governmental approval granted by any governmental agency, and which imposes additional costs, burdens or limitations with respect to the operation, repair, maintenance and replacement of the Facility or the parties’ other obligations under this Agreement. Changes in law ~~which that~~ materially modify this Agreement or impose material additional costs, burdens, or limitations with respect to the operation, repair, maintenance and replacement of the Facility or the parties’ other obligations under this Agreement, will be considered a change in scope, and the provisions of Paragraph numbered 8 below will apply to those changes.

“Construction Contractor” shall mean a firm hired by the CITY to construct facility improvements.

“Consumer Price Index” or “CPI” shall mean Consumer Price Index-All Urban Consumers, West Urban Area (All items, 1982-84=100)(Series Id: CUUR0400SA0; Not Seasonally Adjusted).

“Contract” or “Contract Documents” shall mean each of the various parts of the Agreement referred to in Part 1 both as a whole and severally.

“Contract Administrator” shall mean the duly authorized representative of the City of Great Falls during the contract period.

“CONTRACTOR” shall mean Veolia Water North America Operating Services, LLC and its successors, personal representatives, executors, administrators, and assignees.

“Contract Price” shall mean the total monies payable to the CONTRACTOR under the Contract Documents.

“Contract Time” shall mean the number of calendar days stated in the Agreement for the completion of the Work.

“CITY” shall mean the City of Great Falls, Montana, for whom the Work is being performed.

“Day” shall mean one calendar day when used in the Contract Documents.

“Engineer” shall mean the consulting engineering firm hired by the CITY to design and/or manage construction of an expansion to the facility.

“Facility” or “Facilities” shall mean the City of Great Falls Wastewater Treatment Plant and lift stations identified in this Agreement.

“Modification Agreement” shall mean written order to the CONTRACTOR signed by the CITY authorizing an addition, deletion, or revision in the work or an adjustment in the Contract Price issued after execution of the Agreement.

“Notice(s)” shall mean written notice(s). Notice shall be served upon the CONTRACTOR either personally or by leaving the said notice at his residence or with his agent in charge of the Work, or addressed to the CONTRACTOR at the residence or place of business given in this Agreement and deposited in a postpaid wrapper in any post box regularly maintained by the United States Post Office.

“Project” shall mean the operation and maintenance of the Facility.

“Services” shall mean the improvement and/or the means or methods necessary for the performance, implementation and prosecution of the Work and the Project.

“Subcontractor” shall mean any person, firm or corporation other than employees of the CONTRACTOR who or which contracts with the CONTRACTOR to furnish, or actually furnishes labor, materials, and/or equipment for the Project.

“Surety” shall mean any corporation that executes, as Surety, the CONTRACTOR’s Bond(s).

“Unforeseen Circumstances” shall mean any event or condition which has an effect on the rights or obligations of the parties under this Agreement, or upon the Project, which is beyond the reasonable control of the party relying thereon and constitutes a justification for a delay in or non-performance of action required by this Agreement, including but not limited to (i) an act of God, nationally declared epidemic or pandemic, landslide, lightning, earthquake, tornado, fire, explosion, flood, failure to

possess sufficient property rights, acts of the public enemy, war, blockade, sabotage, insurrection, riot or civil disturbance, (ii) preliminary or final order of any local, province, administrative agency or governmental body of competent jurisdiction, (iii) any Change in Law, (iv) labor disputes, strikes, work slowdowns or work stoppages; and (v) loss of or inability to obtain service from a utility necessary to furnish power for the operation and maintenance of the Project.

“Work” shall mean the operation and maintenance of the Facility.

3. CONTRACT ADMINISTRATION

The CITY shall appoint a Contract Administrator to oversee the performance of the terms of this Contract. All official communications including submission of reports, Notices and other requirements of this Contract shall be done through the Contract Administrator. The CITY wishes to maintain a good working relationship with the CONTRACTOR and encourages all other communication through appropriate channels.

4. TERM

The term of this Contract shall begin ~~September~~ January 1, 2015-2021 and end December 31, ~~2020~~ 2030.

5. COMPENSATION

a) Compensation shall be determined on the basis of an Incentive Target Price (ITP) as described in this section. For the purposes of determining compensation, this contract extension shall be divided into ~~six-ten (610)~~ Terms beginning and ending as follows:

- ~~Term 1 – Commencement~~ January 1, 2021 through December 31, 20152021
- ~~Term 2 – January 1, 2016-2022~~ through December 31, 20162022
- ~~Term 3 – January 1, 2017-2023~~ through December 31, 20172023
- ~~Term 4 – January 1, 2018-2024~~ through December 31, 20182024
- ~~Term 5 – January 1, 2019-2025~~ through December 31, 20192025
- ~~Term 6 – January 1, 2020-2026~~ through December 31, 20202026
- ~~Term 7 – January 1, 2027~~ through December 31, 2027
- ~~Term 8 – January 1, 2028~~ through December 31, 2028
- ~~Term 9 – January 1, 2029~~ through December 31, 2029
- ~~Term 10 – January 1, 2030~~ through December 31, 2030

~~b) Monthly payments for Term 1 are based on the ITP calculation derived from actual documented expenditures, plus the Lawn Care Adjustment, for the period beginning April 1, 2015 and ending December 31, 2015. The monthly payment was calculated by dividing the ITP number by twelve (12). Total compensation for Term 1 shall include prorated monthly payments equal to the monthly ITP payment described in this subparagraph (b) plus any additional costs caused by:~~

- ~~• Change in scope of Work;~~
- ~~• Change in Law;~~
- ~~• Increased loading/flow to the WWTP of at least 10% over the prior year;~~
- ~~• Expenses due to emergency responses;~~

- ~~Increases in utility costs;~~
- ~~Other changes in operation approved by the CITY.~~

The ITP for Term 2 shall be based on actual documented costs for the preceding nine (9) month period, April through December 2015. The ITP for Terms 3-61-510 shall be based on actual documented costs for the immediately preceding calendar year (January 1 through December 31) and otherwise be calculated as described herein. The ITP shall be on an actual documented cost basis which shall include total direct costs, overhead mark-up, profit mark-up and utility costs.

During each Term of the contract, CONTRACTOR shall be incentivized to beat the ITP and shall share savings during the contract Term (i.e., ITP less Documented Cost Price). A Documented Cost Price shall consist of actual documented direct costs plus Overhead mark-up plus profit mark-up plus utility expenditures. A Documented Cost Price during a Term which is in excess of the ITP shall be equally shared between CONTRACTOR and the CITY except that the maximum financial exposure to the CITY in any Term shall not exceed \$50,000. At the end of each Term and upon the expiration or earlier termination of this Agreement, the ITP will be reconciled against the actual costs as described in this section and summarized below:

- The budget categories Personnel, Outside Services, Chemicals and Other Direct Costs are subject to sharing of savings or cost overruns on a 50:50 basis.
- The budget category Repair & Maintenance is not subject to sharing of cost savings. All cost saving are returned to the CITY. Cost overruns are shared on a 50:50 basis.
- The categories Contingency and Utilities are not considered in the ITP reconciliation and not subject to 50:50 sharing.
- The financial exposure limit described above and the limit on growth of payments described in the following paragraph apply to the total of the budget categories Personnel, Outside Services, Chemicals, Other Direct Costs and Repair & Maintenance including Overhead mark-up and Profit mark-up allowed for these items.
- Cost changes resulting from changes in flow and/or loading are not subject to 50:50 sharing and are the responsibility of the CITY.

Base Fee Adjustment: Total ITP payments to CONTRACTOR during a contract year shall not increase by more than the CPI or 5%, whichever is less, over the previous contract year's total ITP payments, unless such cost increases are attributable to:

- Change in scope of Work;
- ~~Change in Law~~Unforeseen Circumstances;
- Increased loading to the WWTP of at least 5% over the prior year;
- Expenses due to emergency responses;
- Health Insurance Cost Adjustments;
- Increases in utility costs;
- Other changes in operation approved by the CITY.

In these cases, the only payments in excess of the previous year's total payments plus the allowable increase shall be due to the listed expenses and shall be properly documented. The CONTRACTOR shall be entitled to overhead mark-up and profit mark-up for these expenses (except utility costs).

The ITP shall be calculated for each cost category as follows:

Veolia Comments 10/16/20+City Review 11/13/20

- A. Personnel – The actual annual salaries and benefits of the budget year for the current direct labor, taking into consideration the prior year’s actual allocations to and from the CITY’s wastewater treatment facility. Overtime includes the actual overtime hours worked during the prior year at 150% of the actual average union wage rate and any applicable incremental benefit costs for the contract year.
- B. Outside Services
- a. Landfill – the actual tonnage delivered to the landfill during the prior year at the actual landfill cost for the contract year.
 - b. Other Outside Services – The dollar amount for all other outside services during the prior year adjusted for the change in the CPI ~~during the contract year.~~
- C. Chemicals – The actual consumption of sodium hypochlorite, polymer and chemicals to prevent struvite scaling during the prior year at the actual rate for the contract year, plus the dollar amount for other miscellaneous chemicals during the prior year adjusted by the change in the CPI during the prior year.
- D. Other Direct Costs – The dollar amount for all other costs (excluding depreciation) during the prior year adjusted for the change in the CPI during the contract year. Depreciation amount shall be the dollar amount during the previous year adjusted for the annual incremental change in CONTRACTOR assets during the contract year.
- E. Repair & Maintenance – For Term 1, the monthly Repair & Maintenance Budget shall be equal to the total Repair & Maintenance expenditures for the period ~~1-4/1/2014-2020~~ to ~~3-12/31/2015-2020~~, ~~less any carryover budget from the previous ITP year~~ increased by CPI and divided by 12. For each subsequent year the Repair & Maintenance budget shall equal the actual expenditure for the year just ended increased by the CPI. All unused maintenance funds for each contract year shall be 100% refunded to the CITY at the end of each contract year in conjunction with the ITP calculation. All remaining Repair & Maintenance from the preceding ITP year shall be fully credited or refunded to the CITY. Each succeeding ITP year’s Repair & Maintenance Budget shall be the previous calendar year’s actual Repair & Maintenance expenditures increased by the CPI. At the termination of the contract, any remaining portion of these funds shall be fully credited or refunded to the CITY. Overhead mark-up does not apply to this category.
- F. Overhead mark-up – The Overhead mark-up shall be nineteen percent (19%).
- G. Profit mark-up – The Profit mark-up shall be fifteen and seventy-five one-hundredths percent (15.75%).
- H. Utilities (Natural Gas, Water, Electricity and Telephone Services) – Utility costs are considered separately and are not subject to overhead or profit percentages. At the beginning of each ITP Year, the Utilities costs for purposes of payment to the CONTRACTOR shall be equal to the prior ITP Term’s total actual utility costs. At the end of each respective Term, the Utilities costs shall be updated to reflect the actual total Utilities costs incurred in that ITP Term and a Revised ITP calculated. Total payments to the CONTRACTOR in excess of the ITP calculated at the beginning of the year shall be returned in full to the CITY. Total payments to the CONTRACTOR less than the ITP calculated at the beginning of the year shall be paid in full to the CONTRACTOR with no mark-up. The CITY may make payments directly to the utility provider at the CITY’s discretion. Should the CITY make payments directly to a utility provider during one ITP

year and then choose to discontinue making these payments during a subsequent ITP year, the CONTRACTOR may request a change in the monthly ITP payments to address the additional costs.

- I. ~~Health Insurance Cost Increases~~ - The CITY and CONTRACTOR acknowledge and agree that health insurance costs have and will continue to rise, and that neither party be adversely impacted by such cost increases. Therefore, CITY and CONTRACTOR acknowledge and health insurance cost adjustments to the CONTRACTOR's compensation shall be no less than zero (0%) percent, and no more than the lesser of (i) the most recent full year Medical Care CPI-U (Series I.D. CUR0000SAM), (ii) or ~~seven-ten (107%)~~ percent, whichever is less, from one year to the next ("Health Care Adjustment"). The actual total from January, ~~2015~~ 2020 to December 31, ~~2015-2020~~ for CONTRACTOR's health insurance cost shall become the Base Year cost for the calculation of each succeeding year. The Health Care Adjustment for Terms ~~2-6-10~~ will be limited by the aforementioned Medical Care CPI-U for the immediately preceding Term, or 107%, whichever is less. ~~Prorated medical costs for Term 1 ending December 31, 2015, are based upon the prior agreement Health Insurance Cost Increases clause, which references Appendix A of that agreement to calculate the next year's medical expenses.~~
- J. ~~Lawn Care Adjustment for Term 1~~ - It is recognized that without an adjustment the CONTRACTOR would not be fully reimbursed for lawn care costs incurred during ~~2015~~. To correct this situation a Lawn Care Adjustment of \$427 shall be added to CONTRACTOR's monthly payment for Term 1 only. This amount, plus the amount paid through the ITP calculation methodology described in this section shall be considered full payment for Lawn Care services for Term 1

The following format will be utilized to identify the ITP each year:

FY INCENTIVE TARGET PRICE

Personnel Onsite Direct Labor		
- Salaries And Wages	_____	
- Overtime	_____	
- Benefits	_____	
Total Personnel		_____
Outside Services		
-Janitorial Services	_____	
-Uniform Services	_____	
-Lawn Services	_____	
-Landfill	_____	
-Other	_____	
Total Outside Services		_____
Chemicals		_____
Repair & Maintenance		_____
Other Direct Costs		_____
Total Direct Costs		_____
Overhead mark-up (19% Of Direct Costs)	_____	
Sub-Total Cost		_____
Profit mark-up (15.75% of Sub-Total Costs)		_____
Total subject to cost sharing		_____
Utilities		
-Electricity	_____	
-Natural Gas	_____	
-Other	_____	
Total Utilities		_____
Minor Capital		_____
Total Contract Price		_____
Monthly Payment to CONTRACTOR		_____

~~Electricity Reduction Incentive Program~~ CONTRACTOR and the CITY will share in electrical savings or overages. This program applies only to electric consumption experienced at the Treatment Plant. No sharing of costs or savings will occur during any Term unless a 5% reduction or overage of electrical usage is realized compared to Initial Baseline (as defined below). All sharing of savings shall be on a 50:50 basis. CONTRACTOR shall pay the CITY an Overage Reimbursement payment only when Electricity Usage for the Term is greater than 105% the Electrical Usage and the overage is not caused by material changes in flow or loading conditions. Conversely, the CITY shall pay CONTRACTOR an electricity Reduction Incentive Payment only when electricity usage for the Term is less than 95% of Electrical Usage during Initial Baseline. The electricity Reduction Incentive Payment or Overage Reimbursement shall be calculated at the end of Terms two (2) through five (5) as follows:

- ~~Electricity Reduction Incentive Payment or Overage Reimbursement shall be the dollar amount that is one half of the product of the Rate Per kWh for the Term multiplied by the total Electrical Usage Savings or Electrical Usage Overage during the Term.~~
- ~~The Rate Per kWh shall be calculated by summing the total cost of electricity coincident with the kWh consumption for the Term, including supply, transmission, delivery, demand and service charges divided by kWh Consumed during the Term.~~
- ~~The kWh Consumed during the Initial Baseline and during each Term is the sum of kWh consumption reported on the utility bills beginning with the bill that includes the meter reading taken in January (wherein the usage is calculated by comparing the January reading with a reading taken in December) and ending with the bill that includes a meter reading during the following December.~~
- ~~Electrical Usage during the term and the Electrical Usage during Initial Baseline is the quotient of the total kWh Consumed divided by the ~~BOD~~BOD and TSS removed~~during~~during the corresponding Term.~~
- ~~Electrical Usage Savings or Electrical Usage Overage is the product of the ~~BOD~~BOD and TSS removed during the Term multiplied by the quantity that is that portion of the difference in Electrical Usage during the Term and Initial Baseline that is less than 95% or in excess of 105% of Initial Baseline Electrical Usage, respectively.~~
- ~~BOD and TSS removed is the sum of the BOD removed added to the TSS removed during the term.~~
- ~~BOD removed during the term is the average of all of the differences of measured daily BOD influent load minus the measured daily BOD effluent load during the Term multiplied by the number of days in the Term.~~
- ~~TSS removed during the term is the average of all of the differences of measured daily TSS influent load minus the measured daily TSS effluent load during the Term multiplied by the number of days in the Term.~~
- ~~The Initial Baseline shall be the period January 2015 2020 through December 20152020.~~

~~If Electrical Usage exceeds 105% of the Initial Baseline and CONTRACTOR reasonably demonstrates that the overage was the result of increased plant flow conditions, despite the BOD and TSS removal remaining relatively constant, there shall be no obligation to pay an Overage Reimbursement for the effective period.~~

~~If the co-generation system and/or other generator are utilized to generate more than 0.1% of the kWh used during the Term, the full cost of operation of the generator, including auxiliary equipment, and the kWh generated shall be included in the above calculations.~~

Contingency Funds – The CITY, at its sole discretion, may provide additional funding for expenditures that are not funded through the other budget line items. This funding would be available for items that generally meet the following criteria:

- a. Items that do not meet the CITY's definition of a capital item.
- b. Non-routine expenditure for an item or group of related items that cost \$25,000 or more, where the expenditure will either not recur or will recur at a less than annual frequency. Items that cost less than \$25,000 shall be expended from the Repair & Maintenance budget and appropriate adjustments will be made to maintain expenditures within the established budget.
- c. Items that are integral to the CITY's facilities and require significant interaction of CONTRACTOR's personnel to utilize.
- d. Items that are not otherwise addressed by the terms of this agreement.

The CONTRACTOR shall be entitled to ~~overhead mark-up and~~ profit mark-up for the direct expenses associated with Contingency Funding. There is no guarantee that funding will be available for any Contingency expenditure. Expenditures of Contingency funds will not be subject to reconciliation through the ITP reconciliation process.

CPI Adjustments – Notwithstanding anything in this Section 5 to the contrary, in the event that the change in CPI in a year is a negative number, then the CPI change will be deemed to be zero for such year.

6. INVOICING, COST ACCOUNTING AND RECONCILIATION

1) The CITY shall pay CONTRACTOR the annual compensation in monthly installments in an amount equal to the sum of (1) one-twelfth of the then current annual Incentive Target Price; (2) any emergency, extraordinary or supplemental items determined on a monthly basis; and (3) any adjustments, plus or minus, to reconcile any prior monthly payments. Any overpayment from prior months shall be credited against the monthly payment.

2) The monthly installment payment shall be on account of the services rendered during the current month. If the CONTRACTOR provides the CITY with an invoice by the first day of each month which sets forth the monthly portion and each component thereof as calculated for the then current Term, then the CITY shall pay the invoice within 30 days of receipt.

3) The CONTRACTOR shall furnish the CITY with monthly and annual cost accounting statements. Direct costs shall be categorized by Operating, Preventative Maintenance, and Corrective Maintenance. The report format is negotiable. The CONTRACTOR shall submit documentation to support the reported values upon request of CITY. ~~The format and content of the report will be mutually agreed upon by August 28, 2015. The first actual report will be submitted no later than September 28, 2015, and shall cover the period of April – August 2015. Thereafter, the r~~Reports shall be submitted by the 28th day of the month following the end of each reporting period. The CITY, at its own expense, shall have the right to audit CONTRACTOR costs at any time during the life of this Agreement. To facilitate this, CONTRACTOR will keep operation and maintenance financial records onsite for CITY inspection.

4) The CITY and the CONTRACTOR acknowledge and agree that the monthly compensation currently payable under this Agreement is an estimate. As such, the amounts payable during any Term may not represent the actual amount of compensation due and payable.

Therefore, the parties agree that within 90 days after the effective date of termination or other expiration of this Agreement, the CONTRACTOR shall provide to the CITY a settlement statement (the "Termination Settlement Statement") setting forth the actual aggregate ITP payable to the CONTRACTOR with respect to the ~~preceding final~~ Term (or ~~other relevant period~~ prorated portion thereof), ~~plus a reasonable adjustment for any amounts spent by Contractor during such final period that would have been added to ITP in a subsequent year had the contract not been terminated,~~ and a reconciliation of such amount with the amounts actually paid by the CITY. The CITY shall have ten (10) days to respond to the Termination Settlement Statement with any comments, clarifications or objections, or the Termination Settlement Statement shall be final and conclusive. The CITY or the CONTRACTOR, as appropriate, shall pay all known and undisputed amounts set forth in the Termination Settlement Statement within 60 days after receipt or delivery thereof. If any amount is then in dispute or is for other reasons not definitely known at the time the Termination Settlement Statement is due, the Termination Settlement Statement shall identify the subject matter and reasons for such dispute or uncertainty and, in cases of uncertainty, shall include a good faith estimate by the CONTRACTOR of the amount in question. When the dispute is resolved or the amount otherwise finally determined, the CONTRACTOR shall file with the CITY an amended Termination Settlement Statement which shall, in all other respects, be subject to this paragraph.

7. SCOPE OF SERVICES

1) CONTRACTOR will control, maintain and operate the CITY's Facilities so that effluent discharged therefrom meets the effluent standards as stated ~~in in the current~~ MPDES Permit No. MT-0021920, ~~dated December 1, 2010~~ July 12, 2019, provided that at all times, the plant influent is free from abnormal or biologically toxic substances which cannot be treated or removed in the CITY's Treatment Plant using the existing process and facilities. It is recognized that abnormal or biologically toxic substances which cannot be treated or removed in the CITY's Treatment Plant may, on occasion, enter the influent stream of the Treatment Plant. As soon as such substances are recognized, the CONTRACTOR or the CITY will notify each other of this condition and work with each other to reduce or eliminate such substances to the best ability of each party. The CITY agrees that such cooperation in no way obligates CONTRACTOR beyond the stated responsibility in the above paragraph. ~~The above permit will expire on November August 31, 2015~~ 2024. ~~The CONTRACTOR shall accept any additional duties required by the new permit. Any increased costs due to a material Change in Law will be paid to CONTRACTOR as outlined in Part 8 of this section titled "Change in Service Scope or Service Type".~~ CONTRACTOR shall also manage the Facility and operations to ensure compliance with all other permits issued by the Department of Environmental Quality, Environmental Protection Agency or other state or federal agency that apply to the Facility including but not limited to MTR-000452 (General Permit for Storm Water Discharges Associated with Industrial Activity), Montana Air Quality Permit 4176-00, and Title 40, Chapter I. Subchapter O (STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE). CONTRACTOR shall cooperate with the CITY in the application for or renewal of any existing or new permit.

Any increased costs due to ~~a material Change in Law~~ Unforeseen Circumstances will be paid to CONTRACTOR as outlined in Part 8 of this section titled "Change in Service Scope or Service Type".

2) Process operations that will be covered by CONTRACTOR under this Agreement will include:

Raw Sewage Pumps

- Mechanical Bar Screen
- Primary Treatment
- Activated Sludge/Nitrification
- Secondary Settling
- Gravity Thickening
- Flotation Thickening
- Anaerobic Digesters
- Centrifuges
- Disinfection (UV)
- Electricity Engine Generator Set and all corresponding auxiliary equipment
- Sludge Pumping Associated with Processes Above
- Lift Stations identified in this Agreement
- Septage Receiving Station

The lift stations included in CONTRACTOR’S scope of Work shall be operated and maintained by the CONTRACTOR and in accordance with established O&M manuals for each system. In the event that future lift stations are added and with mutual agreement and understanding of new work responsibilities then CONTRACTOR shall assume the operation and maintenance of additional lift stations as they are added to the CITY’s collection system. With the addition of new lift stations, it is understood there will be additional hours required to operate and maintain these stations without additional CONTRACTOR staff being added unless otherwise agreed by the parties. The CONTRACTOR will provide the CITY with a detailed estimate of anticipated hours needed for O&M of any new station for an entire year. This estimate will be based on anticipated preventive maintenance hours, corrective maintenance hours estimated from stations that are similar, general inspection and condition review and travel time to and from the station. If requested by the CONTRACTOR this estimate shall be used to adjust the monthly service fee in lieu of the 30 day monitoring period described in Part 8 titled “Change in Service Scope or Service Type” until the next ITP reconciliation occurs. The CONTRACTOR at its own discretion of available overtime will also have the right to hire temporary help instead of overtime to supplement the staff and assist with other required duties in direct relation to the number of estimated O&M hours for that station.

The current list of lift stations operational at the time of this agreement is as follows:

WASTEWATER LIFT STATIONS ASSIGNED TO FACILITY STAFF

<u>L.S. #</u>	<u>ADDRESS</u>
1	600-800 RIVER DRIVE NORTH
2	601-611 RIVER DRIVE NORTH
3	11 1 ST AVE. NORTH
4	100-23 RIVER DRIVE SOUTH
5	1705 39 TH ST. SOUTH
6	4904-4616 40 TH -13 TH AVENUE SOUTH
7	3500-15TH 3500 15 TH AVENUE SOUTH
8	404 ½ 20TH AVENUE SOUTH
9	5102-5100 1 ST AVENUE SOUTH
10	4600 7 TH AVENUE NORTH
12	601-503 RIVER DRIVE SOUTH
14	512 6 TH STREET SW
15	810 10 TH AVENUE SW

16	1326 5 TH ST NW
17	4600-4199 GIANT SPRINGS ROAD
18	1716 3 RD AVENUE SOUTHSW
19	1601 2 ND AVENUE SW
20	835-833 13 TH STREET SW
21	<u>2001</u> 14 TH ST SW & MARKET PLACE DR
22	2800-2801 TERMINAL DRIVE
23	3114 SOUTH LOWER RIVER ROAD
24	704 JUNIPER AVENUE
25	3015-2619 COYOTE LANE
<u>26</u>	<u>5401 2nd AVENUE NORTH</u>
27	4120-4122 NORTH STAR BLVD
28	1715 WHISPERING RIDGE DRIVE
29	3503 2 ND STREET NE
30	122 BLACK EAGLE ROAD
31	4403 9 th STREET-NE <u>STREET NE</u>
32	3314 LOWER RIVER ROAD
<u>33</u>	<u>36 43rd AVENUE NE</u>

3) The CONTRACTOR shall supply vehicles necessary to complete routine WWTP and Lift stations operations and maintenance. The cost to operate and maintain all vehicles and equipment shall be paid by the CONTRACTOR.

4) Asset Management Maintenance and Capital Improvement Responsibilities:

A. A maintenance program for the Facilities shall be employed ~~which that~~ provides for systematic coverage of routine items and programming of larger repair items. A schedule of maintenance activities shall be available to operation personnel for coordination and to the CITY for review and approval.

CONTRACTOR will utilize a computer-assisted maintenance management system for the Facilities. The maintenance management system shall maintain a current major asset and equipment inventory, age, amortized value and documented condition assessments to be performed at minimum an annual frequency. The condition assessment shall use a qualitative scale of poor, fair, good, excellent assigned to all assets and major equipment with a purchased value of greater than \$10,000. The CITY representative shall have the right to inspect maintenance management system, performance and cost records during normal business hours. On or before December 15 of each year, CONTRACTOR shall provide an annual asset management summary report documenting the inventory, age, amortized value and condition assessment for all major equipment at the plant, grouped by process segment, and recommendations for major maintenance projects for each of the upcoming five years.-

CONTRACTOR shall maintain and repair all CITY-owned equipment, machinery, vehicles, instrumentation, structures, and plant furnishings to a fully operational condition in accordance with industry standards, manufacturer’s recommendations or design specifications. Maintenance and operation activities shall protect the CITY’s warranties on new or existing equipment. CONTRACTOR shall, at its sole cost and

expense, pay for all such repairs and maintenance, exclusive of capital items as defined herein, to the limits defined below.

B. An annual budget of maintenance and repair activities is required to be submitted by CONTRACTOR by December 15 and approved by the CITY in advance of the CITY's budget year. The objective of this budget is to discuss and agree on maintenance program priorities and allocation of the limited funds earmarked for these purposes. Reporting shall be as set forth in Section C below. Included with this report shall be a listing of any recommended capital improvements the CONTRACTOR believes will be required for any of the Facilities covered under this contract. The CONTRACTOR will not be relieved of responsibility to perform if the recommendations are not implemented.

Maintenance responsibilities also include grounds care, lawns, landscaping, fencing, signs, site drainage, walkways, building paint, and similar structural and non-structural features shall be kept in good condition both functionally and aesthetically.

Inventory shall be kept of spare parts, standard lubricants, long lead time replacement items, and similar use items to promote continuity of operations.

C. Maintenance and repair reports shall be provided quarterly and submitted to the CITY by the 30th day of the first month of each quarter. The CONTRACTOR shall provide the CITY with full documentation that preventative maintenance is being performed on all CITY-owned equipment in accordance with manufacturer's recommendations upon request of the CITY. This report must include documentation of corrective and preventative maintenance and spare parts inventory.

~~A CONTRACTOR shall prepare a summary Annual Report (15 copies) shall be prepared at year end to describe the maintenance standing and significant occurrences of the previous relevant year. Each Annual Reports shall be submitted electronically to the CITY by April 1 of the subsequent year, and CONTRACTOR shall include comparisons to work plans and budget figures shall be included in such submission.~~

The CITY shall have the right to hire a qualified independent firm to review the maintenance program being conducted by CONTRACTOR at the facilities. Any such maintenance reviews shall be at the sole expense of the CITY, and the independent firm shall make no commercially unreasonable requests of the CONTRACTOR.

D. The CONTRACTOR shall provide management services for capital improvements under the following terms:

1. Minor Capital: CONTRACTOR shall manage and execute minor capital improvement projects not to exceed \$112,500 during the first Term 1 and \$150,000 per Term for each of the subsequent Terms. Minor Capital projects for each Term shall be prioritized to (1) address process improvements or equipment upgrades needed to address safety issues or to obtain/maintain compliance with a Change in Law, (2) address areas of the greatest maintenance need, as documented by the maintenance management system, (3) improvements to increase energy efficiency, and (4) other improvement mutually agreed upon by CONTRACTOR and CITY. Any unexpended portion of this annual budget shall be carried over to the next Term's Miscellaneous Capital Improvements Budget. ~~Unexpended funds~~

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~~from the contract year ending 3/31/2015 shall be carried over into Term 1.~~
 At the termination of the Contract, any unspent portion of these funds shall be refunded to the CITY in full. The improvements (hereafter referred to as “project” or “projects”) shall meet the CITY’s accounting definition of a capital improvement and each individual project shall not exceed \$80,000. CONTRACTOR shall provide a list of projects each year including a budget for each.

CONTRACTOR and the CITY shall mutually agree on a list of proposed projects for each Term prior to commencing any project for that Term. Following agreement on the list of projects that will be completed each year, the CITY shall, each month, pay to CONTRACTOR an amount equal to the estimated budget for the agreed-upon projects divided by the number of months in the Term. CONTRACTOR shall provide separate billing for this amount.

The CITY will pay actual expenses for material and contract labor (labor contracted by CONTRACTOR and performed by non-CONTRACTOR personnel to complete the project) with a ~~15% Overhead mark-up~~ and 10% Profit mark-up.

2. Other Capital: At any time the CITY may request CONTRACTOR provide a project or projects in addition to the minor capital outlined above. In this case, CONTRACTOR shall provide a project budget, including construction time line, payment schedule, and proposed Overhead mark-up and Profit mark-ups. CONTRACTOR shall not proceed with any project without express approval of the CITY.
3. General Conditions for all Capital Projects: Implementation of any or all of the described projects is contingent on the availability of funding. This agreement is not a guaranty that any funds will be available for any project. Further, the CITY retains the right to discontinue or increase funding for any or all projects at its sole discretion. In such case that funding is discontinued after expenses have been incurred, the CITY will reimburse reasonable expenses. Reimbursement will include Overhead and Profit mark-ups at rates agreed to prior to the start of the project.

Should it become apparent, during the progress of a project being performed, that the budget for that project will be exceeded, CONTRACTOR shall immediately notify the CITY.

The costs for capital improvement projects shall not be included in the annual ITP calculation or reconciliation process.

Work to be performed under this section shall include all labor and materials for complete installation for the various components in accordance with accepted industry standards and all Applicable Law at the time this Agreement is signed. All components shall be appropriately installed and fully functional. All projects, in their entirety, shall become the property of

the CITY after termination of this Agreement unless otherwise specifically agreed to in writing.

4. Capital Resulting in Cost Savings: CONTRACTOR may submit a request for modifications or changes it deems beneficial to the operations and/or maintenance of the WWTP or lift stations. For a project to qualify under this provision, CONTRACTOR must submit a proposal identifying the scope, cost, means of funding and benefits associated with the project. If accepted, the CITY and CONTRACTOR will negotiate the terms of the capital investment cost recovery and the split between the two parties relative to the future cost savings associated with the project. The intent of the Sharing of Cost Savings provision is to provide an incentive for CONTRACTOR to continually seek innovative initiatives which improve the overall operations and maintenance of the WWTP and Lift Stations, while reducing costs.

E. An item of equipment is defined to include all of the “wire to water” components of any mechanical function hardware. For example, an item of equipment such as a positive displacement pump would include, but is not limited to, electrical starter, motor, pump shaft, impeller or piston and enclosure. Such maintenance shall not include costs associated with flood, fire, explosion or any other extraordinary occurrences not within the control of CONTRACTOR.

F. CONTRACTOR will pay all expenses incurred in usual treatment plant operations including, but not limited to, wages, salaries, utilities, consumables such as chemicals, fuel, lubricants, landfill tipping fees and contracted services, if any.

G. CONTRACTOR will staff the CITY’s Facilities with full-time employees experienced and certified in wastewater treatment process control and maintenance procedures in compliance with Montana Code Annotated 37-42-101 through 322 and Administrative Rules of Montana 17.40.201 through 214.

H. CONTRACTOR will prepare all operating reports according to the State of Montana requirements and will prepare all process data reports, operation and maintenance reports and submit a copy of them to the CITY.

I. CONTRACTOR shall perform sample collection and laboratory analysis for BOD5, Total Suspended Solids, Oil and Grease, Ammonia pH, metals, VOCs, sulfide and other parameters for Industrial Customers of the CITY for the purpose of monitoring these industrial discharges. Such collection and testing shall be limited to 100 sampling events per year (each sample may be analyzed for multiple pollutants and each sample event may include multiple sample bottles being collected). A schedule of sampling duties shall be prepared by the CITY. This schedule is subject to change at the discretion of the CITY upon 30 day notice to CONTRACTOR. The CITY may request CONTRACTOR to perform intensive spot monitoring at specific locations by performing composite sampling with portable automatic samplers. Episodes will be limited to one week duration with 30 day notice. Each day will count as one event toward maximum sampling events.

J. CITY may submit samples it has collected for analysis of the above pollutants upon 48 hour notice to CONTRACTOR. Each set of samples brought in by CITY will count toward the 100 maximum sampling events. A summary of the test results shall be forwarded to the CITY by the 28th day of the month following the sample analysis.

K. The CONTRACTOR shall be responsible for fulfilling the CITY's contract obligations to operate and maintain the metering and sampling facility at Malmstrom Air Force Base. In particular, the CONTRACTOR shall "be responsible for maintenance, reading and calibration of the automatic composite flow sampler and flow meter on a regularly scheduled basis". This shall include collection and analysis of weekly composite samples for BOD5, TSS, Oil and Grease, pH and Flow Meter reading. The schedule for sample collection shall be approved by the CITY. This sample collection and analysis shall be in addition to those required above.

L. The CITY shall maintain all existing warranties, guarantees, and licenses that have been granted to the CITY as owner of the Wastewater Treatment Plant for the benefit of CONTRACTOR during the CONTRACTOR operation of the Wastewater Treatment Plant.

M. The CONTRACTOR shall accept high strength wastes as authorized by the CITY, provided such wastes are free from abnormal or biologically toxic substances which cannot be treated or removed by current plant processes or which may cause exceedance of the Facility design loadings as determined by proper testing by the CONTRACTOR. The CONTRACTOR shall work with the CITY to develop a plan for wastewater customers to discharge such wastes.

N. If requested by the CITY, the CONTRACTOR shall engage subcontractors to organize and conduct household hazardous waste disposal events for residents of the CITY. CONTRACTOR shall be entitled to a Profit Mark-up for these events. The CONTRACTOR shall allow septic tank pumping contractors that are authorized by the CITY to dump septage into the Facility at a designated location, provided such septages are free from abnormal or biologically toxic substances which cannot be treated or removed by current plant process or which may cause exceedance of the Facility design loadings as determined by proper testing by the CONTRACTOR. The CONTRACTOR shall sample each load of septage for pH, observe color, odor, all unusual conditions, and record source and estimated volume of septage. The estimated volume may be provided by the septic tank pumping contractor. The CONTRACTOR will submit a monthly report to the CITY containing the names of all septic tank pumping CONTRACTORS and reported volumes disposed. All fees applicable to such septage CONTRACTORS shall be billed by, and become the property of, the CITY.

O. ~~The CITY is currently under the provisions of a Consent Decree in RE: *United States of America and State of Montana v. The City of Great Falls, MT and Malteurop North America, Inc.*, United States District Court, Montana, Cause No. CV-14-16-GF-BMM, United States Department of Justice Reference Number 90-5-1-108955, a copy of which has been provided to CONTRACTOR. Said Consent Decree applies to certain areas of CONTRACTOR'S work under this Agreement, and CONTRACTOR agrees to perform work under this Agreement in compliance with said Consent Decree. Any increased costs due to new requirements imposed by the Consent Decree will be paid to CONTRACTOR as outlined in Part 8 of this Agreement titled "Change in Service Scope or Service Type".~~

8. CHANGE IN SERVICE SCOPE OR SERVICE TYPE

1) Any adjustment in the scope or type of Work or Services under this Agreement resulting from a material ~~Change in Law~~ Unforeseen Circumstances, or other changes in Facility operation or additions, deletions or revisions in the Work or Services requested by the CITY, may be authorized upon the mutual agreement of the parties regarding the allocation of cost, risk and responsibility for such Work or Services. In the event of any such Unforeseen Circumstances ~~Change in Law~~ or upon CITY'S request for a change in scope in the Work or Services, CONTRACTOR shall provide the CITY with a detailed proposal or estimate of the costs, resources and materials necessary to comply with any such change and the parties shall collaborate in formulating a reasonable and cost effective solution required to provide the CITY with the desired Work or Services, or comply with the Unforeseen Circumstances ~~Change in Law~~. In the event the parties are unable to agree on an allocation of costs, resources and materials, the CONTRACTOR agrees to provide any Work or Services mandated by the Unforeseen Circumstances ~~Change in Law~~ and the CITY shall pay for any such increased costs (in addition to the compensation stated in Part 5 above) as determined by a reasonable monitoring period, which shall not be less than thirty days. The increased costs shall include actual documented direct costs plus Overhead mark-up of 19% and ~~P~~profit mark-up of 15.75%. The increased monthly cost shall be added to the monthly billing retroactively, either to the beginning of the monitoring period or to the time at which the additional cost is mutually recognized to have begun occurring, and the ITP revised to reflect the added cost.

2) In addition to Capital projects listed in section 7 above, the CITY may authorize and fund capital changes to the Facilities which may result in decreased or increased operating costs at the treatment plant. In such event, both parties will mutually agree on the amount of cost savings or increase as determined by a 30-day cost monitoring period. Such decreased or increased costs will be realized by an amendment to the contract. CONTRACTOR agrees to furnish detailed cost estimates to the CITY's Engineer for the purpose of determining the feasibility, savings or increased costs of capital changes proposed by the CITY.

9. PERFORMANCE BOND

CONTRACTOR shall make, execute, purchase, maintain and deliver to CITY a performance bond in an amount at least equal to the CONTRACTOR's compensation under this Agreement in a sum equal to the current ITP for each then current Contract Term, conditioned that the CONTRACTOR shall faithfully perform all of CONTRACTOR's obligations under this Contract and pay all laborers, mechanics, Subcontractors, material suppliers and all persons who supply the CONTRACTOR or CONTRACTOR's Subcontractors with provisions, material, or supplies for performing Work on the Project. All bonds must be obtained with a surety company that is duly licensed and authorized to transact business within the state of Montana and to issue bonds for the limits so required. The surety company must have a Best's Financial Strength Rating of A, as rated by the A. M. Best Co., or an equivalent rating from a similar rating service. All Bonds must remain in effect throughout the life of this Agreement and until the date of expiration of CONTRACTOR's warranties. A certified copy of the agent's authority to act must accompany all bonds signed by an agent. If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business within the state of Montana is terminated, CONTRACTOR shall promptly notify CITY and shall within twenty (20) days after the event giving rise to such notification, provide another Bond with another surety company, both of which shall comply with all requirements set forth herein.

Bond Types and Amounts:

Performance Bond Equal to CONTRACTOR's compensation amount in a sum equal to the current ITP for each then current Contract Term.

10. FACILITY MODIFICATIONS

The CONTRACTOR must notify the CITY and receive written approval before initiating any modifications to the Facility during the contract period. All modifications, additions, equipment installations, etc., which are made shall become an integral part of the Facility and shall be considered the CITY's property.

11. EMERGENCY PREPAREDNESS PLAN

The CONTRACTOR shall submit annually to the CITY an up-to-date written emergency preparedness plan for its review and acceptance. The plan shall, at a minimum, address actions to be taken in the event of high winds, fires, floods, ~~and explosions,~~ and acts of terrorism. The plan shall be delivered to the CITY prior to March 1st of each year.

12. SAFETY PROGRAM

The CONTRACTOR shall operate and maintain the Facility in a safe manner through implementation of a comprehensive safety program. A written safety procedures manual shall be maintained by the CONTRACTOR and updated at least annually. All accidents and injuries shall be reported immediately to the CITY. It shall be the CONTRACTOR's responsibility to train its employees in regard to standard safety practices of wastewater treatment plants.

13. PUBLIC RELATIONS

From time to time, tours will be conducted through the Facility, by appointment. The CONTRACTOR, upon prior notification of at least 24 hours, shall be available to conduct tours. In addition, the Facility shall be kept clean and tidy and free of debris at all times so as not to create a safety hazard. The CONTRACTOR shall respond promptly to public complaints concerning the Facility, either received by the CITY and conveyed to the CONTRACTOR or received directly at the Facility. The CITY shall be notified within twenty-four (24) hours of any complaints received at the Facility. A record of all citizen complaints and the CONTRACTOR's responses shall be logged and a record maintained at the Facility. Any press releases or other public statements concerning the Facility shall be approved by the CITY prior to release.

14. FUTURE CONSTRUCTION

The CONTRACTOR will work with the CITY and its Engineer to develop and coordinate Capital Improvement schedules including provision of operational, maintenance and cost data. The CONTRACTOR, along with the CITY, the Engineer and the Construction CONTRACTOR will work together to develop a plan to maintain accessibility and minimize disruption and outages to the existing plant when construction is being performed. The CONTRACTOR will work with the other involved parties to coordinate activities. In the event a critical piece of equipment must be taken out of service, a plan shall be developed and approved by all parties at least ten (10) working days prior to the scheduled outage, if practical. The CITY will pay any extra costs associated with any equipment outage if sufficient documentation is provided that the outage is due to circumstances beyond the control of the CONTRACTOR. The

CONTRACTOR further agrees to give complete access to these other parties and, except as stated above, to not claim any additional costs for the on-site presence of these contractors in the performance of the design and construction and related activities.

15. FACILITY RECORD

The CONTRACTOR shall keep a Facility record in which, at a minimum, all important and unusual Facility occurrences shall be recorded such as process upsets, mechanical equipment failures, visitors of significance, electrical power outages, regulatory agency inspections and significant changes in Facility wastewater flow.

16. LIABILITY FOR FINES AND PENALTIES

The CONTRACTOR shall be liable for the payment of fines and/or civil penalties levied against the CONTRACTOR and/or the CITY by any regulatory agency having jurisdiction, as a result of the CONTRACTOR's failure to comply with the terms and conditions of any duly authorized permit, court order, administrative order, law, statute, ordinance, etc. as a result of the CONTRACTOR's breach of its obligations under this Agreement, or any negligent or willful acts or omissions during the period of the contract.

17. HOLD HARMLESS AGREEMENT

CONTRACTOR hereby agrees to, and shall, hold harmless, indemnify and defend the CITY, its elective and appointive boards, officers, agents and employees from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from operations under this Agreement, whether such operations be by CONTRACTOR or by any Subcontractor of CONTRACTOR, resulting from a breach of CONTRACTOR's obligations under this Agreement, or any negligent or willful acts or omissions of CONTRACTOR or any Subcontractor of CONTRACTOR. This indemnity does not apply to bodily injury or property damage arising out of the discharge, dispersal, release or escape of the Wastewater Treatment Plant effluent into or upon land, the atmosphere or any water course or body of water unless such discharge, dispersal, release or escape occurs as a result of the negligence or willful misconduct of CONTRACTOR. CONTRACTOR and CITY will provide the necessary technical assistance in support of the other in claims, suits or actions filed by third parties, at no charge to the other.

18. INSURANCE

1) The CITY shall purchase and maintain standard fire insurance policies or group risk-pool retention indemnity, including extended coverage to the full insurable value of the Facilities, Wastewater Treatment Plant, and lift stations and CONTRACTOR will be named as an additional insured according to its insurable interest under these policies during the life of this contract and CONTRACTOR shall have no liability to the CITY with respect to loss, damage and destruction covered by such policies. Such policies shall be endorsed to waive subrogation rights against CONTRACTOR.

2) CONTRACTOR shall purchase and maintain insurance coverage as set forth below. The general and liability insurance policies indicated below must name the CITY, (including its elected or appointed officers, officials, employees, or volunteers), as an additional insured with respect to CONTRACTOR's obligations under this Contract and be written on a "primary—noncontributory basis." CONTRACTOR will provide the CITY with copies of the

applicable additional insured endorsement documentation. Each coverage shall be obtained from an insurance company authorized to transact insurance business within the state of Montana, with a minimum of "A.M. Best Rating" of A-, VI All insurance coverage shall remain in effect throughout the life of this Contract and general liability coverage shall remain in effect for the warranty period. All insurance policies must contain a provision or endorsement that the coverage afforded will not be canceled until at least thirty (30) days prior written notice has endeavored to been given to CITY. Insurance coverages shall be in a form reasonably acceptable to the CITY.

Insurance Coverage ~~at least~~ in the following amounts is required:

- 1. Commercial General Liability*
 - \$2,000,000 per occurrence
 - \$4,000,000 general aggregate
 - \$4,000,000 products/comp operations

*Including coverage for bodily injury and property damage, products and completed operations and contractual liability as found in the most recent edition of the ISO Coverage Form CG 00 01.

- 2. Automobile Liability
 - \$2,000,000 combined single limit each accident
- 3. Workers' Compensation
 - Statutory limits
- 4. Employers' Liability
 - \$1,000,000 each accident
 - \$1,000,000 each employee
 - \$1,000,000 policy limit

CONTRACTOR may provide applicable excess or umbrella coverage to supplement CONTRACTOR's existing insurance coverage, if CONTRACTOR's existing policy limits do not satisfy the ~~minimum~~ coverage requirements as set forth above.

19. RENEWAL

1) The term of the contract may be extended by the CITY ~~and Contractor~~, at its ~~sole discretion~~ in accordance with MCA 7-5-4301(2)(b)(ii).

2) If CITY desires to renew this Agreement, it shall give written notice to CONTRACTOR ninety (90) days prior to the termination date. If CONTRACTOR's acceptance is conditional upon an increase in compensation, over and above the price adjustments allowed in the contract terms, it shall provide a statement to that effect, together with the amount of compensation, and a written justification of its requested increase.

20. SEWAGE TREATMENT BONDS

CONTRACTOR will work with the CITY and provide the information legally required by the CITY and Board of Underwriters for the express purpose of issuing new bonds for the Sewage Treatment Systems. Additional costs which are commercially reasonably incurred by CONTRACTOR for this special effort will be reimbursed by the CITY.

21. TERMINATION

1) This Agreement may be terminated by the CITY for any reason upon ninety (90) days written notice to the CONTRACTOR.

2) CONTRACTOR may terminate this Agreement for cause if the CITY fails to cure a material default in performance within a period of thirty (30) days from written notice of intent to terminate, or such longer period as CONTRACTOR may allow, after receipt from CONTRACTOR of a written termination notice specifying the default in performance.

~~2)3)~~ If this Agreement is terminated, (a) CITY will pay CONTRACTOR for Work and other services and deliverables rendered by CONTRACTOR prior to the effective date of termination, if such comply with the terms of this Agreement, and (b) CONTRACTOR shall furnish the services of a qualified superintendent of the Wastewater Treatment Plant to the CITY for a period not to exceed ninety (90) days after the termination date, at CITY's request, for the purpose of continued supervision and of assisting in the placement and training of Wastewater Treatment Plant personnel to be furnished by CITY. In such event, CITY shall pay to CONTRACTOR the salary, plus normal fringe benefits of the superintendent, plus \$50 per day, for such period. Upon termination of this Agreement, the parties agree to promptly reconcile the ITP calculation as provided in Part 6 no later than the expiration of the transition period, or in no event later than thirty (30) days following the cessation of services by the CONTRACTOR.

22. RELATIONSHIP

The parties agree and acknowledge that in the performance of this Agreement, CONTRACTOR shall render services as an independent contractor and not as the agent, representative, Subcontractor, or employee of the CITY. The parties further agree that all individuals and companies retained by CONTRACTOR at all times will be considered the agents, employees, or independent contractors of CONTRACTOR and at no time will they be the employees, agents, or representatives of the CITY. The CITY, its employees, servants and guests shall be allowed upon the premises at all times as long as they do not interfere with the operation of the Facility and follow all safety rules.

23. ASSIGNMENT

CONTRACTOR binds itself, its successors and assigns to perform all provisions of this Agreement. CONTRACTOR shall have the right to assign this Agreement, without CITY's consent, (i) to an affiliate that has the technical and financial ability to perform its obligations hereunder; or (ii) in conjunction with a merger, consolidation or sale of substantially all of the assets of CONTRACTOR. CONTRACTOR shall provide prior written notice to CITY of any such transfer, along with evidence of the technical and financial ability of the transferee. CONTRACTOR may also collaterally assign its right to any payments hereunder, but not its obligations to perform Services under this Agreement, to one or more lenders providing financing to CONTRACTOR or its affiliates. Except for the foregoing, neither CITY nor CONTRACTOR shall assign, subcontract or transfer their interests in this Agreement without the written consent of the other.

24. OPERATION

The operation and maintenance of the Wastewater Treatment Plant shall be done in a first class manner at all times in accordance with generally accepted practices for municipal wastewater treatment plants and shall comply with all Applicable Law.

25. OWNERSHIP OF DOCUMENTS

Upon request by the CITY, all plans, designs, drawings, specifications, documents, sample results and data, in whatever medium or format, originated or prepared by or for CONTRACTOR in contemplation of, or in the course of, or as a result of this Agreement or work at the Wastewater Treatment Plant, shall be promptly furnished to the CITY (“City Documents and Information”). All CITY Documents and Information shall be the exclusive property of the CITY. CONTRACTOR hereby assigns all right, title, and interest in and to the CITY Documents and Information, including but not limited to, all copyright and patent rights in and to the CITY Documents and Information. Neither party grants to the other any express or implied licenses under any patents, copyrights, trademarks, or other intellectual property rights, except to the extent necessary to complete its obligations to the other under this Agreement.

26. LAWS AND REGULATIONS

CONTRACTOR shall comply fully with all Applicable Law including, but not limited to, all workers’ compensation laws, all environmental laws including, but not limited to, the generation and disposal of hazardous waste, the Occupational Safety and Health Act (OSHA), the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA, all applicable City, County, and State building and electrical codes, the Americans with Disabilities Act, and all non-discrimination, affirmative action, and utilization of Montana residency, minority and small business statutes and regulations.

27. NON-DISCRIMINATION

All hiring, compensation, terms, conditions of other privileges of employment of persons performing work for CONTRACTOR and Subcontractors 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. The CONTRACTOR will include a similar provision in all subcontracts entered into for the performance of this contract. This contract may be cancelled or terminated by the CITY of Great Falls for a violation of this provision, and money due or to become due hereunder may be forfeited for a second or subsequent violation of the terms or conditions of this paragraph.

28. CONTRACTOR’S RATES OF WAGES, BENEFITS, AND EXPENSES

For purposes of prevailing wage requirements, depending on the nature of work performed, this Project is considered as Nonconstruction Services or Heavy Construction Services. The applicable Montana or Federal Prevailing Wage Rates for these types of projects, as included in these Contract Documents, are incorporated herein by this reference. These wage requirements are updated from time to time. The wage rates current at the time the work is performed shall be used.

29. LABOR RELATIONS

1) CONTRACTOR shall post a legible statement of all wages and fringe benefits to be paid to the CONTRACTOR's employees and the frequency of such payments (i.e., hourly wage employees shall be paid weekly). Such posting shall be made in a prominent and accessible location at the site of the Wastewater Treatment Plant and shall be made no later than the first day of work. Such posting shall be removed only upon the termination of this Agreement.

2) In performing the terms and conditions of this Agreement and the work at the Wastewater Treatment Plant, CONTRACTOR shall give preference to the employment of bona fide residents of Montana, as required by §18-2-403, MCA, and as such, term is defined by §18-2-401(1), MCA, and the Administrative Rules of Montana, including but not limited to A.R.M. 24.17.147, obliging CONTRACTOR to hire 50% bona fide Montana residents, excluding projects involving the expenditure of federal aid funds or where residency preference laws are specifically prohibited by federal law. When making assignments of work, CONTRACTOR shall use workers both skilled in their trade and specialized in their field of work for all work to which they are assigned.

3) Pursuant to Mont. Code Ann. §§18-2-403 and 18-2-422, CONTRACTOR shall pay wages, benefits, and expenses as set forth on Exhibits A and B, attached hereto, or the applicable current versions thereof at the time Work is performed, CONTRACTOR's Rates of Wages, Benefits, and Expenses, attached hereto. CONTRACTOR shall pay all hourly wage employees on a weekly basis. Violation of the requirements set forth on Exhibit A and B may subject the CONTRACTOR to the penalties set forth in Mont. Code Ann. §18-2-407. CONTRACTOR shall maintain payroll records and, upon CITY's request, provide certified copies to the CITY. CONTRACTOR shall maintain such payroll records during the term of this Agreement, and for a period of three (3) years following the date of termination of this Agreement.

4) In the event that, during the term of this Agreement and throughout the course of CONTRACTOR's performance herein, any labor problems or disputes of any type arise or materialize which in turn cause any work herein to cease for any period of time, CONTRACTOR specifically agrees to take immediate steps, at its own expense and without expectation of reimbursement from CITY, to alleviate or resolve all such labor problems or disputes. The specific steps CONTRACTOR shall take to resume work shall be left to the discretion of CONTRACTOR; provided, however, that CONTRACTOR shall bear all costs of any related legal action. CONTRACTOR shall provide immediate relief to the CITY so as to permit the work at the Wastewater Treatment Plant to resume and be completed within the time frames set forth herein at no additional cost to CITY.

5) CONTRACTOR shall indemnify, defend, and hold the CITY harmless from any and all claims, demands, costs, expenses, damages, and liabilities arising out of, resulting from, or occurring in connection with any labor problems or disputes of any kind, including but not limited to compensation or benefits, or any delays or stoppages of work associated with such problems or disputes.

30. SHARING OF COST SAVINGS

Except as otherwise provided in this Agreement, any savings realized from modifications or changes to the operations and maintenance of the WWTP or lift stations that are the result of actions or expenses by CONTRACTOR rather than the CITY shall be mutually shared between the two parties after CONTRACTOR has recovered the full cost of its investment on such modifications or changes. The actual split of the savings will be negotiated between the two

parties on a project by project basis. Such savings will be calculated to reflect their current value in each ITP Year, which would include commercially reasonable Overhead and Profit mark-ups. CONTRACTOR shall submit a request and receive prior approval by the CITY for any contemplated modifications or changes to the operations and maintenance of the WWTP or lift stations before any such work commences.

31. INTERPRETATION AND INTENT OF CONTRACT DOCUMENTS

The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If the CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR will call it to the CITY's attention in writing before proceeding with the Work affected thereby. Any work that may reasonably be inferred from the Contract Documents as being required to produce the intended ~~result~~, result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which so applied have a well known technical or trade meaning shall be deemed to refer to such recognized standards. In case of conflict, the more stringent requirements shall take precedence.

32. CONTRACTOR'S RESPONSIBILITIES

1) The CONTRACTOR will give all notices and comply with all Applicable Laws, ordinances, rules and regulations applicable to the Work. If the CONTRACTOR observes that the Contract Documents are at variance therewith, he will give the CITY prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate modification. If the CONTRACTOR performs any Work knowing it to be contrary to such Applicable Laws and without such notice to the CITY, it will bear all costs arising therefrom; however, it shall not be CONTRACTOR'S primary responsibility to make certain that the Contract Documents are in accordance with such laws, ordinances, rules and regulations.

2) In emergencies affecting the safety of persons, the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the CITY, is obligated to act at its discretion to prevent threatened damage, injury or loss. CONTRACTOR will give the CITY prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Modification Agreement shall thereupon be issued covering the changes and deviations involved. If the CONTRACTOR believes that additional work done by it in an emergency which arose from causes beyond its control entitles CONTRACTOR to an increase in the Contract Price or an extension of the Contract Time, it may make a claim therefor; the same being included in the Modification Agreement.

33. CHANGES IN THE WORK

Without invalidating the Agreement, the CITY may at any time or from time to time order additions, deletions or revisions in the Work the same being thereupon authorized by Modification Agreements. Only upon receipt of Modification Agreement, shall the CONTRACTOR be authorized to proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents.

Additional Work performed by the CONTRACTOR without authorization of a Modification Agreement will not entitle it to an increase in the Contract Price or an extension of the Contract Time except in the case of an emergency as provided in Part 32. The effect of this

paragraph shall remain paramount and shall prevail irrespective of any conflicting provisions contained in these Contract Documents.

The CITY will execute appropriate Modification Agreements prepared by the Contract Administrator covering changes in the Work to be performed as provided in this Article, Work performed in an emergency as provided in Part 32, and any other claim of the CONTRACTOR for a change in the Contract Time or the Contract Price which is approved by the CITY.

It is the CONTRACTOR's responsibility to notify its Surety of any changes affecting the general scope of the Work or change of the Contract Price and the amount of the applicable Bonds shall be adjusted accordingly.

34. CHANGE OF CONTRACT PRICE

The total compensation payable to the CONTRACTOR for performing the work in accordance with the terms of this contract shall be based upon the following described factors:

- The amount described under section 5 "Compensation" in this agreement.
- Adjustments in prices as permitted in these Contract Documents.
- Adjustments in prices as outlined on Modification Agreements.

35. SEVERABILITY

If any provisions, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

36. MUTUAL WAIVER OF CERTAIN DAMAGES

Under no circumstances shall either party be liable to the other for any special, incidental, consequential or punitive damages, regardless of whether such damages arise under breach of contract, tort, strict liability, or any other theory of law or equity.

37. LIMITATION OF LIABILITY

To the fullest extent permitted by law and notwithstanding any other provision of this Agreement, including but not limited to the provisions of Paragraphs numbered 16, 17 and 29 above of this Agreement, CITY and CONTRACTOR acknowledge and agree that CONTRACTOR's maximum liability for performance or non-performance of any obligation arising under the Agreement (whether arising under breach of contract, tort, strict liability, or any other theory of law or equity) including, but not limited to its indemnity obligations, shall be limited to: (i) general money damages in an amount equal to the amount of any proceeds of insurance received by the CITY or to which CONTRACTOR is entitled pursuant to any general liability insurance or automobile liability policy required to be maintained by CONTRACTOR (without regard to the amount of any deductible which may be applicable under any such general liability or automobile liability policy) with respect to such loss; or (ii) to the extent proceeds of insurance are not received and such general liability or automobile insurance is not applicable, an cumulative amount not to exceed one-quarter of the then current Incentive Target Price. It is the intent of the parties that the limitation of liability hereunder shall not discharge or relieve the insurer's obligations for any risks to be insured by either the CITY or CONTRACTOR under the terms of this Agreement.

Veolia Comments 10/16/20+City Review 11/13/20

IN WITNESS WHEREOF, CONTRACTOR and CITY have caused this Agreement to be executed and intend to be legally bound thereby.

CITY OF GREAT FALLS, MONTANA

VEOLIA WATER NORTH AMERICA
OPERATING SERVICES, LLC,
CONTRACTOR

By: _____
Gregory T. Doyon, City Manager

By: _____
~~Lanita McCauley Bates,~~
~~Senior Vice President~~

Date: _____

Date: _____

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF THE CITY)

APPROVED AS TO FORM:

By: _____
Sara R. Sexe, City Attorney

Attachment A
Montana Prevailing Wage Rates for Nonconstruction Services ~~2015~~2020

Attachment B
Montana Prevailing Wage Rates for Heavy Construction Services ~~2015~~2020